

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 16 June 2015	Classification For General Release	
Report of Director of Planning		Wards involved Marylebone High Street	
Subject of Report	87-125 Cleveland Street, London, W1T 6PJ		
Proposal	Demolition of existing building and redevelopment to provide a building of three blocks separated by landscaped areas (Block A - comprising ground and nine upper floors, Block B - ground and three upper floors and Block C - ground and three upper floors, each with basement and sub-basement) to provide up to 105 residential units, a petrol filling station, a mix of retail (Class A1)/ restaurant (Class A3)/ drinking establishment (Class A4)/office (Class B1)/ non-residential institution (Class D1) and assembly and leisure (Class D2) floorspace, and 46 residential parking spaces with associated plant space across sub-basement, basement and ground floor levels.		
Agent	DP9 Ltd		
On behalf of	Dukelease Properties Ltd		
Registered Number	14/11837/FULL	TP / PP No	TP/3718
Date of Application	28.11.2014	Date amended/ completed	01.12.2014
Category of Application	Major		
Historic Building Grade	Unlisted		
Conservation Area	Outside Conservation Area		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Outside Core Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATION

For Committee's consideration:

1. Does the Committee consider that the proposed financial contribution of £30,000 towards the All Souls Clubhouse is acceptable.
2. Subject to 1. above, and referral to the Mayor of London, grant conditional permission, subject to the completion of a S106 legal agreement to secure the following:
 - i) Provision of 15 on-site affordable housing intermediate rent units in perpetuity.
 - ii) A financial contribution of £4,629,000 towards the Council's affordable housing fund.
 - iii) Compliance with the City Council's Code of Construction Practice and submission of a CEMP (Construction Environmental Management Plan) to an annual cap of £30,000.

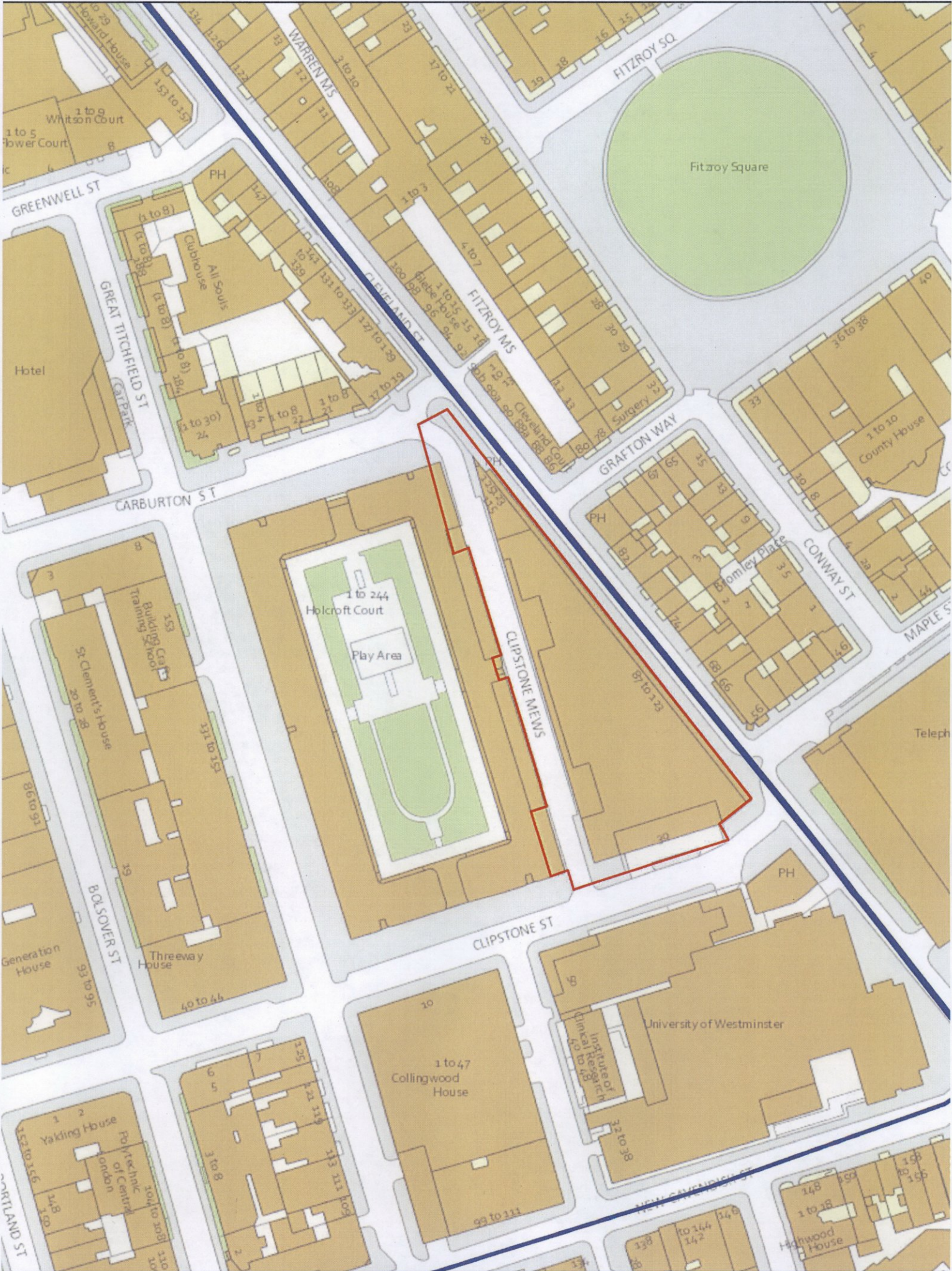
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- iv) A £30,000 financial contribution towards social/community provision
- v) Costs of highways works around the site to facilitate the development (including paving, dropped kerbs, raised crossing etc).
- vi) Provision of car club membership for residents of the building for 25 years.
- vii) Replacement of trees on Cleveland Street.
- viii) A financial contribution of £123,930 towards carbon off-setting.

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

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

b) The Director of Planning shall consider whether 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 Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.





87-125 CLEVELAND STREET, W1

2. SUMMARY

The site is a triangular island block bounded by Cleveland Street to the east, Clipstone Mews to the west, Carburton Street to the north and Clipstone Street to the south. The site is occupied by a two storey plus basement building which was constructed in the 1960s. The building is in commercial use, primarily consisting of a mix of office (Class B1) and retail (Class A1) uses. On the northern end of the site there is a bar (Class A4) and on Clipstone Street a petrol filling station which has been vacant since 2012.

This residential led scheme will provide 90 market units. The proposal is to provide 15 on-site affordable housing units located within one of the blocks and a contribution to the City Council's affordable housing fund of £4.63m.

The key issues for consideration in this case are:

- The impact of the proposed buildings on the townscape and the character and appearance of the surrounding area;
- The acceptability of the proposals in land use terms including the affordable housing offer;
- The impact on the amenities of neighbouring residents;
- The impact of servicing arrangements and increase in the footprint of the building on the surrounding highway network.

Demolition of the existing buildings is welcomed and whilst strong objections have been received to the height, scale and massing of the proposals, the impact of the tower element of the proposals would not seem incongruous or out of character with its surroundings.

Subject to Committee's views on the acceptability of the social and community financial contribution, the proposal is considered acceptable in land use, design, amenity and highways terms in accordance with City Plan and Unitary Development Plan (UDP) policies.

3. CONSULTATIONS

GREATER LONDON AUTHORITY

The principle of a residential-led mixed used development is supported in strategic terms.

The provision of on-site affordable accommodation is strongly supported in strategic terms. However, this should be increased to avoid the need for an off-site financial contribution. Further discussion between the City Council and applicant is required following the completion of the independent assessment of the applicant's financial viability report. Opportunities for providing affordable family accommodation should be explored.

The overall massing, height and architectural treatment of the scheme is supported.

The applicant's site heat network approach is not policy compliant and is not supported.

Additional transport clarifications should be provided in order to demonstrate compliance with London Plan policies.

TRANSPORT FOR LONDON

A reduction in on site car parking and justification for the level of servicing lay-by should be provided. The highway on Clipstone Mews should be modified to enhance pedestrian environment. A number of highway details should be secured by condition.

HISTORIC ENGLAND

The 10 storey element would be prominent, most strikingly in views from the edge of the Fitzroy Square Conservation Area alongside the listed buildings of Maple Street. It would also

have an impact on views along Cleveland Street from the Cleveland Street Conservation Area. Suggest that any adverse impact could be mitigated by reducing the height of the tallest element.

LONDON BOROUGH OF CAMDEN

Objection on the following grounds:

- The excessive height, bulk and massing
- The detailed design and failure of the four storey element to respond to views from Grafton Way and Fitzroy Square
- The loss of footway on Cleveland Street
- The excessive private car parking
- The loss of daylight and sunlight to neighbouring properties
- The impact on trees on Cleveland Street
- Insufficient information to demonstrate safe egress from the petrol filling station
- Insufficient information to demonstrate the proposal would not have a negative impact on air quality.

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Objection on the following grounds:

- Bulk, scale and massing.
- Loss of daylight, sunlight and overlooking.
- Extension of building's footprint onto Cleveland Street footway.
- The existing petrol filling station is not protected by planning policies and its relocation would have a detrimental impact on highways safety and residential amenity.
- Increase in entertainment floorspace.
- The loss of retail and office floorspace.
- The lack of policy quantum of compliant on-site affordable housing.
- The lack of public amenity spaces.
- The development should be car free.
- The applicant's Statement of Community Involvement is misleading.

FITZROVIA WEST NEIGHBOURHOOD FORUM

Objection on the grounds of excessive bulk, height and massing, the loss of retail uses and increase in entertainment uses and relocation of the petrol filling station. Objection to the lack of policy compliant quantum of on-site affordable housing.

THAMES WATER

Suggest Grampian condition requiring a drainage strategy.

LONDON UNDERGROUND

Request imposition of condition requiring detailed design and method statements for subterranean works.

HIGHWAYS PLANNING MANAGER

Objection to the lack of on-site servicing and alteration to the building line on Cleveland Street resulting in a loss of pedestrian footway.

CLEANSING MANAGER

No objection subject to appropriate conditions.

ENVIRONMENTAL HEALTH

No objection subject to conditions regarding noise from plant, internal noise levels within flats, noise and ventilation to entertainment premises.

ARBORICULTURAL MANAGER

No objection subject to details of removal and replacement of trees on Cleveland Street being secured.

DISTRICT SURVEYOR

No objection

HEAD OF AFFORDABLE AND PRIVATE SECTOR HOUSING

No objection subject to the provision of intermediate rent affordable housing units being secured within S106 agreement.

CRIME PREVENTION DESIGN ADVISOR

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 770; Total No. of Replies: 58.

Two letters of support received.

Petition opposing the proposals with 258 signatories.

56 letters of objection on some or all of the following grounds:

Design

- The bulk, scale and massing of the proposed building is too great.
- The building is too high and will harm the character of the local area.
- The existing building is of architectural merit and should not be demolished.
- The proposal involves a double height ground floor so the scheme is actually one storey higher than advertised.
- The building should be scaled back to remain in keeping with the character of the area.
- Comparisons with the height of University of Westminster building are misleading as it is sited a further distance from Holcroft Court and the maximum height of the University building relates to its double height lift shaft.
- The development will detract from both Fitzroy Square and Holcroft Court.
- The introduction of the 'in-out' petrol station design will disrupt the historic street form.
- The loss of the wide pavement on the Cleveland Street side of the development will affect the pleasant variety of street widths and openness.
- Clipstone Street should be recognised as a local border and the urban context to the north is different to that to the south. The proposal will alter the nature of the area.

Amenity

- The proposals will result in an increase in residents in an already overcrowded area.
- The proposal will harm residential amenity by virtue of loss of daylight and sunlight
- The proposal will block neighbouring residents' views.
- Overlooking and loss of privacy to neighbouring residents in Holcroft Court; particularly exacerbated by balconies.
- The increase in entertainment uses will cause harm to residential amenity.
- The proposed entertainment uses are overly large and will cause excessive noise within a largely residential area.
- The external amenity areas will result in noise nuisance for neighbouring residents.
- The proposed dark brick materials will compound the level of light lost to neighbouring properties.
- The entertainment uses should not be allowed tables and chairs on the public highway.
- The narrowing of the street will create a wind tunnel, exacerbated by the height of the buildings.
- The loss of sunlight will harm businesses with outdoor seating on Cleveland Street.

Highways

- Development will result in increased traffic in a relatively quiet residential area.
- There are insufficient pavements on Clipstone Mews and pedestrian safety will be impaired due to increased traffic volumes.

Land use

- The two storey retail floorspace seems unviable as it is an unlikely location for large-scale retailers to occupy.
- The proposal is overly dense.
- The loss of shops and offices will be harmful to the area.

Petrol filling station

- The existing location (Clipstone Street) is the most appropriate for a petrol station.
- The relocation of the petrol station to Clipstone Mews will result in 24 hour noise disruption and queuing vehicles to adjoining residents.
- Increase in traffic to the petrol filling station particularly along Clipstone Mews.
- Fumes from the petrol station and additional vehicles will harm residential amenity.
- The mews is not sufficiently wide for petrol lorries.
- The petrol filling station will cause an increase in anti-social behaviour as it will be one of few late night shops in the area.
- The replacement of the petrol station is not necessary and the scheme would still be 'policy compliant' without its provision.
- The increase in vehicles will be harmful to pedestrian safety.
- The Holcroft Court elevation facing the petrol filling station does not benefit from blast protection.

Sustainability

- The height of the new building will make Holcroft Court less efficient due to blocking the neighbouring building's newly installed solar panels.

Affordable Housing

- The proposal does not provide a policy compliant level of on-site affordable housing.

Other Issues

- The planned communal gardens may fail to flourish due to lack of light.
- The heights of the proposed building and surrounding existing buildings shown on the submitted drawings are misleading.
- The proposal would harm rights to light.
- Occupiers on the application site will be forced to relocate.
- Noise and disruption during construction works.
- The development should not constrain or compromise the future development potential of the University of Westminster's New Cavendish Street campus.
- The flats are likely to be sold to absentee foreign investors.
- The proposals will reduce neighbouring property values.
- The applicant's initial consultation process was biased and flawed.
- The existing 'Banksy' street art must be protected.
- The Planning Officer's committee report is fundamentally flawed and misleading.
- It is unreasonable for the City Council to determine a planning application from which they will gain financial benefits from.

4. BACKGROUND INFORMATION

4.1 The Application Site

The site is a triangular island block bounded by Cleveland Street to the east, Clipstone Mews to the west, Carburton Street to the north and Clipstone Street to the south. The site is not located within a conservation area but Cleveland Street Conservation Area is directly to the north of the site. The boundary with the London Borough of Camden runs parallel to the application site along Cleveland Street and the Fitzroy Square Conservation Area is located immediately within Camden's borough boundary. The site is located outside the Core Central Activities Zone.

The site is occupied by a two storey plus basement building which was constructed in the 1960s. The building is in commercial use (some of which is vacant), primarily consisting of a mix of office (Class B1) and retail (Class A1) purposes. On the northern end of the site there is a bar (Class A4) and on Clipstone Street a petrol filling station which has been vacant since 2012. The basement is currently closed, but was previously used for car parking.

The site's Cleveland Street elevation is within a designated 'local shopping centre'. Cleveland Street itself is characterised by a mix retail, café and restaurant uses on the ground floor with predominantly residential uses on the upper floors. To the south east of the site is the BT Tower, to the south is the Tower Tavern, and a large University of Westminster building. Directly to the west, and spanning the length of the application site, is Holcroft Court, a large six storey residential block, with a public car park located below. Also of note is a piece of street art by Banksy located on the site's southern elevation.

4.2 Relevant History

A number of historic permissions were granted for elevation alterations to various units between 1994 and 2002.

Certificates of Lawfulness were submitted for the use of the ground floor as offices (Class B1) at 87-89, 91-93 and 97-101 Cleveland Street, and were all withdrawn before determination.

A planning application (RN:12/10294/FULL) for the use of the ground floor of 111-113 Cleveland Street for office (Class B1) purposes was refused in 2012.

5. THE PROPOSAL

Permission is sought for demolition of the existing building and redevelopment to provide a building of three blocks (Block A - comprising ground and nine upper floors, Block B - ground and three upper floors and Block C - ground and three upper floors) with basement and smaller sub-basement below and each separated by landscaped areas. The footprint of the building will increase along its western elevation and will be built on the existing Cleveland Street pedestrian footway.

The redevelopment would provide a mix of 105 residential units at first floor and above within each block. At first floor level, two landscaped amenity areas and a children's play area are provided in the spaces between the residential blocks. At ground floor level a mixture of retail (Class A1), office (Class B1) and bar/public house space (Class A4) are provided. A replacement petrol filling station (PFS) providing two pumps and a retail element will be located at the centre of the development with access from Clipstone Mews and egress onto Cleveland Street.

At basement level the scheme will provide 46 car parking spaces, residential and commercial cycle parking spaces and commercial units providing flexible retail (Class A1), office (Class B1), non-residential institution (Class D1) and assembly and leisure (Class D2) floorspace. The sub-basement contains space for plant and building services.

The 15 residential units located within the block at the northern end of the site are intermediate rent affordable housing units.

6. DETAILED CONSIDERATIONS

6.1 Land Use

The floorspace figures are set out in the tables below.

Application site (all figures are in m²)

Use	Existing Floorspace (m2) GEA	Proposed Floorspace (m2) GEA	Change
A1 (Retail)	1,447	1384	- 63
A3/A4 (Bar, pub)	330	500	+170
B1 (Office)	1,848	738	- 1,110
Flexi use (A1, B1, D1, D2)	0	947	+947
Petrol Filling Station	655	358	-297
Residential	0	11,552	+11,552
Basement parking	3,812	1,881	-1,931
TOTAL	8,092	17,360	+9,268

6.1.1 Office provision

The proposal results in a net loss of on-site office floorspace. The proposed scheme includes 738m² of office floorspace at ground floor level which has been designed as flexible space that is capable of being let to multiple occupiers or to a single tenant.

There are no adopted or emerging policies which protect office accommodation outside the core CAZ and the net loss of office floorspace is acceptable in principle.

6.1.2 Retail and flexible use provision

The southern and eastern frontages of the application site are identified as being within a 'local shopping centre'. UDP Policy SS7 and City Plan: Strategic Policy S21 seek to protect retail uses within designated areas. The site currently has 1447m² of floorspace where retail (Class A1) is the lawful use. It is however noted that the vast majority of this floorspace is low quality and is currently occupied by a range of uses which do not fall within the retail use class.

The scheme has been designed so that retail uses are retained at ground floor level along the Cleveland Street frontage and on the site's south eastern corner with Clipstone Street. In total 1384m² of retail floorspace will be protected. This is a net loss of 63m² from the existing on site retail provision.

The proposal incorporates 947m² of flexible floorspace which could provide retail (Class A1), or office (Class B1), or non-residential institution (Class D1), or assembly and leisure (Class D2) purposes. This allows the applicant some flexibility in finding tenants for the new units.

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There is a possibility that some of this flexible space will be taken by retail tenants thus meaning that there will be no net loss of on site retail; however the worst case scenario would be a net loss of 63m² retail across the site.

This small loss of retail is considered to be acceptable given that a concentration of shop uses are retained at ground floor level on Cleveland Street and that the scheme provides qualitative improvements to the retail offer by providing modern dual aspect units which are likely to be more attractive to retail tenants than the current offer.

6.1.3 Flexible non-residential institution (Class D1) and assembly and leisure (Class D2)

To maximise their marketing potential, flexible non-residential institution (Class D1) and assembly and leisure (Class D2) uses are proposed within the development. These cover a range of uses from day centres, crèches, gyms or education centres. Given that these uses would be predominantly located at basement level, all are likely to be considered acceptable. Conditions are recommended requiring operational details, including details of hours of use, once specific users have been identified.

6.1.4 Entertainment provision

There is an existing basement and ground floor bar located at the northernmost point of the application site. The premises licence permits opening hours from 10:00am-01.30 am on Mondays-Wednesday and Sundays, and 10:00am-02.30 on Thursdays-Saturdays.

The proposal involves the provision of a restaurant (Class A3) or a bar (Class A4) at basement and ground floor levels within the same part of the site. The proposed restaurant/bar would have a floor area of 500m². This is 170m² larger than the existing bar and objectors raise concerns relating to the increase in entertainment uses.

As this element of the proposal relates to the provision of a restaurant or bar between 150-500m² outside the core CAZ UDP Policy TACE 9 and City Plan: Strategic Policy S24 apply.

These policies set out that new entertainment uses need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

As at this stage no specific operator has been identified it is considered reasonable and appropriate to restrict the opening hours to the normal core hours for entertainment premises which are: 07.00 to 00.00 midnight Sunday to Thursday, bank holidays and public holidays and 07.00 to 00.30 the next day on Friday and Saturdays. This enforces earlier terminal hours than at present.

Given that the proposed bar or restaurant will replace an existing bar, subject to the imposition of appropriate conditions including restrictions on the opening hours and requiring the submission of a full Operational Management Plan (OMP), the increase in entertainment floorspace is considered acceptable and would not harm the character and function of the area, nor cause demonstrable harm to the amenity of neighbouring residents.

6.1.5 Petrol filling station provision

At present there is a vacant petrol filling station located at the site's southern Clipstone Street boundary. UDP Policy TRANS 17 states that the City Council will seek to protect a number of

named petrol filling stations. The filling station on Clipstone Street is not one that is identified for protection by the policy.

The proposal seeks to provide a drive through filling station entered from Clipstone Mews with egress onto Cleveland Street. The filling station would have two pumps as well as a small complimentary retail offer. In floorspace terms there would be a net loss of 297m² from the existing vacant filling station.

A large number of objections to the development relate to the impact of the relocated petrol station on neighbouring residents. These concerns are considered later within this report.

6.1.6 Loss of existing car park

The site's car parking at basement level was previously connected to the existing, still operating, public car park underneath Holcroft Court, with entrance and exit from Clipstone Mews. The applicants state that the application site's car park has been shut off from the adjacent Holcroft Court car park since 2003. There has been no recent use of the area for car parking, instead it has been used for storage associated with the commercial space at ground and first floor levels.

Although it has not been in use for 14 years, the proposal would result in the loss of an area of public car park. UDP Policy TRANS 25 states that the City Council will normally permit the loss of public off-street parking but that in determining whether or not to permit such a loss, a number of factors will be considered. These include the need to reduce traffic levels and encourage more sustainable modes of transport; the average and peak use of the car park; the availability of alternative public car parks nearby; the impact on local on-street parking facilities; the impact on traffic and local residential amenity and any other relevant issues.

Given that the car park has not been in use for 14 years, its loss will not result in the displacement of existing off-street parking or result in demand for additional on-street parking. In addition, the existing car park at Holcroft Court (193 spaces) will remain, meaning that there is a sufficient alternative public car park nearby. For this reason, the loss of basement level public car parking is not resisted.

6.1.7 Residential

The provision of 12,149.4m² of residential floorspace in the form of 105 units meets the aim to increase the housing stock in line with UDP Policy H3 and City Plan Policy S14. The proposed mix of units is 37 x 1 bed, 36 x 2 bed and 32 x 3 bed units.

Affordable Housing

Policy H4 of the UDP and S16 of Westminster's City Plan and Interim Guidance Note Implementation of Affordable Housing are relevant.

The policy requirement is that proposals for housing developments of either 10 or more additional units or over 1000m² additional residential floorspace will be expected to provide a proportion of the floorspace as affordable housing. The affordable housing should be provided on site. Where, however, it is considered that it is not practical or viable the affordable housing should be provided off site in the vicinity.

The proposal is to provide 90 market residential units and 15 affordable units. The affordable housing units would be subject to intermediate rent.

The Gross External Area of residential floorspace on the site is 12,149.4m² (105 units) which, as the site is located outside of Westminster's core Central Activities Zone, generates a

requirement to provide 35% of the total floorspace as affordable housing. Based on the current formulae this means that the total affordable housing requirement for the development is 4,252m².

The applicant's affordable housing offer is to provide 1,347m² (15 units) of on-site affordable housing provision. This is a shortfall of 2,905m², which would equate to approximately 36 units (based on an average unit size of 80m²).

A viability report prepared on behalf of the applicants has been submitted to support the argument that the on-site affordable housing provision, combined with a £3.347m payment in lieu to the City Council's affordable housing fund is the maximum that can be achieved without impacting on the financial viability of the scheme. The policy compliant payment in lieu, based on the shortfall of on-site affordable housing provision, has been calculated to be £15,785,000.

An independent review of the viability report submitted in respect of the application has been undertaken by Gerald Eve on behalf of the City Council. Gerald Eve's professional conclusion is that:

- it would not be viable to provide the policy compliant quantum of affordable housing floorspace on the site;
- that the proposed on-site affordable housing floorspace being provided combined with an additional £4,629,000 payment in lieu to the City Council's affordable housing fund is the maximum that can be achieved;

The applicant has now agreed to the payment of £4,629,000.

Following concerns expressed by the Council's Housing Supply Manager about the affordability of shared ownership (which was originally proposed) at this location in view of high property values, the applicant has agreed that all 15 intermediate homes should be provided at sub market rents. The mix of affordable units is 10 x 1 bed and 5 x 2 beds. No 3 bed or larger sized affordable homes are proposed. Whilst 3 bed homes are a priority for social housing, there are a smaller number of households currently registered for 3 bed intermediate homes in the City. Therefore the mix of 1 and 2 bed units is considered to be acceptable. The provision of the intermediate housing will be secured within the s106 agreement.

Residential units

The residential units are to be provided at first floor level and above across three blocks. Blocks A and B, to the south and middle of the block provide market housing, whilst the affordable housing provision would be within Block C, to the north of the site. The two market housing blocks are accessed from Cleveland Street, and the affordable housing would have a separate access from Clipstone Mews.

The scheme's market housing will consist of 90 units ranging in size from one bed to three bed units. The different sized units are mixed evenly across each floor. As already stated the affordable housing block consists of 15 one and two bed residential units.

City Plan Policy S15 and UDP Policy H5 require an appropriate mix of unit sizes in housing developments. The proposed mix of accommodation is as follows:

37 x 1 bed, 36 x 2 bed, 32 x 3 bed. The scheme will provide 30% family sized units. UDP Policy H5 normally requires that 33% of the accommodation in developments should be family sized (three or more bedrooms). The proposed figure is slightly below 33% however given that

the proposals will provide 32 new family sized units, permission could not be reasonably withheld on the grounds of the slight shortfall. The mix of accommodation proposed is considered acceptable.

Range of typical units

Type of Unit	Typical size (m ²)
1 bed	50-54
2 bed	70-94
3 bed	94 - 180

Policy S14 also requires that the amount of residential units on site is optimised in order to meet housing need. The units all exceed the Mayor's dwelling space standards as set out in London Plan Policy 3.5, but are not considered to be excessively large.

London Plan Policy 3.4 'optimising housing potential' seeks to optimise housing density. Within the application site's setting a range is between 650 and 1110 habitable rooms per hectare. The proposed development has been calculated as having a density of 880 habitable rooms per hectare which accords with the London Plan.

All units have level access by virtue of the lifts provided within each of the three blocks. The residential units meet Lifetime Homes Standards and 10% of the units have been designed so that they can be easily adaptable to meet wheelchair accessibility standards in accordance with London Plan Policy 3.8.

The majority of the proposed units will have a good outlook. Overall the scheme comprises 43 single aspects which are south east and north facing. 18 are north facing which have habitable rooms facing onto the landscaped courtyards. Whilst dual aspect units are preferable, it is considered that given the density and constraints of the site, it would be exceptionally difficult to completely avoid having any single aspect units. Each of the units benefits from its own balcony, and there will also be two large landscaped amenity areas between the blocks. Overall the scheme will provide a high standard of residential accommodation.

Open space and playspace

London Plan Policy 3.6 seeks to ensure that development proposals include suitable provision for play and recreation. City Plan Policy S35 states that the council will address existing public open space, including active play space deficiency, and current and future open space needs by mitigating additional pressure on open spaces, by securing new improved public open space in new developments; space for children's active play; and seeking public access to private spaces. UDP policy ENV15 states that in appropriate circumstances the City Council will require public open space as part of new development. The City Council's Open Space Strategy identifies the application site as being within a priority area for additional play space and open space.

The scheme would provide over 700m² of communal amenity space, with 240m² designated as children's playspace. In order to ensure that the children's playspace is sufficiently stimulating and appropriately designed it is recommended that a condition requiring further details of the playspace design is imposed. Whilst the provision of private amenity space and children's playspace within the development is welcomed, it is disappointing that the proposal does not provide any publically accessible open space or play space, especially given that the site is located within a priority area for additional open and play space.

The applicants argue that the design of the scheme does not easily lend itself to incorporating public open space, and to do so would involve a significant redesign. Given the overall

strategic benefits that the scheme would deliver it is considered that permission could not reasonably be withheld due to the lack of public open space.

Social/community facilities

City Plan Policy S34 relates to social and community infrastructure and states that new social and community facilities will be encouraged throughout Westminster and on-site community facilities will be required as part of large scale developments. UDP Policy H10 defines large developments as being over 50 residential units. The provision of on-site social and community facilities is required to mitigate the impact of large developments on existing services.

Despite this policy presumption for on-site community facilities, no provision has been made within the development. It is regrettable that no on-site provision has been made, however following discussions with the All Souls Clubhouse located at 141 Cleveland Street the applicant has offered a financial contribution of £30,000 towards this community facility. The contribution will fund the running of the Clubhouse's Wednesday lunch club for a further year. The lunch club provides on-site catering once a week to 20-30 older people who live within the local area. The lunch club aims to tackle social isolation and also provides a nutritious meal for attendees.

Whilst £30,000 is considered to be a disappointingly low figure, the applicant's viability report has demonstrated that the on-site affordable housing provision is the maximum viable, and that any additional contribution towards social and community uses would harm the financial viability of the redevelopment.

6.2 Townscape and Design

The application site is a post-war redevelopment of extremely limited architectural ambition and poor quality materials. Despite comments raised regarding the existing building, there is no objection in principle to its demolition and redevelopment. The buildings occupy a triangular site on the western side of the street and stand opposite the Fitzroy Square Conservation Area in the London Borough of Camden and to the south of the Cleveland Street Conservation Area in the City of Westminster.

The buildings opposite the site, on the east side of Cleveland Street, are mostly small-scale, attractive, terraced houses with shops at ground floor level. Some are grade II listed, and others that are not listed are identified in the Fitzroy Square Conservation Area Appraisal as making a positive contribution to the character and appearance of the conservation area.

Holcroft Court to the west of the site is not listed and is not in a conservation area. Likewise, buildings in Clipstone Street and also unlisted and not in a conservation area. None of these buildings are attractive and they create a neutral setting for neighbouring conservation areas.

There are views of the existing buildings on the site from within the Fitzroy Square Conservation Area along Conway Street and Maple Street and from within Fitzroy Square on its south side looking along Grafton Way. In these views, the building is fairly inconspicuous and mostly seen against the backdrop of Holcroft Court which is several storeys taller. The tallest building neighbouring the site is the University of Westminster which is immediately to the south of the site. Colingwood House to the south-west is also a substantial building and the BT Tower to the south-east is a dominant feature of the skyline above its podium.

In the above context it is therefore necessary to consider the proposed redevelopment in terms of its own design and to have special regard to preserving the setting of neighbouring listed buildings and conservation areas.

The proposed scheme would result in the provision of a 10 storey tower on the southern end of the site opposite the University of Westminster and two four-storey blocks on the rest of the site, all linked at lower levels by a tall, single storey, frontage with a mix of retail and commercial uses, a bar/restaurant, and a petrol station. The main entrance to the residential accommodation will be from Cleveland Street and the petrol station is a drive-through facility between Clipstone Mews and Cleveland Street.

In order to optimise the use of the site while preserving the setting of neighbouring listed buildings and conservation areas, the tower is located at the southern end of the site next to the University of Westminster. It will be a prominent feature in the westerly view along Maple Street (within the Fitzroy Square Conservation Area) and in longer views diagonally across Fitzroy Square from its north east corner where it will be seen through the tree canopy above the roofline of the listed buildings at the south west corner of the Square.

The setting of the Fitzroy Square Conservation Area is characterised by twentieth century development of many styles and heights. Views from the conservation area are often closed by modern tall buildings. Therefore, the proposed new tall building at the end of the view along Maple Street is not harmful to the setting of the conservation area because it remains in character with other equivalent views. Furthermore, only one side of the street is in the conservation area with the appraisal identifying views into Fitzroy Square as being important rather than any views along streets looking out of the conservation area.

While there have been a number of very strong objections to the height, scale and massing of the proposals, the tower's impact on the setting of listed buildings in Maple Street and Cleveland Street is neutral because their setting is already characterised by other existing taller and/or overtly modern buildings of entirely different designs, heights, and plot widths. It also stands alongside the tall university buildings at a street junction helping to reinforce the townscape in the immediate area, consequently the tower would not seem incongruous or out of character with its surroundings.

The impact of the tower on the setting of the listed buildings in Fitzroy Square is of more significance given their exceptional quality, which is recognised in their listing at grade II-star and grade I. In part, their roofline is an important part of their special interest and contributes to the appearance of the square and conservation area. However, this does not absolutely prohibit any change to their background. Given the distance beyond their roofs that the tower would be seen, its modest protrusion, and the limited vantage points from which it would be seen, the appearance of the tower above the rooftops of the listed buildings in Fitzroy Square is not harmful to their setting.

With regard to the detailed design of the buildings, the palette of materials is far more suitable than that of the existing building. The extensive use of brick is especially welcome on Cleveland Street where it will reintroduce a richer colour and texture to the facades that is lacking at present. The window reveals and metal railings to the balconies will further enrich the appearance of the facades to the benefit of the street. The new shopfronts are also an improvement to the current frontages, and the public realm will be further enhanced by tree planting in Cleveland Street. Public art will be provided and at this stage it is suggested that the panels next to the windows may be used for this purpose. There are other locations that would also be suitable and details of this may be dealt with by condition.

Objections have been received on the grounds that the proposal would result in the removal of a piece of 'Banksy' street art located on the southern elevation of the application site. The site's lease details that the street art must not be damaged, and if it is to be removed a month's notice must be given to the City Council (as freeholders) in order allow the artwork to be removed and suitably relocated.

6.3 Amenity

UDP Policy ENV13 seeks to protect existing premises, particularly those in residential use, from a loss of daylight and sunlight as a result of new development. Permission would not normally be granted where developments result in a material loss of daylight or sunlight. Regard is taken to the Building Research Establishment (BRE) guidelines.

The proposed redevelopment building will result in large increases in terms of height and overall bulk and mass across the majority of the site.

The applicant has undertaken an extensive daylight and sunlight assessment in accordance with BRE guidelines. The windows included in the assessment are those to the north and east of the site at 17-19 Carburton Street, 86-90 Cleveland Court, 66-94 Cleveland Street and 56 Maple Street; the majority of windows on the upper floors of these properties are in residential use. To the south, the first floor residential windows of the Tower Tavern have been assessed, and directly to the west the windows at Holcroft Court, which is most affected by the proposals have been tested.

Daylight

In assessing daylight, measuring the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. It also suggests that reductions from existing values of more than 20% should be avoided as occupiers are likely to notice the change. The BRE stresses that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances. The 'No Sky Line' method has also been used, which measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky.

The use of the affected rooms has a major bearing on the weight afforded to the effect on residents' amenity as a result of material losses of daylight. For example, loss of light to living rooms, dining rooms, studies and large kitchens (if they include dining space and are more than 12.6m²) are of more concern than loss of light to bedrooms and non-habitable rooms such as stairwells, bathrooms, small kitchens and hallways.

The closest residential property to the site is Holcroft Court which runs parallel to the flank of the application site on the western side of Clipstone Mews, an access road which is only 8.0m in width. Numerous objections and a petition with 258 signatories have been received from the residents of flats within Holcroft Court on the grounds that the scheme would result in a loss of daylight, sunlight, and increased sense of enclosure. Objectors have also queried the validity of the sunlight/daylight report, however, the report, submitted as in this case, by a member of the RICS carries a duty of care which the Council considers sufficient to rely on.

Vertical Sky Component

ADDRESS	NUMBER OF WINDOWS	MEET BRE GUIDANCE	BRE TRANSGRESSION PERCENTAGE RANGE		
			20% - 30%	30% - 40%	40%+
17-19 Carburton Street	36	36	0	0	0
94 Cleveland Street	10	10	0	0	0
92 Cleveland Street	18	18	0	0	0

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86-90 Cleveland Court	105	89	11	5	0
84 Cleveland Street	33	19	3	3	8
82 Cleveland Street	8	4	4	0	0
80 Cleveland Street	9	6	3	0	0
78 Cleveland Street	9	3	4	2	0
76 Cleveland Street	9	0	2	3	4
74 Cleveland Street	7	0	2	2	3
72 Cleveland Street	6	0	0	2	4
70 Cleveland Street	5	0	0	2	3
68 Cleveland Street	5	0	0	3	2
66 Cleveland Street	5	0	0	2	3
56 Maple Street	13	6	0	1	6
Tower Tavern	3	0	0	0	3
Holcroft Court	610	220	43	82	265
Total	891	411 (46%)	72 (8%)	107 (12%)	301 (34%)

The study shows that there would be losses of daylight at Cleveland Court and properties on Cleveland Street in excess of the 20% recommended by the BRE guidelines. However, the impact will be greatest to the ground and first floor windows which are mainly in commercial rather than residential use.

Holcroft Court

The greatest impact from the redevelopment would be to the 610 windows serving flats on the ground to fifth floors of Holcroft Court's eastern flank elevation.

Some of these flats are dual aspect and have some windows that face the development site and others that either face south over Clipstone Street or west over an internal courtyard. The worst affected living room windows are to the six corner flats located on the junction of Clipstone Street with Clipstone Mews. These living rooms would experience significant losses of VSC between 65% to 80%. All these living room windows currently experience good levels of VSC of between 19.71% at ground floor and 32.04% at fifth floor. As a result of the proposals, values would drop to between 4.64% at ground floor and 9.35% at fifth floor. These losses would clearly be noticeable to the occupants of these flats, however, in each case there are other windows within the same room (which face over Clipstone Street) that would not be adversely affected. In this regard, it is considered that the living rooms to these flats would be adequately lit as a result of these proposals.

There are other flats with living rooms that face the application site, however, with the exception of one flat, and despite these rooms experiencing losses of up to 55% they would still retain VSC values of over 15%. Although the 15% VSC figure is lower than the 27% figure given in the BRE guidance for room which is considered to be well lit by natural light, given the site's inner city location, this is not an uncommon level of daylight.

When considering the impact on existing and proposed VSC levels it is important to consider the existing built form of the application site. Residents within Holcroft Court currently experience unusually high daylight and sunlight levels for a site which is located within an inner London urban location. This is because Holcroft Court looks onto a two storey building rather than one of far greater bulk and mass which would commonly be found in this type of location. It is important to remember the unusually high VSC levels received by flats at Holcroft Court when considered the impact of proposals to neighbouring amenity.

As set out above, these figures represent very severe losses of daylight to windows at all floor levels, although particularly pronounced on the lower floors, across the entire length of Holcroft Court's flank elevation. However, they must be considered in light of the site's unusual existing daylight levels and the layout of rooms within Holcroft Court.

There are six studio flats, and whilst one of these flats would be unaffected by the proposals, the remaining five would experience very significant losses. These flats are single aspect with their sole outlook over the development site. The windows to the adversely affected flats would all experience losses of VSC between 41% and 81% and these are material losses in terms of the BRE guidance. The existing VSC levels to these living rooms (particularly at third and fifth floor levels) are particularly good with levels of over 30% and in the worst case scenario this would fall to 5%. The resultant levels would normally be considered unacceptable and it is noted that a letter of objection has been received from the occupier of one of the single aspect flats.

The City Council highlighted to the applicant the five single aspect flats as being of particular concern in terms of the impact on amenity through loss of daylight and sunlight. In response, the applicant's daylight/sunlight consultant has prepared an addendum report which assesses the impact on each of the single aspect flats. The report states that there will be significant VSC losses to the studio flats but provides further comments on the No Sky Line analysis for each of the units.

The No Sky Line analysis is a further test of the impact upon daylight levels and is considered in the following section.

No Sky Line

The 'No Sky Line' method measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky. Accurate assessment of the No Sky Line method is dependent upon knowing the actual room layouts or having a reasonable understanding of the likely layouts. The applicants lighting consultants have not accessed Holcroft Court, however they have reviewed up-to-date floorplans, and it is upon these that the assessment is based.

BRE guidance states that if the no-sky line is reduced by 20% this will be noticeable to its occupants. However, where rooms are single aspect and more than 5m deep a reduction in No sky line of more than 20% may be unavoidable.

With regard to the five single aspect studio flats, these all have existing NSL levels of 98%. The meaning that 98% of the room has a view to the sky. Under the proposals two of the studio units will retain 50% NSL, one will retain 60% and the remaining two will retain higher levels of NSL. The three units that retain NSL levels of 50-60% will suffer losses greater than 20% of their original levels. These losses are greater than 20% of the existing levels and therefore contrary to BRE guidance. The daylighting consultant attests that daylight distribution levels of 50% are not uncommon within urban environments and whilst the changes in daylight levels will be noticeable to occupiers the retained light levels are not unique with inner city areas.

Whilst the losses to existing daylight levels are regrettable, given the context of the regeneration benefits of the scheme, and the small number of single aspect flats adversely affected, it is not considered that the application could be refused solely on the impact to these flats.

The consultant advises that in order for the scheme to comply with BRE guidance with regard to VSC levels this would require substantial alterations to the scheme involving the loss of floors. This would prevent the delivery of wider planning benefits, including the provision of on-site affordable housing.

The no sky line table below illustrates the impact on the other dual aspect properties within Holcroft Court.

No sky line table

ADDRESS	NUMBER OF ROOMS	MEET BRE GUIDANCE	BRE TRANSGRESSION PERCENTAGE RANGE		
			20% - 30%	30% - 40%	40%+
17-19 Carburton Street	30	30	0	0	0
94 Cleveland Street	7	7	0	0	0
92 Cleveland Street	8	8	0	0	0
86-90 Cleveland Court	40	40	0	0	0
84 Cleveland Street	18	15	3	0	0
82 Cleveland Street	8	8	0	0	0
80 Cleveland Street	7	7	0	0	0
78 Cleveland Street	9	9	0	0	0
76 Cleveland Street	4	2	1	0	1
74 Cleveland Street	5	2	2	0	1
72 Cleveland Street	3	0	1	1	1
70 Cleveland Street	3	1	1	0	1
68 Cleveland Street	3	2	0	1	0
66 Cleveland Street	3	2	0	1	0
56 Maple Street	12	6	3	3	0
Tower Tavern	3	0	1	2	0
Holcroft Court	174	126	8	17	23
Total	337	265 (79%)	20 (6%)	25 (7%)	27 (8%)

Of the 174 rooms tested at Holcroft Court, 126 (72%) pass the No sky line test. Of the 48 (28%) room where the reduction in No Sky Line breaches the BRE guidelines the majority of rooms are bedrooms. It is noted that the majority of flats within Holcroft Court are dual aspect,

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and primarily the living rooms face onto a communal garden away from the development site. These rooms would remain unaffected by the development. Although in the first instance from analysis of both the VSC and No Sky Line calculations to Holcroft Court it would appear that the losses of daylight would appear particularly harmful, given that the impact is principally to bedrooms it is considered that overall impact on living conditions is not so great that permission should be withheld and this aspect of the development is considered acceptable.

Objections have also been received on the loss of Rights to Light. Rights to light are a private matter between the applicant and adjoining owners and not a planning issue.

Sunlight

ADDRESS	NUMBER OF WINDOWS	MEET BRE GUIDANCE
17-19 Carburton Street	19	18
94 Cleveland Street	10	10
92 Cleveland Street	15	15
86-90 Cleveland Court	89	85
84 Cleveland Street	16	8
82 Cleveland Street	8	8
80 Cleveland Street	9	8
78 Cleveland Street	9	7
76 Cleveland Street	9	4
74 Cleveland Street	7	2
72 Cleveland Street	6	2
70 Cleveland Street	5	2
68 Cleveland Street	5	1
66 Cleveland Street	5	1
56 Maple Street	13	12
Tower Tavern	N/A	N/A
Holcroft Court (all flats)	38	38
Total	263	221 (84%)

With regard to the impact on levels of sunlight, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours (APSH), including at least 5% of annual winter sunlight hours. A room will be adversely affected if this is less than the recommended standards and reduced by more than 20% of its former values.

Windows which do face 90 degrees of due south are not considered for APSH assessment. For this reason the majority of flats within Holcroft Court have not been assessed, although those that have been are shown to be unaffected.

In all cases the sunlight assessment undertaken shows that there will be marginal losses of annual probable sunlight hours. The levels of sunlight retained are acceptable and again the impact is not considered sufficient to justify a refusal.

Objections have been received from residents of Holcroft Court on the grounds that overshadowing from the proposed development will reduce the effectiveness of the PV panels located on the roof of Holcroft Court. It is noted that there will be some overshadowing of the PV panels on Holcroft Court's eastern wing, however planning permission could not reasonably be refused on these grounds.

Overlooking

Part (F) of Policy ENV13 seeks to resist developments that would result in an unacceptable degree of overlooking. Objections have been received from residents on Cleveland Street and Holcroft Court on the grounds that the scheme would overlook into habitable rooms thereby reducing privacy.

The development's western flank elevation would be located approximately 8.0m from Holcroft Court's flank elevation. As set out above, Holcroft Court's elevation has 610 windows which supply a mixture of bedrooms, kitchens and living rooms. Whilst the separation distance between the two properties would be a street widths distance from the new building, it is noted that the majority of the development's new windows supply bedrooms, which would be less intensively used than main living accommodation during daytime hours.

It is recognised that the 8.0m separation distance between the application building and Holcroft Court would mean that there would be a level of mutual overlooking. However, given the site's inner London location, where a degree of mutual overlooking is not uncommon, the distance separation between the application building and Holcroft Court is not such that permission could not reasonably be withheld due to privacy issues.

There are balconies at each floor level on the north, south and east elevations. The balconies on the eastern elevation look towards properties on the opposite side of Cleveland Street. These allow a separation distance of approximately 12.5m to the neighbouring properties and, given that this is a street width's apart, are considered acceptable.

A number of balconies are on the north and south elevations of each of the three blocks, set back from the main façade of the buildings. In order to protect the neighbouring occupiers' privacy it is recommended that a condition is imposed which requires details of screening to the balconies to prevent direct overlooking towards Holcroft Court. At ninth floor level, there is a roof terrace which allows views directly to the west. Given that the terrace would be significantly higher than the top floor of Holcroft Court it is not considered that use of the proposed terrace would result in a loss of privacy.

Sense of Enclosure

Part (F) of Policy ENV13 also states that developments should not result in an increased sense of enclosure. The bulk and mass of the proposed building would be far greater than the site's existing built form. However, the proposal has been designed in three blocks with large openings in between which provide relief from the built form. It is considered that this is sufficient to prevent a significantly harmful increased sense of enclosure to nearby residential properties, given the site's urban context.

Relocation of petrol filling station (PFS)

The applicants have provided a Transport Statement and Preliminary Noise Assessment which assesses the traffic levels and noise impact of the relocation of the petrol station. Whilst the relocated PFS is smaller in size than the existing, it is noted that it is now located immediately opposite the residential properties within Holcroft Court as well as immediately underneath the new residential units provided within the development. Many of the objections received from neighbouring residents relate to concerns about noise, opening hours and odours associated with the proposed petrol filling station.

The Transport Statement sets out traffic data from other PFSs within central London and concludes that the petrol station is likely to receive on average 200 vehicles per day. Based on surveys from other filling stations it is unlikely that more than 20-25 vehicles will visit the PFS in any one-hour period and therefore the increase in traffic on Clipstone Mews is likely to be one vehicle every 2-3 minutes. The noise reports has assessed the increase in vehicle traffic and determined that it would likely cause a noise increase, above the existing ambient noise levels, of 2.7dBA on Clipstone Mews and 1.4dBA on Cleveland Street. The report notes that for similar noises a change in sound level of 0-2dBA is an insignificant and imperceptible change in loudness, and a change of 3dBA is just perceptible. The acoustic report considers the impact to be negligible on Clipstone Street and insignificant and imperceptible on Clipstone Mews (Holcroft Court) and Cleveland Street. The proposed petrol station opening hours are 07.30-22.00 daily and this is considered to be acceptable.

With regard to servicing the petrol filling station, it is predicted that three petrol deliveries will be required per week, based on a 26 tonne delivery vehicles with a capacity of 19,000 litres. Each delivery would take between 45-60 minutes. A condition to restrict petrol delivery to between 09.00am-09.00 pm is proposed. It is acknowledged that there will be additional noise associated with the deliveries, however as it is predicted that there will only be three deliveries per week, which will not take place during unsocial hours, this is not considered to be unacceptable.

A number of objections to the proposal relate to the potential for the retail element of the PFS to attract anti-social behaviour if it were be opened late into the night. The applicant has confirmed that the proposed opening hours for the PFS are 07.30-22.00 daily. It is noted that there are a number of other premises within the local area with similar opening times. The opening hours are considered to be acceptable and will be subject to a condition to control them.

Concerns have been also been raised by neighbouring residents that the petrol station use will create petrol odours which will be harmful to residential amenity. This issue has been raised with the applicants who comment that EU legislation regulates the emissions of vapours from the storage and dispensing of petrol. The future operator will be required to comply with an operational management plan and there are regulations which go beyond Planning controls which are in place to manage environmental emissions into the air.

6.4 Transportation/Parking

Car parking

It is considered that the levels of trips to the site associated with the commercial uses will be similar to the existing use and therefore no significant change will occur. The site is within a Controlled Parking Zone, meaning anyone who drives to the site will be subject to those controls.

43 off-street car parking spaces are provided for the 105 residential units. This equates to 0.40 parking spaces per residential unit. The applicant has indicated that 12 of the 43 car parking spaces would be allocated, with the remaining 31 spaces unallocated.

Transport for London have commented that in line with London Plan Policy 6.13, given the highly accessible nature of the site, car free development should be encouraged at this location and that 46 car parking spaces is considered an overprovision. The City Council's Highways Planning Manager has advised that the level of car parking provision is considered to be consistent with the requirements of TRANS23, albeit disappointing that the full amount of car parking within the development is not offered on an unallocated basis to ensure the most efficient use of these limited spaces. The remaining unallocated car parking would need to be secured by legal agreement.

It is considered that lifetime car club membership is the strongest mechanism to maintain low car ownership for future residential occupiers. It is noted that the applicant is agreeable to Car Club membership for a minimum of 25 years.

The London Plan requires at least 20% provision active of Electric vehicle points and 20% provision of passive Electric vehicle points. The applicant states that 20% of spaces will have access to an EV point. The provision of EV infrastructure is welcomed; however details are not included on the submitted drawings. Therefore further details will be required by condition.

Cycle parking

UDP Policy TRANS10 requires one cycle parking space per residential unit, one cycle parking space per 125m² of office and retail and one cycle parking space per 20 seats for A3 restaurant use. For the non-residential institution (Class D1) and assembly and leisure (Class D2) uses it is dependent on the specific type of use. However, as there are no confirmed tenants, specific details are unavailable at present.

The development provides combined total of 214 cycle parking spaces within the basement. Showers and changing facilities are also provided. This cycle parking provision is policy compliant and is welcomed.

Vehicular Access Servicing and Deliveries

UDP Policy TRANS20 and City Plan: Strategic Policy S42 require new developments to provide off-street servicing. Providing off-street servicing would improve the highway environment for pedestrians and other highway users. It would also remove a significant number of conflict points between servicing and site users.

At present servicing of the premises and the neighboring Holcroft Court takes place on Clipstone Mews, subject to time controls. As part of the proposal deliveries to the petrol station will take place off-street, entirely on the station forecourt. This is welcomed. However, other than for the PFS, the proposal does not provide any off-street servicing for the commercial and residential uses. Due to licensing arrangements third party servicing cannot take place on the forecourt. All servicing is proposed to occur along either Clipstone Mews or Cleveland Street. The Highways Planning Manager has raised an objection to the proposal due to the lack on off-site servicing.

It is disappointing that the design of the scheme has been unable to incorporate off-street servicing. The applicants stress that in a mixed used scheme which includes commercial uses, the relocation of a petrol station and residential entrances, there are physical restraints that make the provision of an off-street vehicular servicing area very difficult. It is also noted that whilst the quality of commercial floorspace on-site will be improved, the proposal does not result in an increase of commercial floorspace, and therefore the delivery regime is unlikely to change dramatically from the existing situation. The applicant asserts that it is proposed to slightly widen the carriageway of Clipstone Mews to facilitate improved passing opportunities in order to reduce the potential for congestion. It is also noted that the closure of the existing

petrol filling station on Clipstone Street offers an opportunity for the highway authority to achieve additional on-street servicing capacity.

The applicant's arguments are understood and are considered to have merit. Whilst the servicing strategy is not strictly in accordance with the requirements of Policy TRANS20, it is considered that subject to the imposition of a servicing management plan which clearly identifies storage locations, scheduling of deliveries and staffing arrangement and delivery vehicle size management, the policy's primary aim of preventing worsening traffic congestion can be met.

The Highways Planning Manager has raised concerns that the visibility splays for vehicles exiting the PFS onto Cleveland Street may be insufficient and cause conflict with pedestrians. To resolve this a condition is proposed requiring further design details to illustrate that there will be adequate visibility splays can be achieved.

Building Line/Highway Boundary

City Plan; Strategic Policy S41 and UDP Policy TRANS3 state that the City Council will prioritise pedestrian movement and that developments will aim to secure an improved environment for pedestrians. The proposed redevelopment involves locating the line of the new building along the front edge of the existing pavement lights on Cleveland Street. The result is that this would reduce the width of pavement available for pedestrian movement.

The Highways Planning Manager has raised objection to the alteration of the building line and the reduction in available pavement space. This is because, it would involve a reduction in available footway, and would therefore fail to provide an improved environment for pedestrians.

It is noted that along the majority of the new building's Cleveland Street elevation a pavement width of 3.0m will be retained. However, along the site frontage there are nine street trees and two telephone boxes which create 'pinch points' between 1500mm and 1800mm. Subject to the details of tree replanting which are to be agreed by condition, the pinch point areas may increase in width as a new planting treatment may involve smaller paved tree pit areas.

The applicants have sought to demonstrate that, although the proposal does not improve the pedestrian environment along Cleveland Street the development brings other highways improvements. For instance, the Clipstone Mews service road will be enhanced by a new pedestrian route running the full length of the east side of the street. This is an improvement over the current situation where the footway meets a 'dead-end'. Clipstone Mews will also be increased in width by 0.5m to facilitate easier passing of through vehicles, thus reducing congestion. On Clipstone Street the relocation of the petrol filling station and its vehicular crossovers would provide a widened pedestrian route with enhanced appearance. Finally, the applicants are prepared to fund a raised-table to the carriageway at the northern end of Clipstone Mews, in order to provide an improved crossing opportunity for pedestrians. These works can be secured by s106 agreement.

Whilst it is disappointing that the proposal fails to improve the pedestrian environment on Cleveland Street, it is considered that with the redevelopment's other improvements to the highway surrounding the area, balanced with the wider benefits of the scheme, overcome the Highway Planning Manager's concerns.

6.5 Trees

The Council's Arboricultural Manager has confirmed that the proposal to remove two trees in order to provide access to the petrol station forecourt is acceptable. The applicant has confirmed that they are amenable to removing and replacing the remaining Pillar Apples on

Cleveland Street, several of which are in a poor condition. The Arboricultural Manager has confirmed no objection to this, and these works can be secured within the s106 agreement.

6.6 Economic Considerations

This residential led redevelopment will help regenerate this part of Cleveland Street to the benefit of the local and wider West End economy. The viability considerations are set out elsewhere in this report.

6.7 Access

The proposed buildings have been designed to meet the requirements of the Disability Discrimination Act 1995 (DDA) and incorporates the principles of inclusive design. The building entrances on the site are level with the public pavement and the main cores are fitted with wheelchair accessible lifts that provide flush access to all floors.

6.8 Other UDP/Westminster Policy Considerations

Noise from Plant

The applicant has provided an Environmental Noise Assessment Report which indicated that the site is within an area having ambient noise levels above WHO guidelines. The report does not contain full details of all the plant to be used because the detailed requirements of the future occupiers of the building are not known at this stage.

Environmental Health have confirm that conditions can be used to control plant noise emission levels and to require submission of supplementary acoustic reports with full details of all the plant equipment to be used; attenuation measures for the basement plant and the integral sub-station; details of residential kitchen extract systems and sound insulation measures, including mitigation from ground floor commercial units to residential units above, to ensure that the Council's residential internal noise standards are met.

Subject to the imposition of a condition requiring details of its associated flue installation the proposed Combined Heat Power system is satisfactory.

Contaminated Land

It is likely that the site is contaminated and pollution linkages are present. A condition is imposed requiring a contamination remediation strategy.

Air Quality

The London Borough of Camden have objected on the grounds that it has not been demonstrated that the proposal will not have a negative impact on local air quality. The applicant has confirmed that the development achieves air quality neutral, subject to the provision of technical data for the proposed CHP, and this is dealt with by condition.

Waste and recyclables storage

Storage areas for waste and recyclable material are located at ground and basement levels, with an associated refuse lift. They will be accessed from Clipstone Mews. The Cleansing Manager has confirmed that the waste storage details are acceptable. It is recommended that these details are reserved by condition.

Construction Works

An initial Construction Management Plan (CMP) was submitted which attracted objections, including to the closure of Clipstone Mews. It is recommended that the development should be carried out in accordance with a revised CMP, to be submitted and approved by the City Council. This will be secured by condition. This will cover issues such as a programme of works, traffic management, environmental management and construction methodology and

will help to mitigate concerns raised regarding noise during construction. The applicant has also agreed to an annual contribution of £30,000 towards the monitoring of the Council's Code of Construction Practice.

6.9 London Plan

The proposal to redevelop the site is referable to the Mayor because the building is more than 30m high and outside the City of London. The Stage 1 response has been received from the Mayor who has made the following comments:

The principle of a residential-led mixed used development is supported in strategic terms.

The provision of on-site affordable accommodation is strongly supported in strategic terms. However, this should be increased to avoid the need for an off-site financial contribution. Further discussion between the City Council and applicant is required following the completion of the independent assessment of the applicant's financial viability report. Opportunities for providing affordable family accommodation should be explored.

The overall massing, height and architectural treatment of the scheme is supported.

The applicant's site heat network approach is not policy compliant and is not supported.

Additional transport clarifications should be provided in order to demonstrate compliance with London Plan policies.

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 City Council policies and for that reason is recommended for approval.

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 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:

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

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 6 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

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

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

- Provision of affordable housing on-site and contribution towards the Council's affordable housing fund.
- Funding towards the City Council's Code of Construction Practice and CEMP to an annual cap of £30,000.
- A financial contribution to All Souls Clubhouse lunch club of £30,000;
- Replanting of trees on Cleveland Street;
- Costs of highways works around the site to facilitate the development (including paving, dropped kerbs, raised crossing etc).
- Provision of car club membership for residents of the building for twenty five years.
- A financial contribution of £123,930 towards carbon off-setting

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

It is considered that the 'Heads of Terms' listed above satisfactorily address City Council policies. The planning obligations to be secured, as outlined in this report, are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations (2010 as amended).

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1

6.12 Environmental Assessment including Sustainability and Biodiversity Issues

Energy and Sustainability

The applicant has submitted a Sustainability and Energy Strategy (including a Code for Sustainable Homes Pre-Assessment, and a BREEAM Pre-Assessment Report. Assessments indicate that the commercial retail, office, and assembly and leisure and non-residential institution elements could achieve a BREEAM rating of "Excellent" and the residential units could potentially achieve up to Level 4 (out of 6) in the Code for Sustainable Homes, subject to a number of measures being incorporated (which it is proposed to secure by condition). These are considered to be acceptable.

Policies 5.1 to 5.9 of the London Plan focus on how to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. Developments are required to make the fullest contribution to tackling climate change by minimising carbon dioxide emissions (be lean), adopting sustainable design and construction measures and prioritising decentralised energy (be clean), including renewables (be green). London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments. The scheme should be targeting a 40% reduction in carbon dioxide emissions.

Policy 5.6 in the London Plan which requires development proposals to evaluate the feasibility of Combined Heat and Power (CHP) systems and where a new system is appropriate to examine opportunities to extend the system to adjacent sites. Major development proposals should select energy systems in accordance with the Mayor's hierarchy related to CHP systems. The aim being to increase the proportion of energy generated from renewable sources.

Policy S39 of the City Plan seeks to encourage decentralised energy and ensure that major developments make provision for site wide decentralised energy generation and where possible connectivity. Policy S40 seeks at least a 20% reduction of carbon dioxide emissions and where possible towards zero carbon emissions except where it is not appropriate due to the local historic environment, air quality and/or site constraints.

A range of passive design features are proposed to reduce the carbon emissions of the proposed development. These include low energy lighting, shading via recessed windows and internal blinds, solar control glazing and openable windows. It is proposed to install a gas fired CHP as the primary heat source, and to provide domestic hot water load for the site heat network. The energy report concludes that, after investigating a number of options, it is proposed to provide PV panels as the only renewable technology that can feasibly be installed. A combined total of 260m² are proposed on Blocks A and C, due to overshadowing no PV panels are proposed on Block B.

The GLA has raised concerns about the site heat network approach. In response the applicants state the development will have its own central plant, they have also investigated local heat networks and future connectivity. The development is over 1km away from the Euston District Heat Network and would require pipework crossing Euston Road which would be a significant barrier. The applicant comments although there is little opportunity to connect to heat network in the short term there are on-going investigations regarding the potential for future connection when the network exists.

The proposed measures will lead to a 19% of carbon dioxide savings, compared to a 2013 Building Regulations compliant development. The London Plan policy states that 'the carbon dioxide reduction targets (40%) should be met on-site. Where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery

of carbon dioxide savings elsewhere.' The applicant has offered a financial contribution of £123,930 and as the City Council has now established a carbon off-setting fund into which developers have contributed monies to off-set their carbon reduction requirements in-line with London Plan Policy 5.2, this is considered acceptable.

The proposals will replace an outdated building with a new mixed use redevelopment, which includes measures to maximise carbon reductions, including renewable energy measures, in accordance with development plan policies.

Biodiversity

To encourage biodiversity, and in accordance with Strategic Policy S38 and UDP Policy ENV 17, the scheme includes a green living roof which will add to bio-diversity and will be secured by condition.

6.13 Other Issues

This application was scheduled to be determined at the Planning Applications Committee on 21 April and 19 May 2015. In both cases the application was withdrawn from the agenda by officers prior to the meeting. Initially prior to the 21 April Committee meeting this was because the applicant had incorrectly completed the certificate of ownership and notice had not been served on Westminster City Council as freeholder of the site and Jetlag Bar at 125 Cleveland Street (leaseholder). The correct notices have now been served.

Objections to the application have been received on the grounds that Westminster City Council is the land owner of the site, and that this should have been fully publicised, as land ownership is a relevant issue in the determination of planning applications. Objections also state that the City Council will be determining a planning application where they will gain financial benefits which have not been disclosed to the public.

For the avoidance of any doubt, Westminster City Council own the freehold of the site. However, the application is submitted by Dukelease who are the long-term leaseholder. However, the purpose of Certificate B is for the applicant to demonstrate to the Local Planning Authority that anyone with a legal interest in the application site has been notified by the applicant that the said application has been made. It is part of a notification procedure for those with a legal interest in the land to ensure that they are made aware that someone else is applying for planning permission on their land. Beyond this it has no other purpose since landownership matters are not relevant to the determination of planning applications which are dealt with on their merits with reference to planning policy. The correct certificate has now been completed and the Local Planning Authority must consider the application against planning policy.

The application was withdrawn from the 19 May Committee because strong objections were received from residents on the grounds that the report was fundamentally flawed and was misleading. Whilst officers do not agree with these assertions it was considered prudent to withdraw the application from the Committee to enable the report to be revised rather than the issues being covered verbally at Committee.

The crux of these strong objections from Holcroft Court residents is that the scheme would result in a substantial overdevelopment of the site. The bulk and mass of the replacement buildings is too great, which would result in a development that is out of scale with its surroundings, particularly the 10 storey southern block. This in turn would result in a material loss of light to residential flats and the proximity of the new flats would result in overlooking. In addition activity from the relocated petrol filling station would result in noise nuisance. The objectors consider that the development would be materially harmful to both the townscape and the living environment of Holcroft Court residents, which significantly outweighs any perceived regeneration benefits that the scheme might deliver.

Item No.
1

With regards to the height of the proposed development objectors have repeatedly stated that the applications drawings are misleading because, in addition to existing and proposed buildings on the site, the sections and elevations submitted show a number of surrounding buildings some of which are street blocks away from the site. The objectors consider that this is misleading as it shows a "Manhattanesque" skyline which is not an accurate reflection of the immediate environment. There is, however, considered to be no merit in this argument. The acceptability of the development and the tower is made with regards to its impact on the immediate environment and the wider townscape and the drawings submitted are not considered to be inaccurate or misleading.

Section 6.2 of this report relates to townscape and design issues. Objections to the principle of a tall building at the southern end of the site on account of its claimed architectural incongruity are not sustainable for reasons set out in this section of the report.

UDP Policy DES 3 is relevant to this case. The policy relates to high buildings and aims to protect and enhance Westminster's townscape historic character and skyline. The policy sets out the criteria whereby high buildings would not be permitted.

In summary, the southern end of the site is considered an appropriate location for a tall building in urban design terms. It forms a local focal point at the junction of streets and it neighbours the University of Westminster building which is also tall relative to its immediate surroundings. The proposed 10 storey tower would be higher than the top floor of the University building and would be a similar height to a ventilation shaft; this is not considered to be detrimental to the townscape. There is no design rationale which requires the tower on the application site to be lower than the University building.

Furthermore, in the wider area beyond the boundary with the Borough of Camden there are many other buildings of greater height than the surviving areas of historic development. Therefore, the character of the area, in terms of building heights, is mixed and a further tall building is not incongruous in this context, and the tower is purposefully located to the south to minimise adverse impacts on the setting of designated heritage assets. The development therefore address the requirements of UDP Policy DES 3(A).

Policy DES 3(B) sets the requirements for allowing creation of a building significantly taller than its neighbours as an exception to Policy DES3(A) and in this case the design quality of the development is considered to positively contribute to the character of London as a 'world class' city. It also meets Policy DES3(C) by defining a local point of significant activity, by providing greatly improved commercial frontages, and by ensuring on-site vehicle parking provision is made underground. The objections to the principle and detailed design of the development (and tower in particular) are not sustainable in design terms.

With regards to the impact on residential amenity this is comprehensively addressed in section 6.3 of this report. Given the proximity of the site to Holcroft Court any increase in bulk and mass on the site and the arrangement of the proposed flats will have an impact in terms of daylight, sunlight, sense of enclosure and privacy. Whilst the basis behind the objections is understood, it is considered that the impact on living conditions would not be so great that permission for the redevelopment scheme should be withheld.

In relation to the objectors assertion that the relocated petrol filling station would result in significant increased vehicular activity and subsequent noise nuisance, again this is covered in section 6.3 of the report. Conditions are recommended which would restrict the hours that customers could use the petrol filling station to between 07.30 and 22.00 daily and that deliveries are restricted to between 09.00 and 21.00 daily. Subject to the petrol filling station being restricted to these hours the anticipated increase in vehicular activity on Clipstone Mews is considered acceptable and permission could not reasonably be withheld on the basis that the operation would result in undue noise nuisance.

The objections from Holcroft Court Residents Association also contains detailed comments on highways, plant installation, affordable housing, external lighting, construction management, basement construction and flooding, land ownership, sustainability, the community consultation process, and air quality.

As already stated it is considered that the substantive points raised within this objection have been addressed in this report and permission could not reasonably be withheld for the reasons set out in this objection.

The University of Westminster has also raised concerns on the grounds that the development could constrain or compromise the future development of their New Cavendish Street campus, however, again it is considered that the application could not reasonably be refused on the grounds of the future redevelopment of an adjoining site.

Objectors are also concerned about loss of property values; however, this is not a planning matter.

Excavation

Objections have been received concerning any potential impact that the basement excavation would have on the foundations and structural integrity of other buildings, and to the potential effects on the water table and the potential increase in the risk of flooding.

The impact of basement excavation is at the heart of concerns expressed by residents across many central London Boroughs, heightened by well publicised accidents occurring during basement constructions. Residents are concerned that the excavation of new basements is a risky construction process with potential harm to adjoining buildings and occupiers.

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

While the Building Regulations determine whether the detailed design of buildings and their foundations will allow the buildings to be constructed and used safely, the National Planning Policy Framework March 2012 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by land instability.

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

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

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

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

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

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

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

Designing Out Crime

An objection has been received on the grounds that the design of the existing building afforded opportunities for criminal behaviour. The Crime Prevention Design Officer has been consulted and has raised no objection to the proposal.

Accuracy of submitted drawings

Objections have been received on the grounds that the architect's drawings submitted with the planning application are misleading or inaccurate in relation to the heights of existing buildings surrounding the site, and that the City Council should have requested additional drawings which more clearly illustrate the relationship between the application property and neighbouring buildings. These issues have been raised with the applicant who has confirmed that the heights of building have not been misrepresented and that all drawings are accurate. The drawings issued by the architect are considered to adequately illustrate the relationship with neighbouring properties and that additional drawings are not required prior to the determination of the planning application.

6.13 Conclusion

The proposal will result in a comprehensive redevelopment of the site to provide a mixed use scheme that will contribute to the character and function of the area. The additional bulk and mass will impact on residents at Holcroft Court. However this needs to be assessed within the context of the regeneration benefits that the scheme would deliver. These include improved retail, the provision of housing including an element of on-site affordable housing, the removal of an unsightly 1960's building and the provision of a high quality new building that would result in significant improvement to the townscape. These benefits accord with Westminster's spatial vision and strategic objectives as set out in the adopted City Plan: Strategic Policies.

The scheme is considered acceptable subject to Committee's views that the offer of a financial contribution of £30,000 to the All Souls Clubhouse Wednesday lunch club is an adequate social and community provision for the size of the development.

BACKGROUND PAPERS

1. Planning application form, Architect's Height Justification document dated 15 April 2015 and Daylight letter from GIA dated 01 May 2015
2. Stage 1 report from the Greater London Authority dated 13 January 2015
3. Letter from Transport for London dated 5 January 2015
4. Letter from Historic England dated 10 February 2015
5. Letter from London Borough of Camden dated 24 February 2015
6. Letters from Fitzrovia Neighbourhood Association dated 5 January 2015, 8 January 2015, 10 March 2015 and 19 April 2015
7. Letter from Fitzrovia West Neighbourhood Forum dated January 2015
8. Letter from Thames Water dated 19 December 2015
9. Letter from London Underground dated 12 May 2015
10. Letter from Designing Out Crime Officer dated 6 January 2015
11. Memorandum from Environmental Health dated 10 April 2015
12. Memorandum from Cleansing Manager dated 24 February 2015
13. Memorandum from Highways Planning Manager Dated 11 March 2015
14. Memorandum from Head of Affordable and Private Sector Housing dated 1 April 2015
15. Memorandum from District Surveyor dated 1 April 2015
16. Memorandum from Arboricultural Manager dated 2 April 2015
17. Letter from Councillor Adam Harrison (LB Camden) dated 29 December 2014
18. Two separate letters from occupiers of 12, 103 New Cavendish Street dated 5 December 2014
19. Two letters from occupier of 242 Holcroft Court dated 08 December 2014 and 17 December 2015
20. Letter from occupier 121c Cleveland Street dated 10 December 2014
21. Letter from occupier 5, 103 New Cavendish Street dated 10 December 2014
22. Letter from occupier 90 Holcroft Court dated 15 December 2014
23. Letter from occupier 141 Holcroft Court dated 18 December 2014
24. Two Letters from occupiers 162 Holcroft Court dated 20 December 2014 and 22 December 2014
25. Letter from occupier 221 Holcroft Court dated 21 December 2014
26. Letters on behalf of University of Westminster dated 22 December 2014 and 9 April 2015
27. Letter from occupier 50 Holcroft Court dated 24 December 2014
28. Letter from occupier 86 Holcroft Court dated 24 December 2014
29. Letter from occupier 48 Holcroft Court dated 24 December 2014
30. Letter from occupier Flat 7, Cleveland Court dated 24 December 2014
31. Letter from occupier 16 Fitzroy Square dated 25 December 2014
32. Letter from occupier Flat 11 86-90 Cleveland Street dated 25 December 2014
33. Letter from occupier of Flat 10, Cleveland Court dated 28 December 2014
34. Letter from occupier of Flat 34, 88 Portland Place dated 28 December 2014
35. Letter from occupier of 69 Holcroft Court dated 29 December 2014
36. Two letters from occupiers of 105 Holcroft Court dated 29 December 2014
37. Letter from occupier of 28 Holcroft Court dated 29 December 2014
38. Letter from occupier of Flat 2, Cleveland Court dated 29 December 2014
39. Letter from occupier of 12 Clifton House, 131 Cleveland Street dated 30 December 2014.
40. Letter from occupier of 78 Cleveland Street dated 30 December 2014
41. Letter from occupier of 4 Cleveland Court dated 30 December 2014
42. Letter from occupiers of 108 Holcroft Court dated 30 December 2014
43. Letter from occupier of Flat 9, Cleveland Court dated 30 December 2014
44. Two letters from occupier of Flat 1, 72 Cleveland Street dated 30 December 2014

45. Letter from occupier of 210 Holcroft Court dated 30 December 2014
46. Letter from occupier 12 Clifton House, 131 Cleveland Street dated 30 December 2014.
47. Letter from occupier of 159 Holcroft Court dated 31 December 2014
48. Letter from occupier of 7 Holcroft Court dated 1 January 2015
49. Letter from occupier 122 Holcroft Court dated 2 January 2015
50. Letter from occupier of 243 Holcroft Court dated 2 January 2015
51. Letter from occupier of 181 Holcroft Court dated 2 January 2015
52. Letter from occupier 196 Holcroft Court dated 4 January 2015
53. Letter from occupier of 82 Cleveland Street dated 5 January 2015
54. Letter from occupier of 84 Cleveland Street dated 6 January 2015
55. Letter from occupier of 144 Holcroft Street dated 7 January 2015
56. Letter from occupier of 146 Holcroft Court dated 8 January 2015
57. Letter from owner/ occupier Flat 131 and 46 Holcroft Court dated 9 January 2014
58. Letter from occupier of 191 Holcroft Court dated 10 January 2015
59. Letter from occupier of 47 Holcroft Court dated 11 January 2015
60. Letter from occupier 121c Cleveland Street dated 12 January 2015
61. Letter from occupier of 204 Holcroft Court dated 16 January 2015
62. Letter from occupier of 122 Holcroft Court dated 18 January 2015
63. Letter from occupier of 227 Holcroft Court dated 19 January 2015
64. Letter from occupier of 32 Holcroft Court dated 19 January 2015
65. Letter from occupier of 6 Cleveland Court dated 19 January 2015
66. Letter from occupier of 134 Holcroft Court dated 1 March 2015
67. Letter from occupier of 10 Conway Street dated 5 March 2015
68. Letter from occupier of 68 Cleveland Street dated 12 March 2015
69. Letter from occupier of 68 Cleveland Street dated 25 March 2015
70. Letter from occupier of Flat 2 146 Great Portland Street dated 2 April 2015
71. Letter from occupier of Flat 1, 72 Cleveland Street dated 20 April 2015
72. Letter from occupier of 11 Holcroft Court dated 20 April 2015
73. Letter from occupier of Flat 3, 3 Nottingham Place dated 27 April 2015
74. Extensive planning objection by the Holcroft Court Residents Association. This includes a petition, video recorded with a drone, photographs, comments on the application drawings by a qualified architect and additional letters dated 15 April 2015; 19 April 2015 (3 letters); 23 April 2015; 29 April 2015; 18 May 2015 and 25 May 2015
75. Letter from occupier of The Jetlag Bar, 125 Cleveland Street dated 14 May 2015
76. Additional letter and meeting note from Fitzrovia West Neighbourhood Association dated 18 May 2015

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

DRAFT DECISION LETTER

Address: 87-125 Cleveland Street, London, W1T 6PJ

Proposal: Demolition of existing building and redevelopment to provide a building of three blocks separated by landscaped areas (Block A - comprising ground and nine upper floors, Block B - ground and three upper floors and Block C - ground and three upper floors, each with basement and sub-basement) to provide up to 105 residential units, a petrol filling station, a mix of retail (Class A1)/ restaurant (Class A3)/ drinking establishment (Class A4)/office (Class B1)/ non-residential institution (Class D1) and assembly and leisure (Class D2) floorspace, and 46 residential parking spaces with associated plant space across sub-basement, basement and ground floor levels.

Plan Nos: A2494 198/P6; 199/P27; 200/P29; 201/P18; 202/P17; 204/P16; 207/P17; 208/P10; 209/P10; 210/P10; 300/P3; 301/P3; 302/P3; 303/P3; 304/P3; 400/P7; 401/P7; 402/P5; SK150223/P1; SK150409B/P1; DPA-69740-01/A.; Greengage Report (Nov 2014); Cleveland Street Sustainability and Energy Report (10/11/14); Daylight and Sunlight Report (8413); Noise Impact Assessment (20710/NIA1) and site location plan.

Case Officer: Billy Pattison

Direct Tel. No. 020 7641 3267

Recommended Condition(s) and Reason(s):

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

Reason:

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

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 3 You must apply to us for approval of detailed drawings at 1:10 with full size details of the following parts of the development: (1) a typical example of each different external door and window type, (2) decorative metalwork to the balconies, (3) a typical shopfront. You must not start work until we have approved what you have sent us. You must then carry out the work according to these detailed drawings

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan:

Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 4 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace. (C26NA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 6 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balcony. (C26OA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 7 You must apply to us for approval of a sample panel of brickwork which shows the colour, texture, face bond and pointing. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the approved sample. (C27DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 9 All facing brickwork must be laid in Flemish bond.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 10 You must apply to us for approval of a scheme of public art. You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details. You must maintain the approved public art and keep it on this site. You must not move or remove it.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 11 Except for basement excavation work, you must carry out any building work which can be heard at the boundary of the site only:
- * between 08.00 and 18.00 Monday to Friday;
 - * between 08.00 and 13.00 on Saturday; and
 - * not at all on Sundays, bank holidays and public holidays.

You must carry out basement excavation work only:

- * between 08.00 and 18.00 Monday to Friday; and
- * not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11BA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 12 Customers shall not be permitted within the restaurant (Class A3) and/or bar (Class A4) premises outside of the following hours: 07.00 to 0000 midnight Sunday to Thursday, bank holidays and public holidays and 07.00 to 00.30 the next day on Friday and Saturdays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 13 You must apply to us for approval of detailed drawings of the appearance and location of the ventilation system for the restaurant (Class A3) use. You must not start any work on the relevant part of the development until we have approved what you have sent us. You must then carry out the work according to these details prior to the first use of the restaurant and thereafter the ventilation system shall be retained and maintained for as long as the restaurant (Class A3) unit is in place.

Reason:

The use of the restaurant (Class A3) unit without any kitchen ventilation would cause harm to occupiers of neighbouring properties from cooking smells. This is as set out in S29 of of

Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 5 of our Unitary Development Plan that we adopted in January 2007

- 14 You must apply to us for approval of an Operational Management Plan for the bar (Class A4) and/or restaurant (Class A3) use. This shall include details of the capacity for the unit and arrangements to show how you will prevent customers who are leaving the restaurant/bar from causing nuisance for people in the area, including people who live in nearby buildings. You must not open the restaurant or bar to customers until we have approved what you have sent us. Thereafter you must manage the restaurant or bar in accordance with the approved plan.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE TACE9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 15 You must apply to us for approval of an Operational Management Plan for the non-residential institution (Class D1) and/or assembly and leisure (Class D2) uses. This shall include details of the capacity and opening hours for each unit and measures to prevent the uses causing disturbance to neighbouring occupiers. You must not open the units until we have approved what you have sent us. Thereafter you must manage the units in accordance with the approved plan.

Reason:

To make sure that the uses will not cause nuisance for people in the area. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 16 You must provide the waste store shown on drawings A2494 199/P28 and A2494 200/P29, before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the properties. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

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

Reason:

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

- 18 Prior to the occupation of the development, you shall submit and have approved in writing by

the local planning authority, a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

Reason:

To ensure that the servicing facility operates as designed and does not impact on the safety or operation of the highway as required by Policy TRANS 20 of our Unitary Development Plan that we adopted in January 2007.

- 19 You must provide all the car parking spaces shown on drawings A2494 199/P28 and shall be retained for use by residents within the building. No more than 12 parking spaces shall be allocated to residential units and, of these, no more than 1 residential car parking space shall be allocated or used by any single residential unit. The parking spaces reserved for residents must be clearly identified.

Reason:

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

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

Reason:

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

- 21 Prior to commencement of development, detailed design of the entrance and exit of the Petrol Filling Station forecourt and adjoining walls shall be submitted for approval to ensure that the one-way function of the forecourt and adequate visibility splays can be achieved to other highway users.

Reason:

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

- 22 At least 20% of car parking spaces shall have access to an electric car charging point to be provided prior to occupation. The charging points must be retained in working order thereafter.

Reason:

To provide parking spaces for people using the development as set out in TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 23 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 6 months of

completing the development (or within any other time limit we agree to in writing).

If you remove any trees or find that they are dying, severely damaged or diseased within 6 months of planting them, you must replace them with trees of a similar size and species. (C30CB)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of the area, and to improve its contribution to biodiversity and the local environment. This is as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 16, ENV 17 and DES 1 (A) of our Unitary Development Plan that we adopted in January 2007. (R30BC)

- 24 **Pre Commencement Condition.** You must apply to us for approval of the ways in which you will protect the trees which you are keeping, as shown on drawing DPA-69740-01/A. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2005. You must then carry out the work according to the approved details. (C31AC)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

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

Reason:

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

- 26 You must apply to us for approval of amended drawings showing the following alteration to the scheme.
The installation of screening to the balconies on the north and south elevations of the three blocks to prevent overlooking towards Holcroft Court.
You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings. (C26UB)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 27 Customers shall not be permitted within the petrol filling station premises before 07.30 or after 22.00 each day. (C12AD)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7

of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 28 Deliveries to the petrol filling station shall not be permitted before 09.00 or after 21.00 each day. (C12AD)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 29 Development shall not commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason:

The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

- 30 Full details of the 'children's play facility' in the southern courtyard shall be submitted to the City Council and approved before occupation of the residential part of this development.

You must then carry out work according to these details which should be permanently retained on site.

Reason:

To provide children's play facilities as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and SOC1, SOC 6 and H10 of our Unitary Development Plan that we adopted in January 2007.

- 31 You must provide the following bio-diversity/sustainability features before you start to use the relevant part of the development, as set out in your application.

- i) Green roof
- ii) PV panels
- iii) CHP

You must not remove any of these features. (C43FA)

Reason:

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

- 32 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

- 33 You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM and Code for Sustainable Homes), this review must show that you have achieved an 'excellent' rating, and Level 4 of the Code for Sustainable Homes. If you use another method, you must achieve an equally high standard. You must provide all the environmental sustainability features referred to in the review before you start to use the building. You must then not remove any of these features.

Reason:

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

- 34 Prior to the installation of the combined heat and power (CHP) plant, a scheme of the plant including the flues shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be installed and permanently retained thereafter.

Reason:

To make sure that the development does not harm local air quality as set out in S31 of Westminster's City Plan: Strategic Policies adopted November 2013.

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

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1, 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed.

Phase 1: Desktop study - full site history and environmental information from the public records.

Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.
(C18AA)

Reason:

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

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

Reason:

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

- 37 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

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

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

Reason:

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

- 39 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 40 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 41 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 41 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

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

- 42 Prior to the use of the restaurant unit (Class A4) you must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the restaurant use until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

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

- 43 Unless otherwise agreed in writing with the Local Planning Authority in consultation with London Underground Limited, the development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground Limited) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures
- accommodate the location of the existing London Underground structures and tunnels
- accommodate ground movement arising from the construction thereof and
- mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2011 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team
Environmental Health Service
Westminster City Hall
64 Victoria Street
London
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 3 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

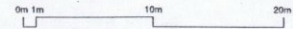
If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

- 4 Under Section 25 of the Greater London Council (General Powers) Act 1973 you need planning permission to use residential premises as temporary sleeping accommodation. To make sure that the property is used for permanent residential purposes, it must not be used as sleeping accommodation by the same person for less than 90 nights in a row. This applies to both new and existing residential accommodation.

Also, under Section 5 of the Greater London Council (General Powers) Act 1984 you cannot use the property for any period as a time-share (that is, where any person is given a right to occupy all or part of a flat or house for a specified week, or other period, each year). (I38AB)

- 5 The sound insulation in each new unit of a residential conversion should meet the standards set out in the current Building Regulations Part E and associated approved documents. Please contact our District Surveyors' Services if you need more advice. (Phone 020 7641 7240 or 020 7641 7230). (I58AA)
- 6 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 7 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 8 You may need separate licensing approval for the bar/restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 9 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)
- *10 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)

- 11 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. If you would like more information, you can contact Ray Gangadeen on 020 7641 7064. (I54AA)
- 12 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the relevant units within the basement and ground floors can change between the A1/A3/A4/B1/D1 and D2 uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62AA)
- 13 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- i) Provision of 15 on-site affordable housing intermediate rent units
 - ii) A financial contribution of £4,629,000m towards the Council's affordable housing fund.
 - iii) Compliance with the City Council's Code of Construction Practice and submission of a CEMP (Construction Environmental Management Plan) to an annual cap of £30,000.
 - iv) A £30,000 financial contribution to All Souls Clubhouse
 - v) Costs of highways works around the site to facilitate the development (including paving, dropped kerbs, raised crossing etc).
 - vi) Provision of car club membership for residents of the building for twenty five years.
 - vii) Replacement of trees on Cleveland Street
 - viii) A financial contribution of £123,930 towards carbon off-setting
- 14 This development has been identified as potentially liable for payment of the Mayor of London's Community Infrastructure Levy (CIL). Responsibility for paying the levy runs with the ownership of the land, unless another party has assumed liability. We will issue a CIL Liability Notice to the landowner or the party that has assumed liability with a copy to the planning applicant as soon as practicable setting out the estimated CIL charge.
- If you have not already done so you must submit an **Assumption of Liability Form** to ensure that the CIL liability notice is issued to the correct party. This form is available on the planning portal at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>
- Further details on the Mayor of London's Community Infrastructure Levy can be found on our website at: <http://www.westminster.gov.uk/services/environment/planning/apply/mayoral-cil/>.
- You are reminded that payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay.**



GENERAL NOTES

All settings out must be checked on site.
 All walls must be checked on site and refer to
 Concrete Datum Levels unless otherwise shown.
 All signs and markings must be checked on site.
 All dimensions must be checked on site.
 This drawing must not be used for construction without all other
 relevant drawings and specifications.
 This drawing must not be used for any other purpose
 without the written consent of Assael Architects.
 This drawing must not be used on site unless issued for
 construction.

Revision Status:
 P - Preliminary C - Contract
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 errors or omissions in this drawing or any other drawings or specifications
 prepared by Assael Architects Limited or any other person or firm
 appointed by Assael Architects Limited.

DRAWING NOTES

6-FIELD REV'IT

STATUS	REVISION	DATE	DRN	CHK	COM
P1	Preliminary Proposed	20.02.14	JL	NC	-
P2	Preliminary Proposed	07.03.14	JL	NC	-
P3	For Information	24.03.14	JL	NC	-
P4	For Information	24.03.14	JL	NC	-
P5	For Information	07.04.14	JL	NC	-
P6	For Information	20.04.14	JL	NC	-
P7	For Information	05.05.14	SC	RD	-
P8	For Information	14.05.14	JL	NC	-
P9	For Information	20.05.14	JL	NC	-
P10	For Information	04.06.14	JL	NC	-
P11	For Information	09.06.14	JL	NC	-
P12	For Information	04.07.14	JL	NC	-
P13	For Information	14.08.14	JL	TCC	-
P14	For Information	20.08.14	JL	TCC	-
P15	For Information	01.09.14	JL	TCC	-
P16	For Information	09.09.14	JL	TCC	-
P17	For Information	11.09.14	JL	TCC	-
P18	For Information	24.09.14	JL	TCC	-
P19	For Information	02.10.14	JL	TCC	-
P20	For Information	08.10.14	JL	TCC	-
P21	For Information	14.10.14	JL	TCC	-
P22	For Information	20.10.14	JL	TCC	-
P23	For Information	17.11.14	JL	TCC	-
P24	For Information	10.11.14	JL	TCC	-
P25	For Information	20.11.14	JL	TCC	-
P26	OPTIMISATION	18.02.15	RD	JL	-
P27	PLANNING SUBSTITUTION	10.02.15	RD	JL	-



CLIENT
 Soho Data Holdings
 Limited

PROJECT TITLE
 87-115 Cleveland Street
 Westminster

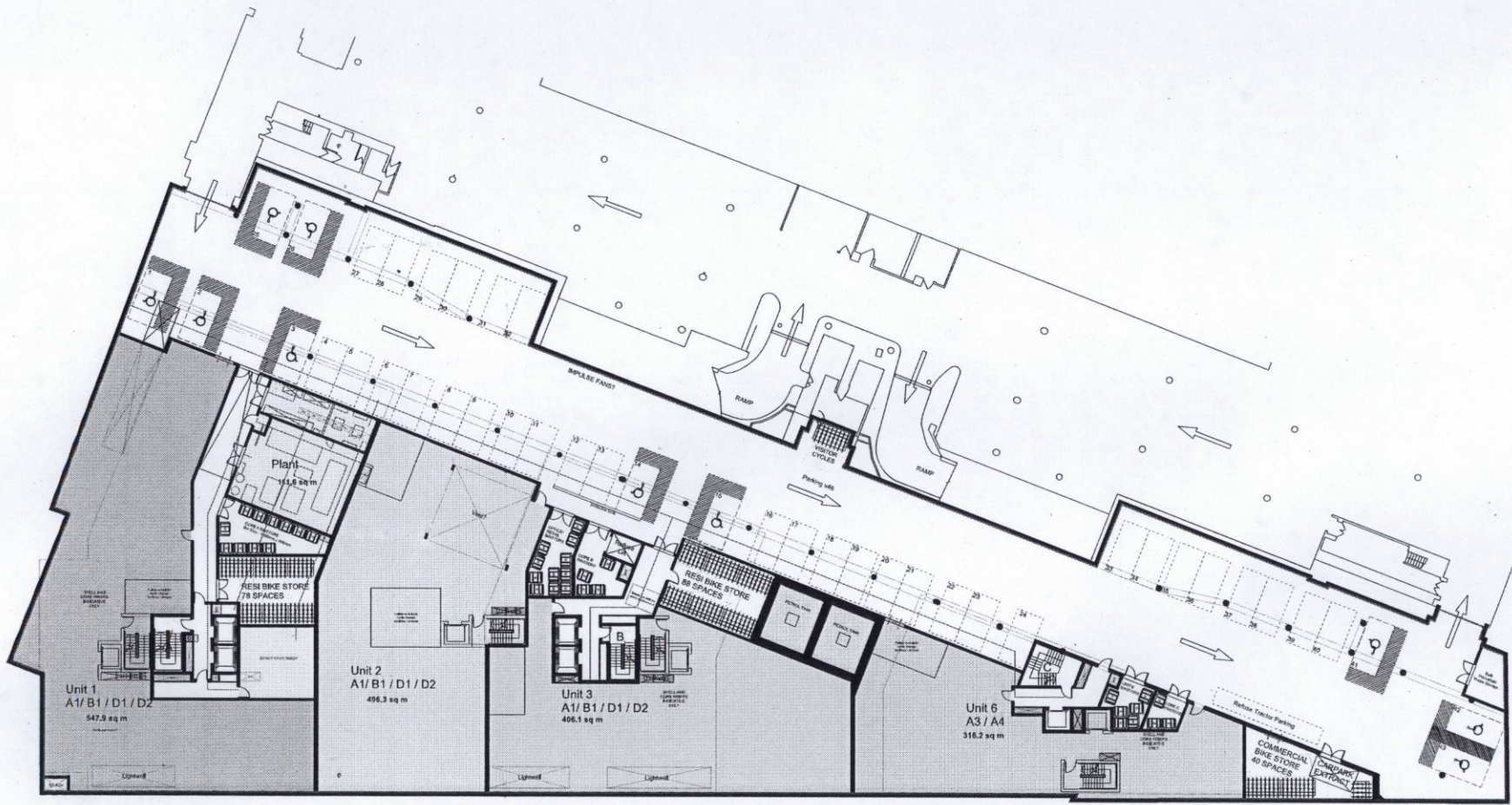
DRAWING TITLE
 Basement Proposed

SCALE @ A1 SIZE **DATE**
 1:200 May '14

DRAWING N° **STATUS & REVISION**
 A2494 199 P27

Assael

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0m 1m 10m 20m

GENERAL NOTES
 All setting out must be checked on site.
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 All dimensions must be checked on site.
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 Revision Date:
 Preliminary Co-Contract
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DRAWING NOTES

STATUS	REVISION	DATE	DRWN	CHK	COM
P1	Preliminary Proposed	28.05.14	JL	HC	-
P2	Preliminary Proposed	07.06.14	JL	HC	-
P3	For Information	24.05.14	JL	HC	-
P4	For Information	24.05.14	JL	HC	-
P5	For Information	07.06.14	JL	HC	-
P6	For Information	20.04.14	JL	HC	-
P7	For Information	05.05.14	BD	HC	-
P8	For Information	14.05.14	JL	HC	-
P9	For Information	20.05.14	JL	HC	-
P10	For Information	20.05.14	JL	HC	-
P11	For Information	09.08.14	JL	HC	-
P12	For Information	20.05.14	JL	HC	-
P13	For Information	14.08.14	JL	TCC	-
P14	For Information	20.05.14	JL	TCC	-
P15	For Information	21.08.14	JL	TCC	-
P16	For Information	01.08.14	RD	TCC	-
P17	For Information	01.08.14	JL	TCC	-
P18	For Information	11.08.14	JL	TCC	-
P19	For Information	24.05.14	JL	TCC	-
P20	For Information	20.05.14	JL	TCC	-
P21	For Information	20.05.14	JL	TCC	-
P22	For Information	14.05.14	JL	TCC	-
P23	For Information	20.05.14	JL	TCC	-
P24	For Information	17.11.14	JL	TCC	-
P25	For Information	18.11.14	JL	TCC	-
P26	For Information	18.11.14	JL	TCC	-
P27	For Information	03.11.14	JL	TCC	-
P28	OPTIMISATION	18.03.15	RD	JL	-
P29	PLANNING SUBMISSION	15.10.15	RD	JL	-



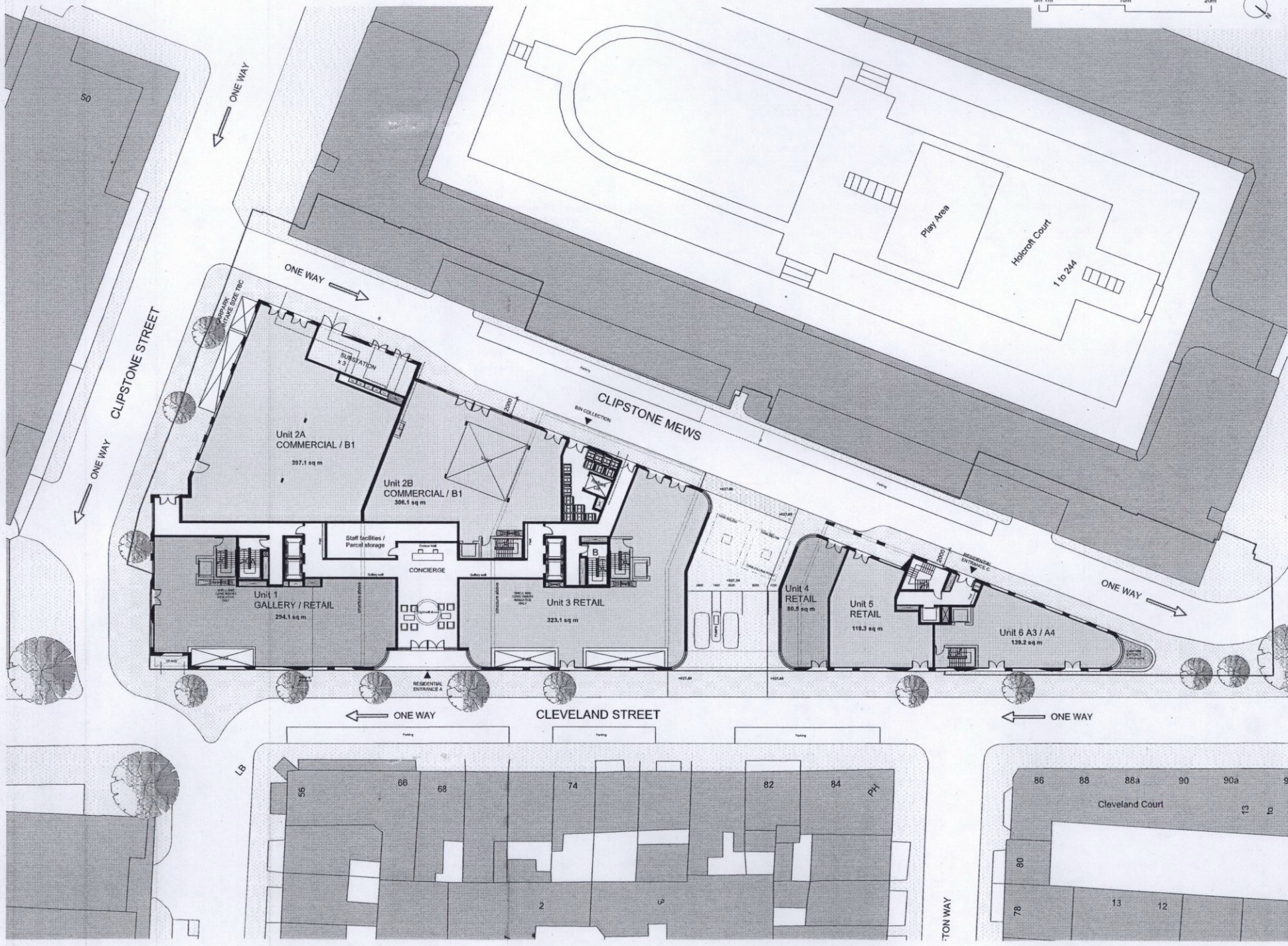
CLIENT
 Soho Data Holdings Limited

PROJECT TITLE
 87-115 Cleveland Street Westminster

DRAWING TITLE
 Ground Floor Proposed

SCALE @ A1 SIZE
 1:200
DATE
 May '14
DRAWING NO.
 A2494 200
STATUS & REVISION
 P29

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0m 1m 10m 20m

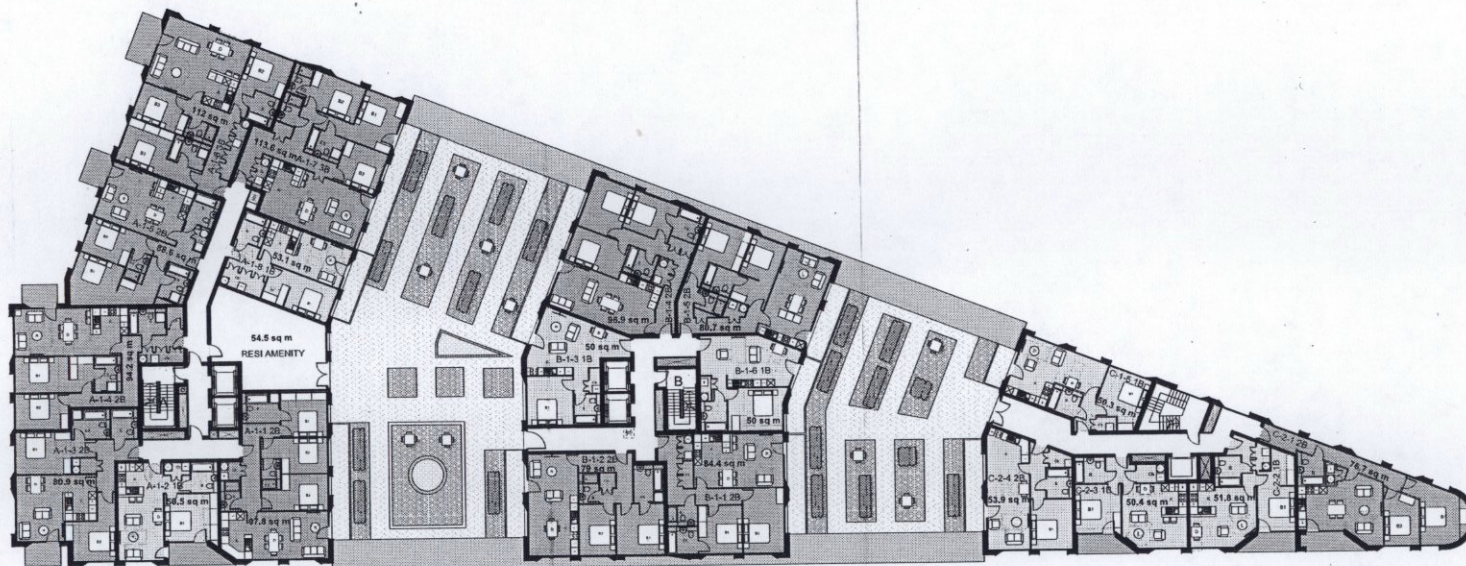


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 All levels and dimensions must be checked on site
 The drawing must not be used for any other purpose
 The drawing must be read in conjunction with all other
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DRAWING NOTES

FILE REF N°	STATUS	REVISION	DATE	DRN	CHK	COM
P1	Preliminary Proposal		28.02.14	JL	NC	-
P2	Preliminary Proposal		07.03.14	JL	NC	-
P3	Fee Information		24.03.14	JL	NC	-
P4	Fee Information		24.03.14	JL	NC	-
P5	Fee Information		02.04.14	JL	NC	-
P6	Fee Information		05.04.14	SC	RD	-
P7	Fee Information		14.05.14	JL	NC	-
P8	Fee Information		04.06.14	JL	NC	-
P9	Fee Information		14.06.14	JL	TCC	-
P10	Fee Information		20.06.14	JL	TCC	-
P11	Fee Information		01.09.14	JL	TCC	-
P12	Fee Information		04.09.14	JL	TCC	-
P13	Fee Information		06.10.14	JL	TCC	-
P14	Fee Information		14.10.14	JL	TCC	-
P15	Fee Information		20.10.14	JL	TCC	-
P16	Fee Information		20.11.14	JL	TCC	-
P17	CONTRACT SIGN		18.02.15	PD	JL	-
P18	PLANNING SUBSTITUTIONS		02.10.15	PD	JL	-



CLIENT
 Soho Data Holdings
 Limited

PROJECT TITLE
 87-115 Cleveland Street
 Westminster

DRAWING TITLE
 First Floor Proposed

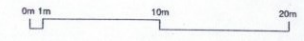
SCALE @ A1 SIZE **DATE**
 1:200 May '14

DRAWING N° **STATUS & REVISION**
 A2494 201 P18

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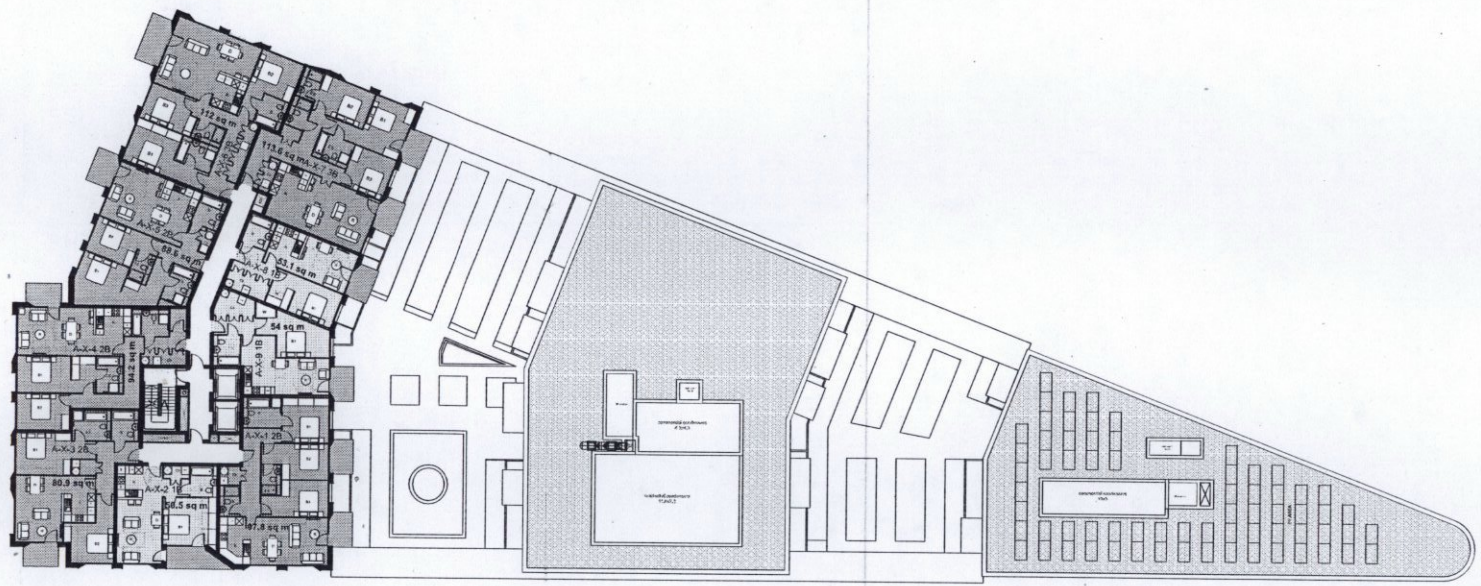
Revision Date:
Preliminary C-Contract

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DRAWING NOTES

DATE	REV	BY	CHK	COM
P1	Preliminary Proposal	28.02.14	JL	NC -
P2	Preliminary Proposal	07.03.14	JL	NC -
P3	File Information	24.03.14	JL	NC -
P4	File Information	24.03.14	JL	NC -
P5	File Information	07.04.14	JL	NC -
P6	File Information	05.05.14	SC	RD -
P7	File Information	14.05.14	JL	NC -
P8	File Information	04.06.14	JL	NC -
P9	File Information	14.06.14	JL	TCC -
P10	File Information	20.06.14	JL	TCC -
P11	File Information	07.08.14	JL	TCC -
P12	File Information	24.08.14	JL	TCC -
P13	File Information	24.08.14	JL	TCC -
P14	File Information	28.10.14	JL	TCC -
P15	File Information	28.11.14	JL	TCC -
P16	OPTIMISATION	28.11.14	SC	JL -
P17	PLANNING SUBSTITUTIONS	02.12.14	RD	JL -



CLIENT
Soho Data Holdings Limited

PROJECT TITLE
87-115 Cleveland Street Westminster

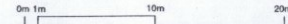
DRAWING TITLE
Fourth - Sixth Floor Proposed

SCALE @ A1 SIZE **DATE**
1:200 May '14

DRAWING NO **STATUS & REVISION**
A2494 204 P16

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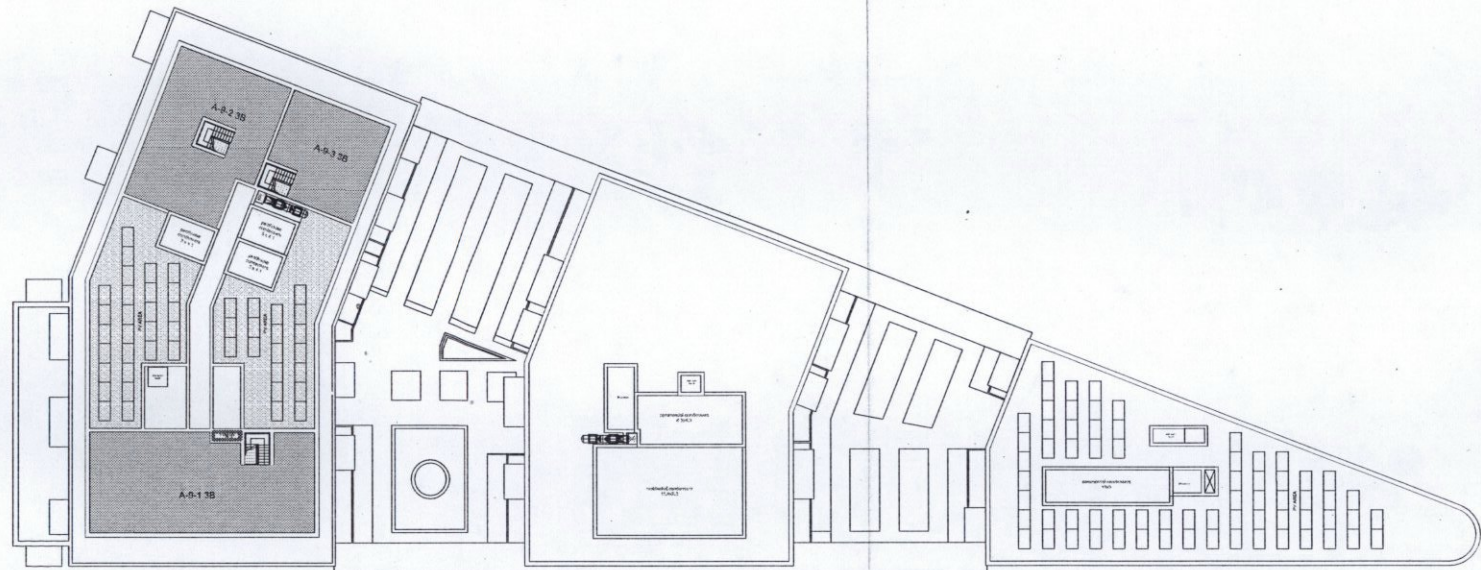


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 All levels must be checked on site and refer to
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DRAWING NOTES

SCHEDULE REF N°	STATUS	REVISION	DATE	DRN	CHK	COM
P1	Preliminary Proposal		04.08.14	JL	NC	-
P2	For Information		14.08.14	JL	TCG	-
P3	For Information		20.08.14	JL	TCG	-
P4	For Information		21.08.14	JL	TCG	-
P5	For Information		25.08.14	JL	TCG	-
P7	For Information		14.10.14	JL	TCG	-
P8	For Information		20.10.14	JL	TCG	-
P9	CONSTRUCTION		19.10.15	RD	JL	-
P10	PLANNING SUBSTITUTIONS		20.10.15	RD	JL	-
P11	For Information		17.05.15	RD	JL	-



CHP Flue Location



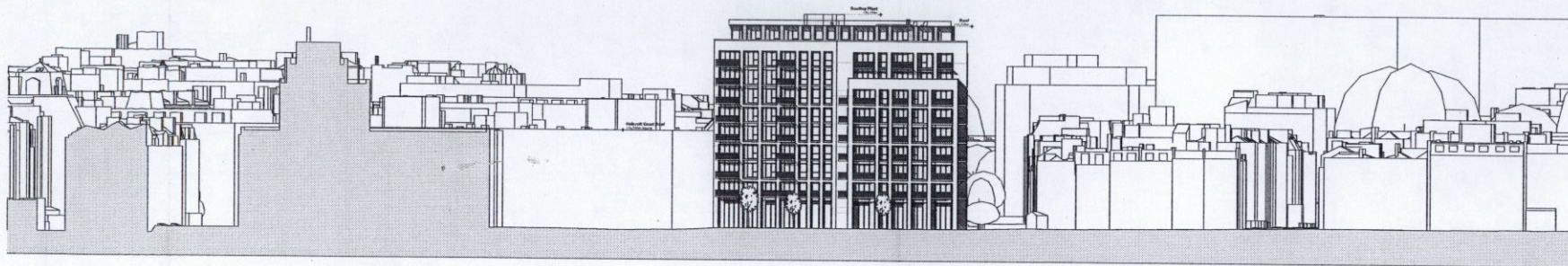
CLIENT
Soho Data Holdings Limited

PROJECT TITLE
87-115 Cleveland Street Westminster

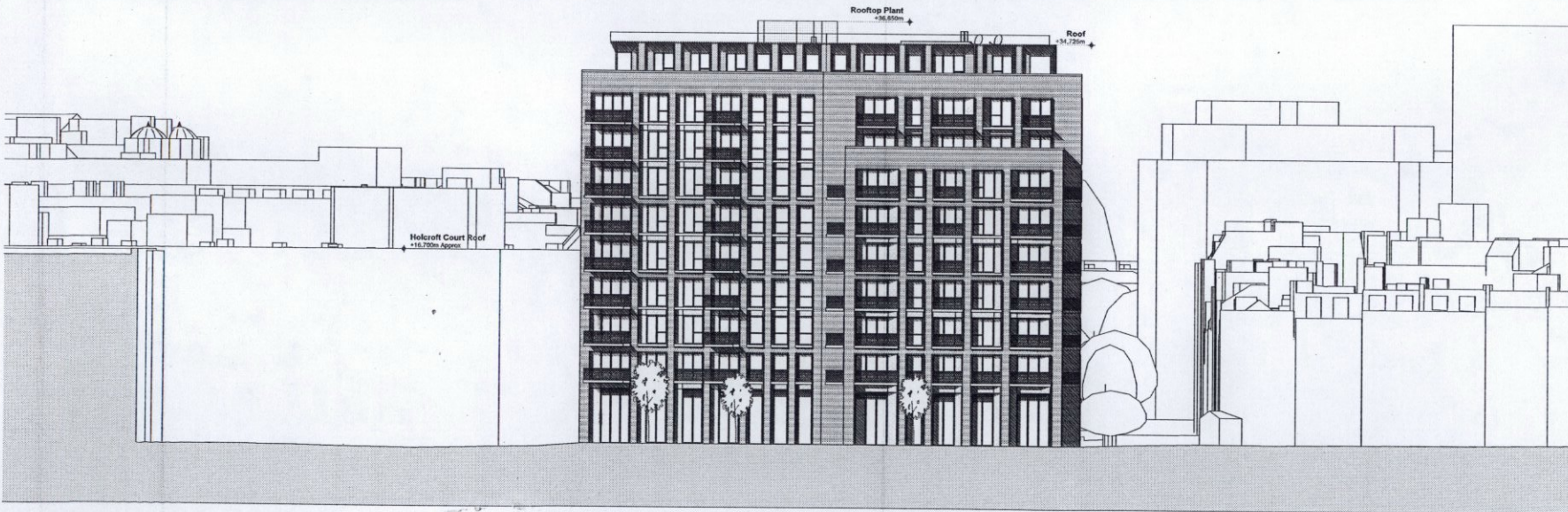
DRAWING TITLE
Tenth Floor Proposed

SCALE: 9 A1 SITE DATE
1:200 May '14
 DRAWING N° STATUS & REVISION
A2494 209 P11

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CLIPSTONE STREET CONTEXT ELEVATION 1:400



CLIPSTONE STREET ELEVATION 1:200

1:400 0m 1m 10m 20m 40m

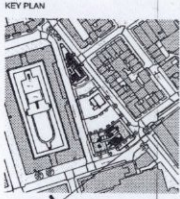
1:200 0m 1m 10m 20m

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 All levels must be checked on site and also to
 Ordnance Datum Newlyn unless alternative Datum given
 All slope and weathering must be checked on site
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DRAWING NOTES

E-FILE REF N°	STATUS	REVISION	DATE	DRN	CHK	COM
	P1	For Information	10.06.14	SC	JL	-
	P2	For Information	6.06.14	SC	JL	-
	P3	For Information	13.06.14	SC	JL	-
	P4	For Information	20.11.14	SC	JL	-
	P5	PLANNING SUBSTITUTION	04.02.15	RD	JL	-



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PROJECT TITLE
 87-115 Cleveland Street
 Westminster

DRAWING TITLE
 Clipstone Street Elevation

SCALE & A1 SIZE
 1:400 / 1:200

DATE
 Nov '14

DRAWING N°
 A2494 402

STATUS & REVISION
 P5

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