

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	204A Great Portland Street, London, W1W 5NP,		
Proposal	Demolition of existing building and redevelopment to comprise, two basement levels, ground and first to eighth floor levels. Use of part basement and ground floors as dual alternative retail (Class A1) or restaurant (Class A3) and the remainder of the property as residential accommodation providing 31 flats and ancillary car and cycle parking. Creation of balconies and terraces at the first to eighth floor levels and installation of photovoltaic cells and a green roof at main roof level.		
Agent	DP9 Ltd		
On behalf of	204 GPS (Jersey) Ltd		
Registered Number	15/09828/FULL	Date amended/ completed	11 November 2015
Date Application Received	21 October 2015		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

## 1. RECOMMENDATION

1. Grant conditional permission subject to a s106 legal agreement to secure

- a) Highways works around the site to facilitate the development (including the creation of a new crossover), all costs to be borne by the applicant;
- b) Replacement of any trees on the public highway on Great Portland Street, Carburton Street and Bolsover Street which need to be removed to facilitate the development;
- c) A Car Lift Management and Maintenance Plan;
- d) Unallocated residential parking available to all residents of the development without restriction;
- e) Life time car club membership in association with each of the new flats (minimum 25 years);
- f) Monitoring costs.

2. If the S106 legal agreement has not been completed within six weeks of the date of this 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.

## 2. SUMMARY

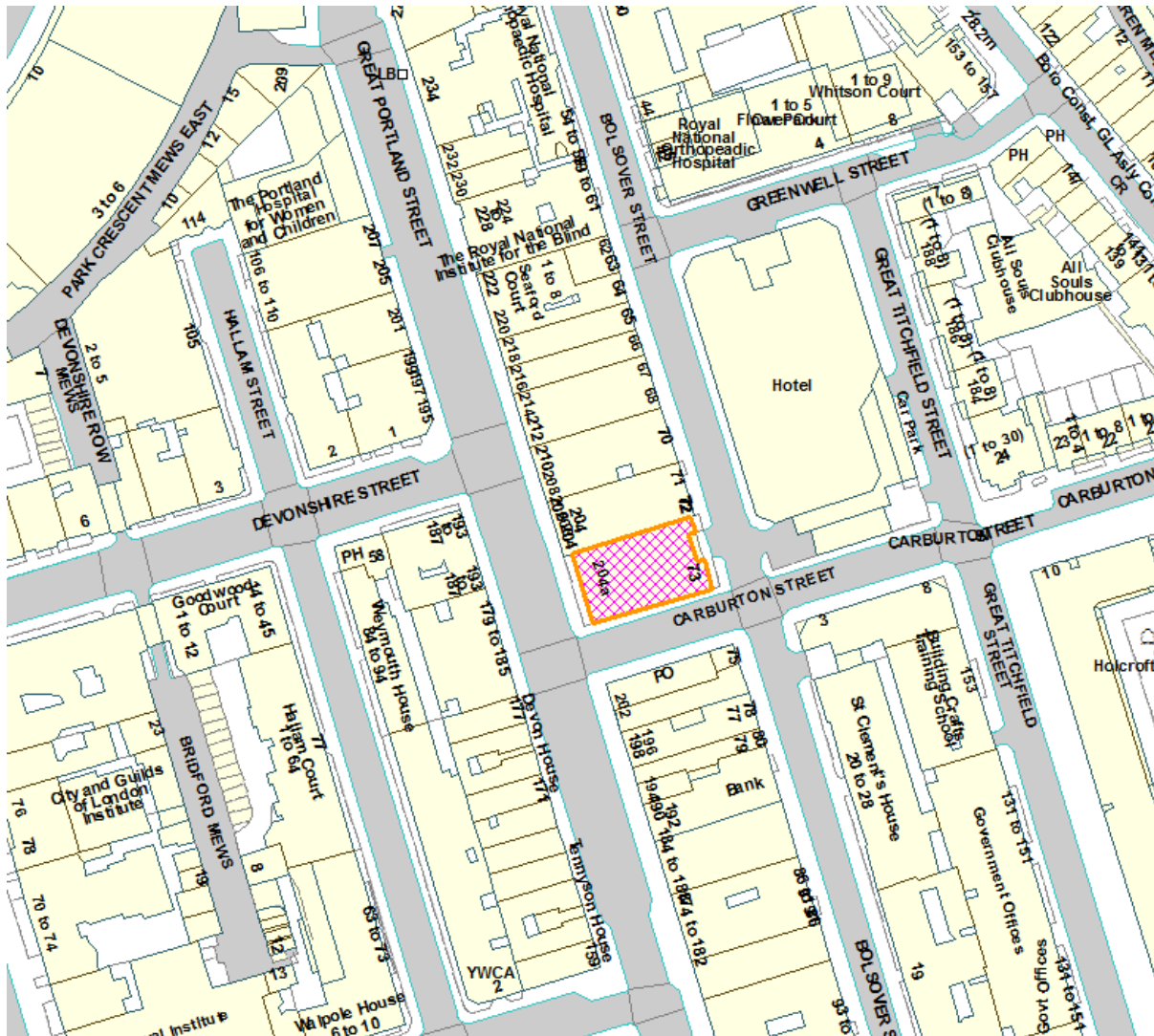
The application building is a 1970s brick-built construction comprising basement parking, showrooms, stockrooms and ancillary offices (which is considered to be a sui generis use) with six flats on the fourth and fifth floors and a roof level plant room. The lower floors are vacant but some of the flats are occupied. The building is considered to detract from the character and appearance of the Harley Street conservation area.

Permission was granted in 2006 for the alterations and extensions to the building, including a roof level addition, for use for the original purpose (sui generis) or for retail (Class A1), for 15 flats on the upper floors and for part excavation of the basement to provide 20 car parking spaces. The Council has previously determined that sufficient works have taken place to implement this permission, so it remains extant. The current application is for the demolition of the building and for the erection of a new building with parking at lower basement level, a retail or restaurant use on part upper basement and ground floors and up to 31 flats on first to eighth floors. Objections have been made on behalf of the freehold owners of the building on land use and parking grounds. The key issues in this case are:

- the acceptability of the scheme in land use terms and, in particular, affordable housing policy
- the impact of the development on neighbouring residential amenity and
- the impact of the scheme upon the character and appearance of this part of the Harley Street conservation area.

Subject to conditions, and a s106 legal agreement to secure various planning obligations, the scheme is considered acceptable in land use, amenity and highways terms. The proposed building is considered to be a high quality development which would enhance the townscape. Consequently, the application is recommended for approval.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR SCARBOROUGH/COUNCILLOR BOTT

Supportive of the scheme. The footpath on this stretch of Great Portland Street needs to be repaved. Request that developer contributes to this and to the public realm improvements at the northern end of Great Portland Street. All trees should be maintained and added to, where appropriate. They have provided a letter from the Weymouth Court Residents' Association which welcomes the site redevelopment subject to the same tree safeguarding and paving requests)

### FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

### HISTORIC ENGLAND

Council to determine as it sees fit

### METROPOLITAN POLICE (Designing Out Crime Officer)

No objection. Advice given to applicants regarding additional security measures.

### BUILDING CONTROL

Construction methodology is acceptable. Investigation of existing structures and geology undertaken in sufficient detail. Proposals to safeguard the adjacent properties during construction area acceptable. Likelihood of local flooding or effects on the water table is negligible

### HIGHWAYS PLANNING

Loss of off-street servicing is contrary to policy. If other benefits of the scheme are considered to outweigh this concern, a Servicing Management plan should be secured. No objection to parking proposals but concerns re lack of visibility splays from car park, car club membership and unallocated parking should be secured.

### CLEANSING

No objection to revised arrangements

### ENVIRONMENTAL HEALTH

No objection subject to conditions

### ARBORICULTURAL OFFICER

No objection subject to appropriate arrangements to ensure that street trees and protected during the course of construction and that any trees which need to be removed to facilitate the development are replaced.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 107; No. responses: 5 objection letters on behalf of the freehold owners of the building on these grounds:

Land Use

- Proposal exceeds London Plan density range for the area; overdevelopment of the site with an over-concentration of small flats contrary to policy.
- Planning report does not explain why a proportion of new flats could not be managed by an RSL for affordable rent/intermediate tenures.
- No evidence submitted to support contention that no donor sites available in vicinity or that this has been fully explored. The sequential policy tests should be followed.
- High development costs e.g. the excavation for basement parking should be considered as part of any viability assessment.

#### Highways

- Insufficient cycle parking.
- Oversupply of parking
- Impact of on-street servicing on the local highway network
- Highways obstruction from vehicles queuing to enter car park

#### Other issues:

- The CIL form is incorrect, which would have an impact on the level of Mayoral CIL payable.
- Application should not have been validated in absence of a viability report.
- The application makes no reference to the objector's interest/rights as freeholder
  - Significant changes to the application mean a full re-consultation should be undertaken

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application premises an unlisted building located on the east side of Great Portland Street at its junction with Bolsover Street. The building has frontages on these streets and to Carburton Street.

The site is located within the Harley Street Conservation Area, outside of the Core Central Activities Zone but on a Named Street, as designated in the City Plan, and within the wider Central Activities Zone as designated in the London Plan. The Harley Street conservation

area audit identifies the property as a negative building which detracts from the character of the conservation area.

The building was erected in the 1970s and comprises basement parking (8 spaces), a commercial use on ground to fourth floors and six flats on the fifth and sixth floors and a roof level plant room. The commercial parts of the building (ground to fourth floors) were vacated approximately 7 years ago. A number of flats on the upper floors are still occupied. The address of the residential parts of the building is 73 Bolsover Street.

The building is set back from the pavement edge on Great Portland Street and Bolsover Street frontages. On Great Portland Street there is a raised area, stepping up to the ground floor entrance. On Bolsover Street, there is an existing access stair to the basement accommodation, enclosed by a brick wall.

The area is characterised by a mixture of residential and commercial uses, including an hotel at the rear of the site on Bolsover Street, and various ground floor office, restaurant and retail, uses, including a late night convenience store on the opposite corner of Carburton Street. The nearest residential properties are sixteen flats (rear lower ground, ground and first and second to seventh floors) in the adjacent building (204/206 Great Portland Street and 71/72 Bolsover Street), Devonshire Mansions at no. 208 and ten flats on the upper floors of 59 Devonshire Street, on the opposite side of Great Portland Street.

## 6.2 Relevant History

1972. Permission granted for the erection of a new building comprising basement parking, workrooms, stockrooms, showrooms and offices (sui generis) on ground to fourth floors and six flats on the fourth and fifth floors and eight parking spaces. The approved plans show a ground floor extension at the front of the building which was permitted for a temporary period only pending a road widening scheme on Great Portland Street. The extension was subsequently demolished although the road widening scheme was later abandoned.

31.08.2006. Permission granted for external alterations and extensions at ground floor and roof level; dual use of extended ground, part new mezzanine, first and part second floors for either showroom, workroom and stockroom use with ancillary offices (sui generis) or retail (Class A1) purposes; use of part mezzanine, part second to sixth floors and new seventh floor to create nine additional residential units (15 in total) with a porter's office (Class C3) at mezzanine level; use of part excavated basement to provide 20 car parking spaces. This permission would have expired on 30 August 2009.

All relevant conditions attached to this permission were discharged between 18.04.2008 and 13.06.2008 and it was commenced though it has not been completed.

31.01.2008: The Planning Applications Sub-Committee resolved to approve an application for alterations including the creation of terraces within the lightwell at first floor level and dual use of the first and part second floor either as showrooms, stockrooms and workrooms with ancillary offices (sui generis) or as four self-contained flats (2 x 2 bed and 2 x 3 bed) subject to a s106 legal agreement i) requiring the application only to be implemented in conjunction with the 2006 permission ii) to require one parking space for each of the four new flats to be provided within the basement car park approved under the



2006 permission and ii) to secure a contribution to the City Council's affordable housing fund in lieu of on-site affordable housing provision. This application was subsequently withdrawn before the legal agreement was signed.

January 2015: Certificate of Existing Lawful Development issued confirming that sufficient material works had taken place on or before 30 August 2009 to implement the planning permission dated 31 August 2006.

Although the works undertaken were sufficient to implement the 2006 permission they were not so significant as to have effected a change of use of the building. Consequently, the lawful use of the building can be considered to be either for the original uses approved in 1972 or for the uses allowed by the 2006 permission.

## 7. THE PROPOSAL

The current application is for the demolition of the existing building and for the erection of a new building of two basements, ground and first to eighth floors, providing a retail shop (Class A1)/restaurant (Class A3) on part basement and ground floors, up to 31 residential units (Class C3), parking for 10 cars at second basement level and associated cycle parking and plant.

In an effort to address highways concerns, the application has been amended to reposition the proposed car lift (resulting in the reduction of the number of residents' parking spaces from 14 to 10) and to set the centre part of the ground floor frontage on Bolsover Street, back to the existing building line. The level of cycle parking provision has been increased, revised refuse storage details have been provided and further information has been provided in relation to the proposed restaurant operation.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The schedule of existing and proposed land use (GEA) is as follows:

	1972	2006	Proposed M2	+/- M2 (from 2006)
Showroom/workroom/stockrooms and offices (sui generis) or*	1951	1305	0	-1305
Retail (A1)*	0	1305	349	-956
Restaurant (A3)	0	0	349	+349
Residential (C3)	1060	2422	4116	+1694
Total	3011	3727	4465	



Although the building is considered to have two potential lawful uses, the current proposal has been assessed in relation to the scheme approved in 2006, which was implemented by virtue of the works undertaken before its expiry.

#### **8.1.1. Loss of showroom/workshop/stockroom use**

The plans approved in 1972 show a commercial use on the lower floors of the building with no designation of areas for the approved showroom, stockroom, workshop or ancillary office uses referred to in the application. It is unclear whether the showroom use was intended to be a retail showroom use, open to visiting members of the public, or a wholesale showroom use. However, the determinations made by the Council in relation to the use of part of the ground floor as a bathroom showroom suggests that the principle use was considered to be as a wholesale showroom. Photographic from evidence from 2009 shows sample rails of clothes which suggests that the last occupancy could have been a wholesale showroom use linked to the clothing industry.

The site is located outside of the East Marylebone Special Policy Area. Under UDP policy COM 12, the loss of wholesale showroom uses is considered acceptable where the replacement use serves visiting members of the public. The current scheme includes the provision of either a retail or restaurant use on part of the upper basement and ground floor. The extant permission permits a retail use on ground to part second floors and a residential use within the remainder of the building. In 2008, the Planning Application Sub-Committee also resolved to approve a scheme which replaced the showrooms/workrooms on first and part second floors with new flats. In these circumstances, the loss of the potential showroom/stockroom use is considered acceptable in land use terms.

#### **8.1.2 Residential use**

The scheme would provide 4116 sqm (GEA) of new residential floorspace on the site (an additional 2422 sqm compared with the implemented scheme). The provision of additional residential floorspace is supported by Policies H3 of the UDP and S14 of Westminster's City Plan.

##### **8.1.2. i Number and size of units and residential mix**

The extant permission permitted a total of 15 flats on the site – comprising nine new flats in addition to the original six. (A later scheme for the provision of four further flats was approved subject to the completion of a s106 legal agreement, but was subsequently withdrawn).

The current scheme would provide up to 31 flats (5 x 1bed, 24 x 2bed, 2 x 3bed), accessed from Great Portland Street. City Plan Policy S14 requires the number of residential units on development sites to be optimised and policy S15 requires an appropriate mix of units, in terms of size and type to be provided. UDP policy H5 normally requires at least 33% of new units to be family sized (with three or more bedrooms). Only two of the units (6%) would be family sized. However, the supporting text to policy H5 states that the requirement to provide 33% family-sized units (3 or more bedrooms) will be applied with

some flexibility. For example, the City Council may accept a lower level of family accommodation where the proposed housing is located in a very busy, noisy environment.

An objection has been received on the grounds that the proposal constitutes an overdevelopment of the site, with an over-concentration of small flats, which does not comply with Council policy relating to residential mix.

The applicants acknowledge that the development does not comply with the requirements of policy H5 of the UDP but consider that the focus on non-family-sized units is justifiable in terms of housing need in this area of Westminster. Their submission refers to the fact that the policy consultation document “Westminster City Plan Consultation – City Management Plan Policies Revision (February 2014)” suggested a reduction in the proportion of family sized units to 25% but this change has not been incorporated within the revised City Plan (2016). However, the Plan (para. 4.12) states that “..there are shortfalls for all sizes, but new two and three bedroom homes are particularly needed in both the affordable and owner/occupier sectors”.

To support their stance, the applicants have supplied a letter from Carter Jonas confirms that their local database shows that 70% of clients registered in their Marylebone office are looking for 1 and 2 bed apartments, and that the demand for 3 bed units is not as high, with those units typically taking longer to sell, often being reduced in price due to lack of interest. From this, the objector surmises that 30% of these clients are likely to be seeking 3 bedroom apartments, which is comparable with the 33% target in policy H5. They consider that the applicant’s response does not justify a departure from the normal requirements of H5.

Notwithstanding the applicant’s submissions regarding demand and the objector’s subsequent comments, Great Portland Street is a relatively busy and noisy location which is subject to heavy traffic flows, (with three lanes of traffic in parts) where it would be justified to accept a proportion of family-sized accommodation of less than the standard 33%.

The 1 bed units measure between 50 and 86 sqm (GIA), the 2 bed units measure between 83 and 93 sqm and the two 3 bed units measure 137 and 144 sqm. All units would achieve minimum space standards set out in the National Technical Housing standards. Given that the unit sizes are not excessively large, the development is considered to optimise the number of units on the site as required by policy S14. In these circumstances, notwithstanding the shortfall in the proportion of family sized units proposed, given the site’s location and the nature of the development, the proposed residential mix is considered acceptable in this instance.

In conclusion, the number, mix and size of flats within the development is considered acceptable and it is not considered that the objection to the residential mix could be supported.

#### **8.1.2.ii Residential density**

The density of the proposed development is at 1691 habitable rooms per hectare (hr/h). An objection has been received on the grounds that the development exceeds the

recommended density range for the area as set down in the London Plan and UDP and represents an overdevelopment of the site. The objector considers that, even if the site does have good transport links, a residential density so far exceeding the published density range should not be contemplated.

Policy H11 of the UDP sets the density range for this area at between 400-850 habitable rooms per hectare (hr/h). However, the policy states that developments which exceed this density may be acceptable where they are close to good transport links and open space, and satisfy other development plan policies, particularly those relating to townscape/design, residential amenity and parking and maintain the urban fabric.

The site has the highest PTAL rating of 6B (accessibility of transport links). In such locations, policy 5.32 of the London Plan sets an appropriate density range of 650 to 1100 hr/h. However, the policy recognises that other factors such as local context, design and transport capacity can be taken into account when determining applications and that the stated density range is not intended to be applied rigidly.

The proposed development is considered to be of an acceptable height and bulk and to represent a significant improvement in townscape terms when compared with the existing building. In addition, the number and size of units, standard of accommodation and residential mix are considered appropriate in this location and the scheme is, subject to parking mitigation measures, considered acceptable on parking grounds. These factors, in addition to the site's good transport links and close proximity to Regent's Park are considered sufficient to outweigh density considerations. In these circumstances, it is not considered that the application could justifiably be recommended for refusal on density grounds.

### **8.1.2 iii Affordable Housing**

Policy H4 of the UDP and S16 of Westminster's City Plan and Interim Guidance Note Implementation of Affordable Housing are relevant to the consideration of the proposed residential development. In new housing schemes of either 10 or more additional units or where over 1000m<sup>2</sup> of new residential floorspace is created, a proportion of that floorspace is expected to be provided as affordable housing.

Compared with the implemented scheme, the proposals would provide 1694 sqm of new residential floorspace which, according to the relevant formula requires 240 sqm of affordable housing to be provided on site, equating to 3 units. Where on-site provision is accepted as being impractical or inappropriate, the housing may be provided on another site, preferably in the vicinity. Where this is not practical or appropriate, the affordable housing requirement can be met through a financial contribution to the City Council's affordable housing fund.

Given that the proposed development has three street frontages, it is not considered that there is any practical reason why an element of affordable housing could not be provided on the site. However, the applicants contend that the provision of a separate entrance and access core would materially affect the scheme's viability. They have further stated that they do not own any donor sites where the affordable housing requirement could alternatively be met. Consequently, they consider that the most appropriate means of

addressing the affordable requirement would by way of a financial contribution to the City Council's affordable housing fund. At the time of the submission of the application, based on the increase in residential floorspace, this contribution was calculated at £1,003M. This has since increased to £1,063,000 following the annual increase unit sum on 1 April 2016.

An objection has been received on the grounds that the submitted planning report does not properly explain why a proportion of new flats could not be managed by an RSL for affordable rent/intermediate tenures. The objector is also concerned that no evidence has been submitted to support contention that no donor sites are available in vicinity, or to suggest that this alternative has been fully explored as required by the sequential tests set down in the policy. They have also requested that high development costs e.g. the excavation for basement parking should be taken into account when considering the ability of the scheme to deliver any affordable housing.

Many of the objector's points fall within the scope of the assessment of the applicant's viability report by the Council's independent viability consultant. The applicants have responded on the question of donor sites, stating that it would not be realistic to look at this option when they do not own any other properties where the residential requirement could be met. Although no information has been provided to suggest that the applicants have been in discussion with any RSLs, based on officers' experience in relation to other sites, it appears unlikely - due to the difficulties of managing units which do not have independent access, and because of high service charges in this type of development - that an RSL would take up units within the development.

An objection has been received on the grounds that the original application was not accompanied by a viability report and that the application was validated prior to its receipt. However, records show that the application was not validated until the (un-redacted) viability report dated, 10 November 2015, was received and all other outstanding information provided. A redacted copy of the report was submitted later, at the Council's request, in response to the objector's Freedom of Information request. The objector, the freehold owner of the building, has been provided with redacted copies of the applicant's viability reports and those of the Council's consultants. They have requested that the application is not determined until they have had the opportunity to review and comment on these viability reports, which were released on 29 September 2016.

#### **8.1.2.iii. a Viability assessment**

The applicant's viability assessment concludes that, given development costs and sales values, the scheme is unable to support any affordable housing contribution. However, recognising the importance of affordable housing provision, it confirms that they, nonetheless, proposed to make a contribution to the affordable housing fund of £250,000.

The Council's viability consultants have advised that the scheme could not viably deliver any on-site affordable housing. Following further assessments and the introduction of the Westminster CIL, which was introduced after the application had been submitted and did not form part of the original viability appraisal, the Council's viability consultant agrees with the applicant that the scheme cannot support any affordable housing contribution. The applicants have now conformed the, in these circumstances, they are no longer able to offer any contribution towards affordable housing.

In view of the above, the proposals are considered to accord with the Council's affordable housing policies.

### **8.1.3 New Class A floorspace**

The scheme includes proposals for a new unit on part basement and part ground floors, with frontages on Great Portland Street and Carburton Street, accessed by a prominent corner entrance, for either Class A1 (retail) or Class A3 (restaurant) use. The introduction of these uses would enliven the street frontage and are welcomed.

#### **8.1.3.i Retail use**

Great Portland Street is a Named Street within Marylebone and Fitzrovia and, under City Plan policy S8, the street is an appropriate location for residential development and a range of commercial uses. Policy S18 directs commercial development to various locations including the Named Streets, and policy S21, whilst directing new retail development to designated shopping centres, also recognises that new retail floorspace is appropriate in the Named Streets. In these circumstances, and as there is an extant permission for the introduction of a much larger retail unit on the site, the proposed retail use on part ground and lower ground floors (349 sqm) is considered acceptable in land use terms.

#### **8.1.3.ii Restaurant use**

The scheme also includes the introduction of a new restaurant unit as an alternative to the proposed retail use. Given the size and location of the proposed restaurant, UDP policy TACE 9 applies. Permission will only be granted for new restaurant proposals where the Council is satisfied that the development would have no adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity, or increased parking and traffic; and would have no adverse effect on the character or function of the area. City Plan policy S24, similarly, requires proposals for new entertainment uses 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 affect residential amenity, local environmental quality and the character and function of the area.

Great Portland Street is a busy thoroughfare characterised by a mixture of uses. Properties to the north of the site are largely in office type- or residential use on the lower floors. However, there is a large tourist hotel at the rear of the site, a late night convenience shop on the opposite side of Carburton Street and various commercial uses along the length of the frontage to the south including several cafes and restaurants interspersed between other commercial uses. In this context, the introduction of a restaurant use on this site is considered acceptable in principle in land use terms and would not have an adverse impact upon the character and function of the area. The impact on residential amenity, local environmental quality and the local highway network is discussed in sections 8.3 and 8.4 below.

## 8.2 Townscape and Design

### 8 2.1. Proposed development

The existing building is of no architectural merit and is a negative feature in the Harley Street conservation area. Its demolition is welcomed.

In footprint, the proposed building is the same as the existing, maintaining the historic building lines on three frontages, except that, on Great Portland Street, the ground floor frontage is slightly recessed, as at present. This is acceptable. The revision to the Bolsover Street frontage, where a recess has been created at ground floor level to take account of highways concerns, is not ideal but, given that this replicates the existing situation, is considered acceptable.

The existing building is about the same height as the building to the north (no. 204/206). The proposed building would be of a total height approximately 2.3m above the height of the existing building, and the parapet height would increase from 51.8 AOD to 53.6m.

The building has a flat roof with little external plant, as much of the plant is located at basement level. The sectional drawings suggest that a balustrade may be included at roof level. However, this is considered unnecessary and undesirable, and a condition is proposed to exclude this from the planning permission. It is considered that a less obtrusive lanyard safety system could be installed in place of the balustrade.

The replacement building is designed with a double height base, a six storey middle section and a set-back roof storey. The façade is to be clad in stone and a condition is recommended requiring this to be natural Portland stone, appropriate to its conservation area location. The roof storey would be clad in gunmetal coloured cast metal panels. Projecting bay windows featuring decorative cast aluminium metalwork would add an important degree of richness to the façade. Decorative metal balconies are proposed, which will form the site's contribution to public art.

Although a lower building might relate better to the townscape, given the height of the existing building, and the superior quality of the proposed design, the bulk and height of the replacement building are acceptable.

This is a high quality building which will contribute positively to the character and appearance of the Harley Street conservation area. The scheme complies with the City Council's urban design and conservation policies, including policies S25 and S28 and UDP policies including DES 1, DES 4, DES 9 and DES 10.

### 8.2.2 Trees/public realm

Prior to the submission of the application, having met the developers, Councillor Scarborough wrote to officers concerning the proposed development, on behalf of herself and Councillor Bott. Both expressed support for the proposals but have asked that the applicants contribute to the repaving along this stretch of Great Portland Street and that they also consider contributing to the completion of the public realm upgrade at the

northern end of Great Portland Street. In addition, they have requested that the existing street trees around the site be maintained, and added to where appropriate.

The application drawings show that the street trees will be retained. The Council's arboricultural officer has recommended a condition requiring these trees to be adequately protected during building works and has welcomed any proposals which might result in the provision of additional trees. However, the street trees are located beyond the boundary of the application site and their safeguarding cannot be the subject of a condition. However, the applicants have now conformed that the street trees are likely to need to be removed to facilitate the development. As these are young trees, the Council's Arboricultural Officer has confirmed that their temporary removal is acceptable subject to an appropriate mechanism to ensure their replacement (with a suggested minimum cost of £5,000 per tree). This would be secured as part of the s106 legal agreement. It is also recommended that an informative be added to the decision letter advising the applicants to contact the Council's Arboricultural Officers to discuss proposed measures for the protection of any street trees that are to be retained.

The mechanism for financing public realm improvements, which might include additional planting, is through the Westminster CIL rather than through any individual contributions secured by a S106 planning obligations. The pavements around the site, would be expected to be replaced by the applicants as part of works of making good following the completion of building works.

## **8.3 Residential Amenity**

### **8.3.1 Proposed flats**

#### **8.2.1.i Standard of accommodation**

All proposed flats meet or exceed national housing space standards and all bedrooms are doubles, the smallest measuring 12 sqm. All units are compliant with Lifetime Homes standards and are adaptable for wheelchair users.

The flats would benefit from either small balconies or, in the case of the two eighth floor apartments, wrap-around terraces.

#### **8.3.1.a Orientation/outlook**

The London Plan states that care should be taken with creating single-aspect particularly those that are north facing. While some of the proposed flats are single aspect, none are north-facing. Indeed, there are no north-facing windows within the development.

#### **8.3.1.b Internal light levels**

The submitted daylight report does not include an assessment of lighting levels within the new flats. However, this is an open site with three street frontages. with the exception of east and west facing windows onto the rear lightwell, which serve the second bedroom to separate flats on second the seventh floors, all windows to habitable rooms overlook the



street. In these circumstances, it is considered that the new flats would have good access to natural daylight and sunlight.

#### **8.3.1.c Internal noise levels**

Policy ENV6 of the UDP requires new residential developments to provide adequate protection from existing background noise as well as from noise within the development itself. This is a new development, which would be constructed from materials with high acoustic properties, including double glazed windows. All residential windows are openable. However, a system of mechanical ventilation is proposed should residents choose to keep their windows shut.

Subject to conditions requiring the development to be designed to meet acceptable noise levels within the new flats, in relation to both external and internal noise sources, it is considered that the scheme will provide a satisfactory internal noise environment for future residents.

#### **8.3.1d Air quality**

City Plan policy S31 requires developments to minimise emissions of air pollution from both static and traffic-generated sources, and requires developments that are more vulnerable to air pollution to minimise the impact of poor air quality on future occupants through the building design and use of appropriate technology.

The submitted ventilation strategy states that the flats will be served by a whole house mechanical ventilation system with heat recovery. The air intake system will be fitted with filters to ensure acceptable air quality.

#### **8.3.1.e Overlooking within the development/use of terraces**

The balconies and terraces to the new flats would overlook the street. The roof level terraces would be separated by screening.

All windows to new rooms also overlook the street frontages with the exception of east and west facing bedrooms to separate flats which face onto the rear lightwell on the second to seventh floors. While there might be some opportunity for mutual overlooking between these windows, which are served by projecting bay windows, this would not be to a materially harmful degree.

#### **8.3.2 Amenity of neighbouring properties**

UDP Policy ENV13 seeks to protect existing premises, particularly those in residential use, from the impact of new development and to ensure that neighbouring properties do not experience and material loss of daylight or sunlight, increased sense of enclosure to windows or a loss of privacy. Similarly, policy S29 states that the Council will resist development proposals which result in a material loss of amenity to existing residents.

The proposal involves the erection of two extra floors on the building although it is noted that the extant 2006 permission involved the replacement of the roof level plant room with a penthouse flat.

### **8.3.2.1 Daylight and Sunlight**

The proposed replacement building is two floors taller than the existing, although the overall height would increase by just over 2 metres. The replacement building would slightly infill part of the existing lightwell adjacent to the boundary with the neighbouring flats (204/206 Great Portland Street).

The application is supported by a daylight/sunlight report, based on guidance published by the Building Research Establishment, which assesses the impact of the development on levels of light received to flats within the neighbouring residential, buildings at 204/206 Great Portland Street/71-72 Bolsover Street and 59 Devonshire Street.

No objections have been received from the occupants of these properties.

#### **8.3.2.1.i 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. Where windows to a room are of equal size, any losses to these windows can be taken as an average.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. The BRE guideline states that where a significant proportion of the working plane (which can receive direct skylight) lies beyond the NSL, the distribution of daylight within the room will seem poor and supplementary electric lighting will be required. The British Standard suggests that a significant area would be more than 20%. However, it is acknowledged that if an existing building contains single aspect rooms, which are particularly deep, then a greater movement of the NSL line may be unavoidable.

In all cases, testing need only be undertaken in the case of habitable rooms.

At 204/206 Great Portland Street/71-72 Bolsover Street, 22 of the 43 lightwell windows on first to sixth floors (serving 22 rooms) breach the 20% VSC benchmark. However, the actual reductions are low, with the maximum numerical loss in the case of two sixth floor windows being 4% and all other reductions ranging between 0.5 and 3%. The percentage losses of between 23-100% (in the case of three windows on the fourth and fifth floors) are, for the most part, disproportionately high because existing VSC values are already so low. Any losses to seventh floor windows would be below 20% with the exception of one window (29%) loss, which would continue to achieve VSC values above the target.

The NSL test shows that of the 29 rooms tested, 10 fail to meet the NSL target. Of the 22 windows which fail to meet the VSC target, 10 serve rooms which comply with the NSL test. Of the remainder, the existing VSC values are between 1 and 9.5%, (with 9 windows currently achieve 5% or less) and actual losses ranges been 1% and 3%. In these circumstances, it is considered that the loss of light within these rooms is unlikely to have a significant impact upon the amenities of the neighbouring flats, where main living rooms face towards the front and rear of the building.

The VSC analysis shows that the maximum loss of any window at 59 Devonshire Street would be 5% and that all its windows would continue to achieve good levels of natural light.

### **8.3.2..1 ii 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. Only those windows facing within 90 degrees of due south require testing.

At 206 Great Portland Street only 7 of 19 lightwell windows on the first to fourth floors currently see any sun, with the maximum value achieved being 6%. These windows would lose all or most of their annual sunlight, with a maximum value of 1% being retained to three windows. At fifth floor level, with the exception of one window (4%), existing values are slightly higher at between 8% and 14%. Annual sunlight losses to these nine windows would range between 22% and 76% (above 64% in the case of six windows), with retained values of between 1% and 7%. One window would lose all sun (from 8%). Of the six windows on the sixth floor, two would experience annual sunlight losses of 40.91% and 36.36%, with retained values of 13% and 14% respectively (from 22%). All other windows at sixth floor level and above would continue to achieve minimum annual sunlight values of 24% (in the case of two windows) or would exceed the BRE target.

Windows below sixth floor level receive no winter sun. Of the four sixth floor windows that do receive winter sunlight (between 4% and 6%), only one will continue to receive any winter sun (1% from 6%). Most seventh floor windows would continue to exceed the BRE winter sunlight target or would see no loss of winter sun. However, two windows would see reductions of 83% (from 6% to 1%) and 70% (from 10% to 3%).

There are therefore some significant losses of sunlight to neighbouring windows at 204/206 Great Portland Street/Bolsover Street, but where in many cases sunlight is already severely restricted by the height and proximity of the application building and existing values are low. Further up the building, existing values are generally higher although light to some windows is restricted by the effect of balconies at fifth and sixth floor levels. While these losses have the potential to be more noticeable, these windows appear to serve bedrooms, which area afforded a lesser degree of protection than principal living areas, which overlook Great Portland and Bolsover Street. Consequently, it is not considered that the impact upon the amenities of the neighbouring flats would be so significant and to justify a recommendation for refusal.

Although no sunlight assessment has been undertaken in respect of 59 Devonshire Street, given the relationship between the two properties, it is not considered that there would be a material loss of sunlight to east facing windows serving that property. Other windows to 59 Devonshire Street face north-eastwards, rather than within 90 degrees of due south, and therefore they do not need to be tested.

### **8.3.3 Overlooking/noise disturbance**

The proposed windows to the main building elevation are on the same line as the existing and it is not considered that the proposals would afford any greater opportunity for overlooking into neighbouring windows.

There are large north-facing windows to the existing building, which look towards the neighbouring flats. The scheme proposes some infilling of this lightwell but the proposed north elevation contains no windows. Whilst there would be east and west facing bedroom windows overlooking the lightwell, these are bay windows (with solid returns) and it is not considered that any oblique views from these windows would have a significant impact on neighbouring privacy.

The proposed balconies are located on the corners of the new building, overlooking wide street junctions. The eighth floor terraces, which are narrow and linear, are confined to the main street frontages. Given the relationship of these external amenity spaces with neighbouring residential buildings, and given the street width, it is not considered that the use of these spaces would result in any material loss of amenity, or significant noise disturbance, to neighbouring flats.

### **8.3.4 Increased sense of enclosure**

The aspect from windows facing the lightwell at 204/206 Great Portland Street is governed by the height and proximity of the existing building, where the building and the plant room at seventh floor level “wrap around” the lightwell. Although there will be some increase in height and bulk at this point, which will extend slightly further into the lightwell, it is not considered that the impact on the sense of enclosure to neighbouring windows would be so significant as to justify recommendation for refusal on the grounds that it would result in an unacceptable increase on the sense of enclosure to these windows.

In view of the above, it is not considered that the proposals would have a material impact upon the amenities of neighbouring residents.

### **8.3.5 Impact of the proposed restaurant and retail use**

The proposed restaurant would measure 349 sqm GEA. A restaurant of this size is considered acceptable in principle in land use terms subject to consideration of the impact of the use on residents’ amenities and local environmental quality.

This is a speculative application. A draft Operational Management Statement has been submitted which seeks to demonstrate that the proposed restaurant would operate without detriment to the amenities of neighbouring residents and future occupants of flats on the

upper floors. However, whilst the OMS sets out over-arching principles of good management, it includes few concrete details. It is proposed that:

- The premises would be managed as a high quality, sit-down restaurant
- A senior member of staff will oversee the operation at all times.
- Patrons smoking outside the premises would be monitored to ensure noise levels are kept to a minimum.
- The operator will be required to liaise regularly with local residents and business associations and the Safer Neighbourhood Team of the Metropolitan Police
- External seating is also shown on the recessed ground floor frontage to Great Portland street. The submitted plans show four tables and eight chairs
- Patrons will be offered the opportunity to order a taxi before leaving the premises

In addition, the applicants have confirmed that:

Internal restaurant capacity would be for 120 customers, including external seating.

Opening hours, including for external seating on the forecourt, would be from 07.30 until 22.30 on Monday to Friday; from 0800 to 22.30 on Saturday and from 09.00 until 1800 hours on Sundays and Bank Holidays.

Restaurant plant (excluding refrigeration plant) would to be limited to operating a maximum of one hour before and one hour after the permitted restaurant opening times.

Restaurant servicing traffic would be limited to 08.00 and 20.00 hours.

Given the relatively small size of the restaurant, and subject to operational controls including those relating to opening hours and capacity (including external seating), controls on the operation of plant and the provision of adequate refuse storage arrangements, it is considered that the use would have no adverse impact on residents' amenities or local environmental quality. However, it is recommended that details of a finalised OMS be reserved by condition, which should include precise details of the premises management.

It is not considered that the operation of the shop use would have a significant impact on residents' amenities.

## **8.4 Transportation/Parking**

### **8.4.1.i Parking**

UDP policy TRANS 23 requires, where appropriate and practical, off-street parking to be provided on the basis of a maximum provision of one car space per unit of residential

accommodation containing two bedrooms and of one or two car spaces per unit comprising three bedrooms or more, provided that the aggregate provision does not exceed 1.5 spaces per dwelling. In applying these standards the maximum parking requirement in this case is 32 spaces.

The application originally proposed parking for 14 cars at second basement (12 car stacker spaces and two accessible spaces along the southern wall). An objection was received to the original application on the grounds that the provision of 14 car parking spaces represented an over-provision, particularly in the context of London plan policies which promote car free development and when available data suggests that the new flats would generate a requirement for only 10 car parking spaces.

The reconfiguration of space to address officers' concerns about other aspects of the scheme has resulted in a reduction in the number of residents' parking spaces. Although the submitted plans indicate ten parking spaces, 6 of these are provided using double stackers and the upper level cannot be accessed if a vehicle is parked beneath. Consequently, the scheme would provide only 7 accessible parking spaces. The applicants have no submitted and tracking diagrams to show that the car park layout is functional. However, while space is limited, is it considered that there is sufficient space for vehicles to be able to enter and exit the car lift.

The plans have been amended to show the provision of electric vehicle charging points in compliance with London Plan requirements (20% active and 20% passive).

Evidence of the Council's most recent night time parking survey 2011 indicates that parking occupancy within a 200m radius of the site is 87%. However, including all legal spaces such as single yellow lines and metered bays, this figure drops to 47%. The daytime survey indicates parking occupancy of 78%.

Based on household car ownership levels for the Marylebone High Street Ward, it is anticipated that the 31 flats proposed would generate an additional 10 vehicles. Given that the scheme is considered to provide only 7 parking spaces, this would result in an additional 3 vehicles being parked on the street. However, this would not increase parking stress levels above the 80% threshold where there is considered to be a serious deficiency in on-street parking availability (policy TRANS 23). The area is close to good public transport links and, on the basis that all on-site parking will be unallocated and Lifetime car club membership (minimum 25 years) would be provided for each of the units, the level of parking provision is considered acceptable and the parking mitigation measures as proposed would be secured by s106 legal agreement.

#### **8.4.1.ii Car park access/car lift**

The basement parking would be accessed via a single car lift. The entrance to the car lift was originally positioned closer to the junction of Bolsover Street and Carburton Street but has now been set back to its existing position, due to highway safety concerns. The width of the vehicle crossover has been reduced and is comparable with the existing. However, no designated set back has been to allow waiting vehicles to queue off-street and no details of the car lift cycle time have been provided.

The applicants contend, given the likely level of use, that the car lift operation would not adversely affect the safety or use of the highway and that it would be rare for more than future residents to need to use the lift at the same time and that Bolsover Street is not subject to heavy traffic flows. No evidence has been submitted to support these contentions, and the use of the car lift has the potential to result in localised highway congestion with vehicles queuing on the highway. An objector believes that this is likely to be a common occurrence, as most residents are likely to use their cars at the same peak times, when roads are at their busiest. The objector makes the point that Bolsover Street is used as an access route from the West End to north London. They have also expressed concern that no traffic surveys have been submitted to support the applicant's claims about the use of Bolsover Street. Notwithstanding these omissions, as the number of parking spaces proposed is comparable with the existing level of parking provision, it is considered that the proposals would have no material impact on highway obstruction or the use of the road network and the objection cannot therefore be supported. However, a condition is recommended requiring the submission of details of a vehicle signalling system for the car park and it is recommended that a car lift maintenance and management plan should also be secured as part of any future re legal agreement to include alternative arrangements for vehicle parking during periods when the stacker is unavailable.

The Highways Planning Manager has also expressed concern that the scheme provides inadequate visibility splays for vehicles exiting the car park. As this is a new development, there is no practical reason why adequate visibility splays cannot be incorporated within the design. However, it is accepted that the proposed design is similar to the existing and would have no greater impact on pedestrian safety, especially as there is no significant increase in the number of vehicles using the car park. The revised plans show a railing, within the site boundary on the northern side of the car park entrance which is designed to prevent pedestrians walking southwards from passing directly in front of exiting vehicles. This railing is considered acceptable in highways terms given the existence of an adjacent lightwell to the neighbouring site. Although this is a disappointing design solution, it is not considered that this aspect of the scheme could justify a recommended for refusal.

#### **8.4.2. Cycle parking**

Cycle parking standards in the Further Alterations to the London Plan would require 57 residential cycle space to be provided in association with the proposed development. If the commercial unit was used as a restaurant, two staff cycle spaces and 9 short-stay customer spaces would also be required.

The application originally showed 28 residents' cycle parking spaces in a bike store accessed from Bolsover Street, with potential for the provision of 6 further spaces at second basement level. The applicants advised that two spaces for shop/restaurant staff could also be provided in the basement level back of house areas and that four short-stay cycle spaces would be provided on a strip of private land on the Bolsover Street frontage in the form of 2 Sheffield stands, to provide four spaces.

An objection was received to the original application on the grounds that the level of cycle parking shown did not accord with the requirements of the FALP and that there was insufficient space within the development to meet this requirement. The application has



since been amended to show 58 cycle spaces for the residential units. These spaces are double-stacked (except on B2 adjacent to the car lift).

In addition, three long stay spaces for the commercial use are provided at B1 (in the form of double stackers) and the revised plans now show the two Sheffield stands within the site boundary on Bolsover Street (four spaces).

This level of cycle parking is considered acceptable and would be secured by condition.

#### **8.4.2 Servicing**

UDP policy TRANS 20 and City Plan Policy S42 require adequate off-street servicing provision. The existing off-street bay was retained under the extant scheme but there are no planning conditions requiring the development to be serviced using the servicing bay. Despite this being a complete redevelopment of the site, it is now proposed that servicing for the development to take place from the street. The applicants anticipate that most goods deliveries would take place from the single yellow lines on Great Portland Street and that refuse collections would take place on Bolsover Street.

The applicants contend that on-street servicing will result in no worsening of the existing situation as many restaurants in the vicinity are serviced from Bolsover Street and that this has no impact on the operation of the road network. They make the point that the existing off-street serving bay can only accommodate car-type vans and small service vehicles. (They also consider that servicing vehicles could park on the section of the Bolsover Street frontage within the site boundary. However, this arrangement is not considered acceptable as it would be likely to result in the obstruction of the pavement beyond).

The objector is concerned that there are no independent traffic surveys to support the applicant's case that on-street servicing would not affect the highway operation and considers that the cumulative impact of restaurant servicing on Bolsover Street is reaching a critical point. They are also concerned about the potential for the restaurant to operate a delivery service and have requested that any permission for restaurant use is subject to a "no takeaway" condition, which is recommended.

The Highways Planning Manager considers that, as this is a new development off-street servicing should be provided as required by development plan policies. In addition, the likely impact of on-street servicing on other highways users is unclear and the estimated number of daily servicing trips (3) appears low, and is not supported by any evidence. In these circumstances, they consider that if any other benefits of the scheme are considered to outweigh requirement to provide off-street servicing, that any permission for restaurant use (or for the use of the premises as a retail food shop) should include a condition requiring the submission of a detailed Servicing Management Plan which should demonstrate that the development can be serviced without detriment to the operation of the highway. Subject to this requirement, it is not considered that the objection on servicing grounds could be supported.

Doors to the corner shop/restaurant entrance and the refuse store and cycle store on Bolsover were originally shown opening outwards across the pavement. The scheme has been revised and these doors now all open inwards.

#### **8.4.4 Other highway issues**

Under the original scheme, the ground floor building line was set forward on the back edge of the Bolsover Street pavement and vents, serving the basement level plant, were shown on the highway beyond, which was considered unacceptable.

The revised plans now reinstate a recessed area at ground floor to accommodate one surface vent and the Sheffield cycle stands. A further surface vent is shown outside the door to the cycle store. These vents, effectively open pavement lights with a surface grille, are not normally permitted on Westminster highways due to the potential adverse impact on pedestrian safety. The area in which it is proposed to place these vents will be open and passable by pedestrians, albeit partially within a building recess.

Given that this is a complete redevelopment, there is no practical reason why these vents could not be incorporated within the building design. However, given that one of the vents would now be enclosed by railings, similar to a lightwell, which aligns with a neighbouring lightwell, it is not considered that this detail could form the basis of a recommendation for refusal.

It is noted that the upper floors over the building oversail the highway. However the submitted drawings indicate sufficient clearance for pedestrians and vehicles and this would be the subject of a condition.

#### **8.5 Economic Considerations**

Any economic benefits of the scheme are welcomed.

#### **8.6 Access**

Level access will be provided to street entrances. The proposed building has been designed to meet the relevant access requirements of the Building Regulations and incorporates the principles of inclusive design. All new dwellings are designed to Lifetime Homes standards.

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

##### **8.7.1 Plant**

UDP policy ENV 7 requires any noise emitted by plant and machinery to achieve specified noise standards in relation to the nearest noise sensitive properties. The scheme includes the provision of plant within the two basements and within a first floor enclosure within the lightwell, where plant is currently located. A limited amount of plant would also be provided at roof level, including a kitchen extract duct should the restaurant use be implemented.

The application is supported by a Noise Report which has been assessed by the Environmental Health Officer. The site is in an area with ambient noise levels above WHO guidelines. The Environmental Health Officer has reviewed the submitted noise report and has requested that conditions are imposed relating to plant noise and vibration together and requiring the submission of a supplementary noise report to demonstrate that the selected equipment will operate in accordance with these conditions.

A further report has also been submitted which refers to ventilations proposals for all aspects of the development. A condition is recommended requiring that full details of the restaurant kitchen extract system be submitted prior to the commencement of that use.

Subject to conditions, including a restriction on plant operating hours for the restaurant, one hour before and one hour after proposed opening times, the plant proposals are considered acceptable.

### **8.7.2 Refuse /Recycling**

All refuse for the development will be collected from a single ground floor refuse store on Bolsover Street. The building's Management will be responsible for compacting the refuse. Refuse and waste from the shop/restaurant will be transferred via stairs from the basement to the ground level refuse store. Residents will transfer waste from the refuse store using the lifts.

The Council's Project Officer (Waste) has confirmed that arrangements for the storage of refuse and recyclable materials, as shown on the revised plans, are now considered acceptable. These would be secured by condition.

### **8.7.3. Sustainability**

City Plan policy S28 requires new developments to incorporate exemplary standards of sustainable design and encourages developments to reduce energy use and emissions. Policy S39 seeks to encourage decentralised energy and to 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 through the use of renewable energy generation with a view to achieving zero carbon emission except where the Council accepts that this is not practicable.

Policies 5.1 to 5.9 of the London Plan focus on measures to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments, currently the equivalent of 35% below part L of the Building Regulations 2013. Policy 5.6 in the London Plan requires development proposals to evaluate the feasibility of Combined Heat and Power (CHP) systems.

The applicants have submitted a detailed Sustainability Statement and an Energy Strategy in support of the proposals. The residential development has been assessed using the Code for Sustainable Homes methodology, and achieves a rating of level 4. Although this Code has been taken out of force following the Deregulation Bill 2015, it remains a useful tool in assessing the sustainability credentials of a residential scheme. The commercial unit has been designed to achieve a BREEAM rating of "Excellent".

The scheme will make use of renewable energy including air source heat pumps. Photovoltaic panels will be installed on roof level in association with the restaurant proposals. However, if the unit is occupied as a retail shop, the significant reductions in

carbon emissions delivered by the scheme would render the photovoltaic panels unnecessary.

Rainwater harvesting tanks for grey water systems will be provided in the basement. Green roofs will serve to reduce rainwater run-off and aid thermal performance.

A range of passive design features and energy efficient measures is proposed in the development. These include the use of mechanical ventilation with heat recovery, low energy lighting and water systems and heating systems. A CHP system is also proposed and systems will be designed to connect to future heating networks.

The façade design helps to reduce solar gain and building fabric is designed to optimise thermal performance.

It is anticipated that these measures will achieve a 40.2% reduction on CO2 emissions beyond the requirements of the Building Regulations 2013 for the scheme including the retail use and a 36.3 % reduction for the restaurant scheme.

#### **8.7.4 Biodiversity**

City Plan policy S38 requires new developments to maximise opportunities to create new wildlife habitats. The scheme incorporates a green roof, with the opportunity for planting on private terraces. The planting of these external spaces would improve the site's contribution to the biodiversity of the area, which is welcomed. The provision of the green roof would be reserved by condition.

#### **8.7.5 Designing Out Crime**

The applicants have met with the Designing Out Crime Officer who has raised no objections to the application. However, he has made some recommendations for example in relation to the residents' entry system and the specification of the door to the cycle stores but these would have no material impact on the scheme's design.

#### **8.7. 8 Impact of construction works**

The scheme involves the excavation of an additional basement to provide new car parking. The application was validated in November 2015, after the date at which the Council resolved to give weight to the new basement policies.

Policy CM28 of the City Plan 2016 requires all applications for basement development to demonstrate that they have taken into account the site-specific ground conditions, drainage and water environment(s) in the area of the development. They must be accompanied by a detailed structural methodology statement and a separate rate flood risk assessment where required and reports detailing measures to protect heritage assets, as appropriate. In addition, applicants will be required to sign an undertaking to demonstrate that they will comply with the relevant parts of the Council's Code of Construction Practice and are aware of the need to comply with other public and private law requirements governing development of this kind.

The policy sets out the requirement for the development to safeguard the structural stability of the existing building, any nearby buildings and other infrastructure and to be designed to ensure that any flood risk at the site, or beyond, is not increased or exacerbated. The policy also requires the development to be designed and constructed so as to minimise the impact at construction and occupation stages on neighbouring uses; the amenity of those living or working in the area; on users of the highway; and traffic and highways function.

The policy also requires new build residential development incorporating basements on sites adjoining residential properties, where there is potential for an impact on those adjoining properties, to provide a satisfactory landscaping scheme containing planting and permeable surfacing as appropriate, safeguarding trees and to employ the most energy efficient means of ventilation, and lighting, involving the lowest carbon emissions. Further, sustainable urban drainage measures should be employed to reduce peak rate of run-off.

The application is supported by a Construction Methodology Report and a report detailing local ground conditions, local geology and hydrology issues. The reports have been assessed by a Building Control Officer who has confirmed that the basement construction methodology is acceptable and that matters of geology, ground water and the protection of neighbouring buildings during construction works have all been taken into account.

The application is supported by a SuDS (Sustainable Urban Drainage Systems) report. Developers are required to incorporate SuDS into their schemes which include attenuation for surface water run-off (as well as habitat, water quality and amenity benefits). The submitted report concludes that neither the volume nor the rate of surface water run-off will increase as a result of the proposal and that the creation of a green roof together with rainwater attenuation tank will result in a reduction in run-off volumes post-development.

The applicants have submitted a draft Construction Management Plan which sets out in detail the logistics of the development, traffic routing and the expected programme of works, site set up access and security, road closures etc. and the consideration of timings of deliveries and waste removal to minimise disruption. It also includes details of measures to ameliorate construction noise and dust generation. It is noted that the CMP states that building works would commence at 7.30 hours on weekdays. However, it is recommended that the standard hours of work condition is imposed which permits building work to commence no earlier than 08.00 hours.

The application is also supported by an Environmental Noise and Vibration Survey and Assessment which looks at the impact of construction noise and vibration on adjacent properties with particular regard to the adjoining residential building. The report concludes that significant construction noise can be mitigated through the implementation of appropriate noise mitigation and noise management measures.

Many of these issues would now be considered under the new arrangements governing the Code of Construction Practice and, consequently, any permission would not require the developer to adhere to the terms of the CMP. The applicants have indicated their willingness to abide by the relevant requirements of the COCP, which will include a capped annual payment to the City Council for site monitoring. This matter will be controlled by condition.

## 8.8 London Plan

This application does not raise any strategic issues.

## 8.9 National Policy/Guidance Considerations

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

## 8.10 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 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) imposed 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 the 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.

Westminster's has developed its own CIL which was introduced on 1 May 2016.

For the reasons outlined elsewhere in this report, should the scheme be considered acceptable, a S106 legal agreement would be required to secure the following:

- a) Costs of highways works around the site to facilitate the development (including the creation of a new crossover)

- b) the replacement of any trees on the public highway on Great Portland Street, Bolsover Street and Carburton Street which need to be replaced to facilitate the development (with a suggested minimum cost of £5,000 per tree)
- c) A Car Lift Management and Maintenance Plan
- d) Unallocated residential parking
- e) Life time car club membership in association with each of the new flats (minimum 25 years), provided prior to the occupation of the flats
- f) Monitoring costs

The application is considered acceptable subject to these obligations.

The estimated CIL payment is £610,470.

The objector has expressed concern that the submitted CIL form contradicts information in the applicant's planning statement (with regard to the parts of the building which had been occupied for 6 continuous months during 36 months prior to the submission of the application), which could affect the level of CIL payable.

However, only part of the building needs to have been occupied during this specified period for the entirety of the floorspace to be deducted from CIL charging (making only the increase in floorspace CIL liable). As four of the existing flats were still occupied at June 2016, the applicant's interpretation of the scheme's CIL liability is considered correct.

### **8.11 Environmental Impact Assessment**

The environmental impact of the development is assessed elsewhere in the report.

## **9 Other issues**

An objection has been received on the grounds that the application makes no reference to the objector's interest/right in the land as freeholder. There is no requirement for these details to be included in the planning application and this is not a material planning consideration. The submitted application form confirms that notice of the application was served on the freehold owner.

During the course of the application, officers have requested information from the applicants to address the objector's comments, and officers' concerns, and this information has been made available to the objector. No other comments have been received from neighbouring occupiers. The objector considers that the information provided significantly alters the nature of the application, requiring a full re-consultation to be carried out. However, the revision and information received (increase in the number of cycle parking spaces to make this element policy compliant, removal of ventilation grilles from the public highway, provision of justification for the proposed residential mix etc) are



not considered to constitute material changes to the application. In these circumstances, and in accordance with normal procedures, officers consider that general public re-consultation was not required.

## **BACKGROUND PAPERS**

1. Application form
2. E-mail from Councillor Scarborough dated 17 August 2015 (enclosure)
3. Response from Historic England (Listed Builds/Con Areas), dated 24 November 2015
4. Response from Metropolitan Police dated 5 January 2016
5. Response from Environmental Health dated 5 October 2016
6. Memoranda from Highways Planning dated 11 and 26 February and 3 October 2016
7. Memoranda from Project Officer (Waste) dated 27 November 2015 and 13 June 2016
8. Memorandum from Building Control dated 29 September 2016
9. Memoranda from Arboricultural Officer dated 3 and 6 October 2016
10. Letters from Stephenson Harwood LLP on behalf of the freehold owner 204A Great Portland Street dated 18 December 2015 and 11 January, 17 June and 9 September 2016

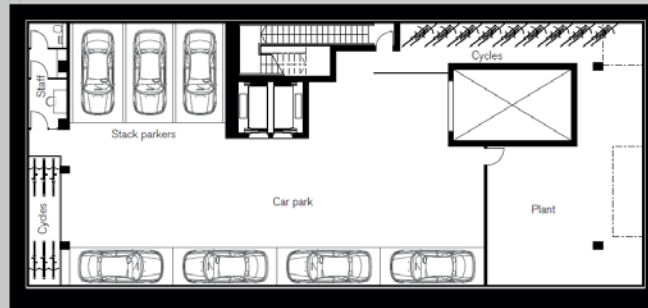
## **Selected relevant drawings**

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

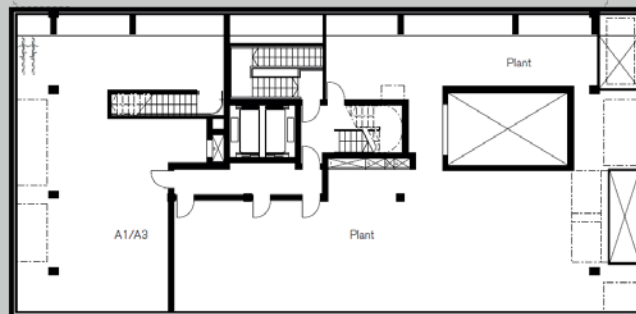
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIERBY EMAIL AT <a href="mailto:sspurrier@westminster.gov.uk">sspurrier@westminster.gov.uk</a> .
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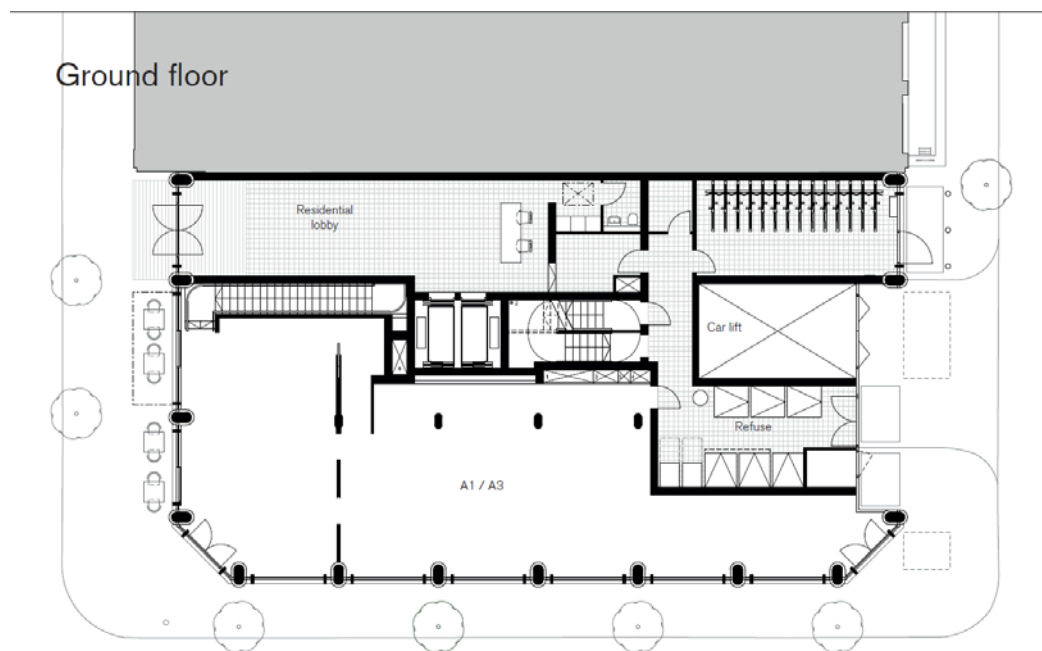
## 10 KEY DRAWINGS

Basement 2

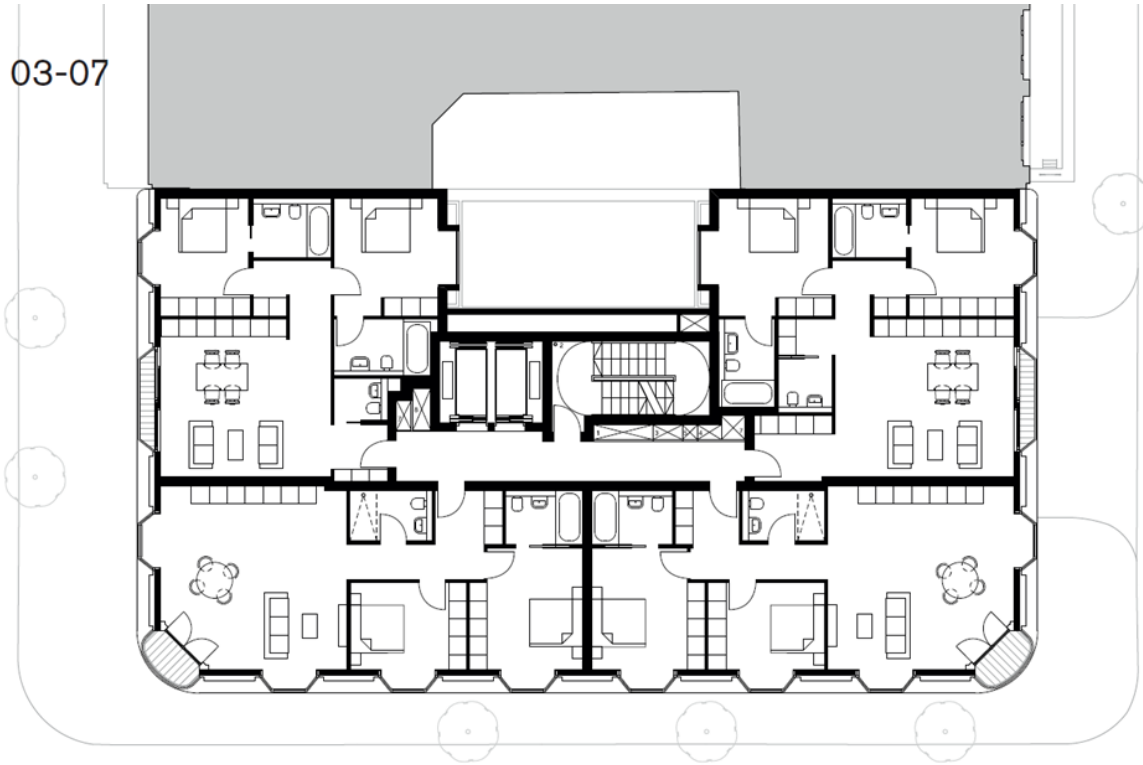


Basement 1

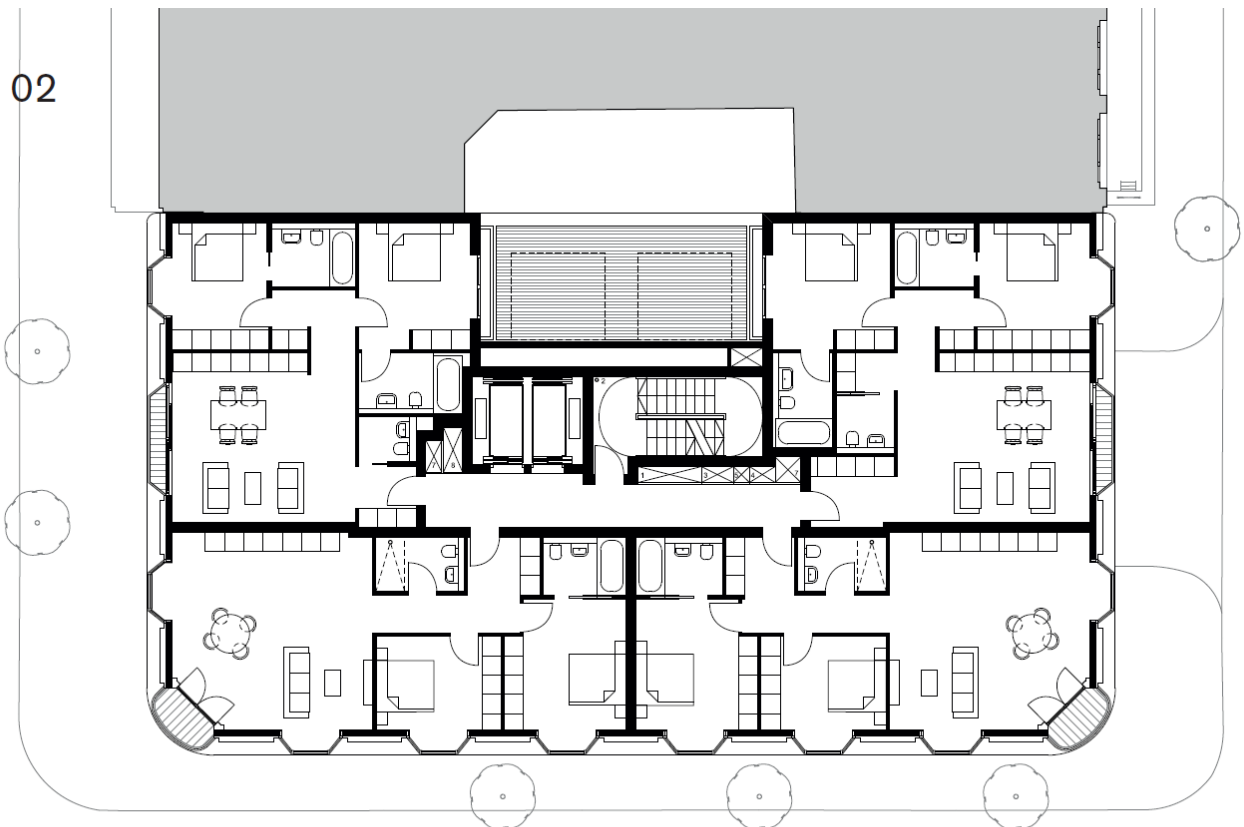




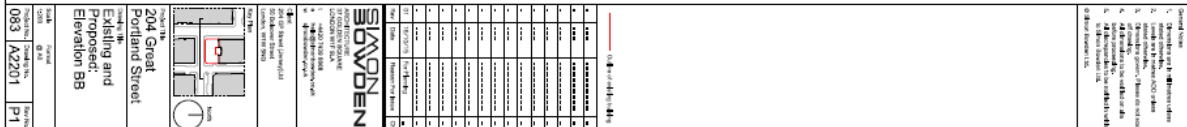
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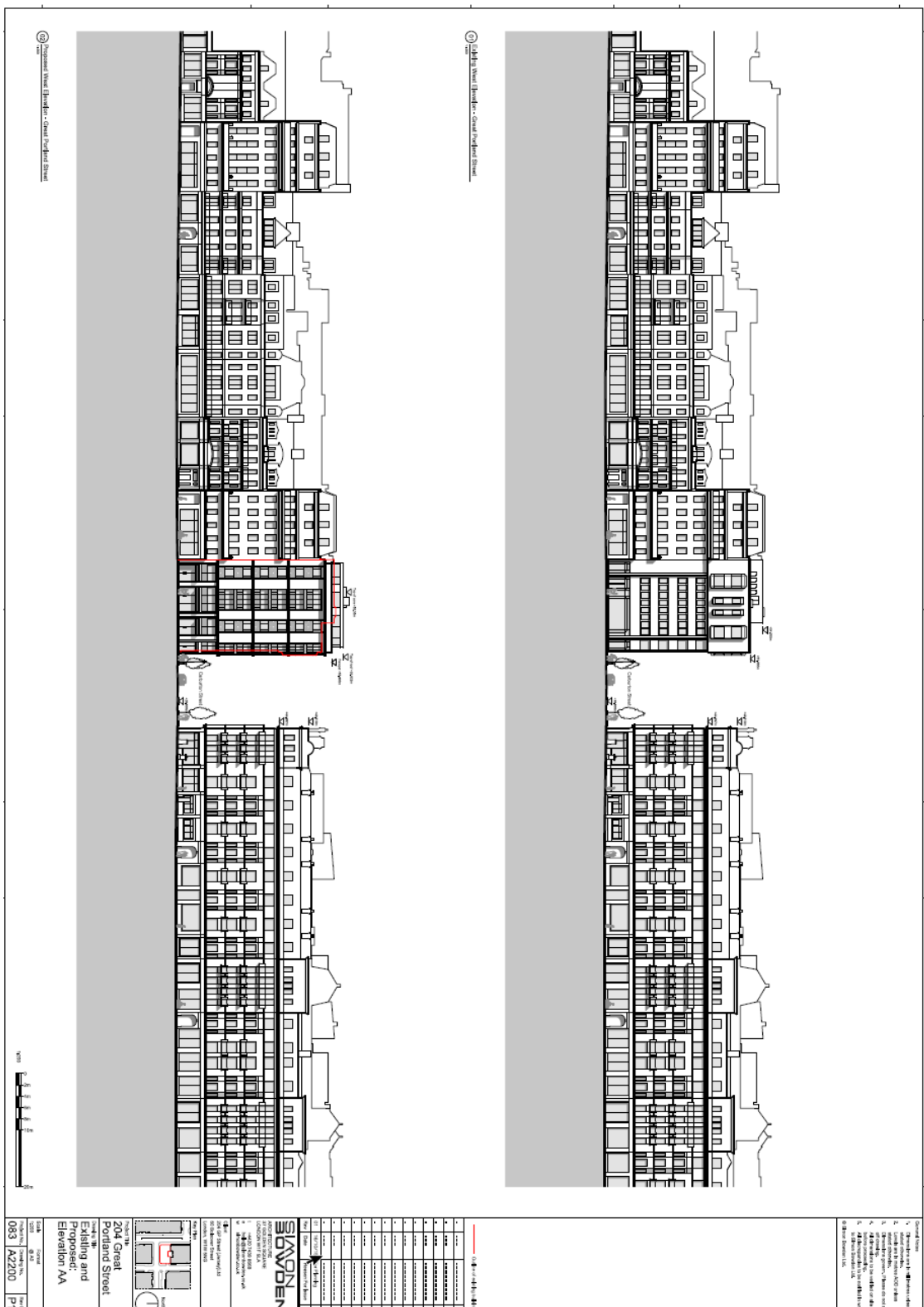


02









**DRAFT DECISION LETTER**

**Address:** 204A Great Portland Street, London, W1W 5NP,

**Proposal:** Demolition of existing building and redevelopment to provide a new building comprising two basement levels, ground and first to eighth floors. Use of part basement and ground floors for dual/alternative retail (Class A1) or restaurant (Class A3) purposes, use of the remainder of the property as up to 31 flats (Class C3), including terraces and balconies, with ancillary car and cycle parking; provision of photovoltaic cells, a green roof and associated plant.

**Reference:** 15/09828/FULL

**Plan Nos:** 083/A105 P1, A1510P1, A1511 P1, A1512 P1, A1513 P1 A1520 P1, A1521 P1 (demolition drawings)

083/A0102 P1 (site plan); A2009 P3, A2010 P6, A2011 P3, A2012 P3, A2013 P3, A2014 P3, A2100 P1, A2200 P1, A2201 P1, A2202 P3, A2203 P1.

Sustainability Statement (Hurley Palmer Flatt dated October 2015 Issue 3)

**Case Officer:** [redacted] Carrier

**Direct Tel. No.** 020 7641 3934

**Recommendation and Reason(s):**

1  
The development as submitted 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 sample cladding 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 contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out



in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

3

The facades shall be clad in natural Portland stone.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

4

You must apply to us for approval of detailed drawings of the following parts of the development -

1. Typical facade details at all levels
2. Decorative metalwork
3. Shopfronts
4. Public art/balcony railings

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings. (C26DB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

5

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

## Reason:

Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (July 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

6

You must apply to us for approval of detailed drawings (roof plan, elevations and sections) showing the following alteration(s) to the scheme:

the omission of the roof level safety balustrade and its replacement with a lanyard-style safety system for maintenance purposes.

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 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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

7

Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

- o between 08.00 and 18.00 Monday to Friday;
- o between 08.00 and 13.00 on Saturday; and
- o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

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

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

## Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

8

Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

9

(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 (July 2016), 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.

10

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.

11

(1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, 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 including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

**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 (UDP), 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 (July 2016), 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.

12

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.

13

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.

The design of the separating wall should be such that the received value in the residential habitable spaces, with music playing, should be 10 dB below that measure without music events taking place, at the quietest time of day and night, measured over a period of 5 minutes and in the indices of Leq & LfMax in the octave bands of 63 Hz & 125 Hz. (The 10 dB below limit is considered sufficient as measured in the two indices of Leq & LfMax so that the 'beat' of the low frequency music will be effectively inaudible to the residents.)

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.

14

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 9 and 11 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 (July 2016), by contributing to reducing excessive ambient noise levels.

15

You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 12, 13 and 39 of this permission. You must not start work on this part of the

development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

As set out in ENV6 (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 and noise generated from within the development.

16

You must provide the waste store shown on drawing A2010 P5 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. 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. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

17

No waste shall be stored on the public highway

Reason:

To protect the environment and ensure the use of the storage facilities provided as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

18

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

Reason:

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

19

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 Policy 6.9 (Table 6.3) of the London Plan 2015.

20

All vehicles must enter and exit the site in forward gear

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

21

Any part of the development that oversails the highway (footway) must maintain a minimum 2.6 metre clearance from the footway surface at all times and shall not extend closer than 1 metre from the kerb edge.

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

22

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 (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

23

Prior to the occupation of the flats hereby approved a minimum of 20% of the parking spaces shall be fitted with electric vehicle charging points and these shall, thereafter, be maintained in working order.

## Reason:

As required under policy 6.13 of The London Plan 2015

24

Prior to the occupation of the flats hereby approved you must apply to us for approval of a vehicle signalling system for the basement car park. You must not start work on this part of the development until we have approved what you have sent us. You must then install the vehicle signalling system in accordance with the approved details prior to the use of the car park. (C26CB)

## Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

25

Prior to the occupation of the commercial floorspace as either a restaurant (Class A3) or as a food supermarket (Class A1) you must apply to us for approval of a Servicing Management Plan. You must not occupy the commercial unit for these purposes until we have approved what you have sent us and the premises must thereafter be serviced in accordance with the approved Servicing Management Plan.

## Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

26

Prior to the commencement of any (Class A3) restaurant use on the site, 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 allowed by this permission 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 (July 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

27

Pre Commencement Condition. You must not start any demolition work on site until we have approved either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission on the same date as this consent, or
- (b) an alternative means of ensuring we are satisfied that demolition on the site will only occur immediately prior to development of the new building.

You must only carry out the demolition and development according to the approved arrangements. (C29AC)

Reason:

To maintain the character of the Harley Street Conservation Area as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

28

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

Reason:

To maintain the character of the Harley Street Conservation Area as set out in S25 and S28 of

Westminster's City Plan (July 2016) and DES 1 and DES 9 (B) of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29AC)

29

You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use. (C05JB)

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 (July 2016) and TACE 9 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

30

Customers shall only be permitted within the restaurant premises, including on the private forecourt, between 07.30 and 22.30 hours on Monday to Friday (excluding Bank Holidays and Public Holidays); from 0800 to 22.30 on Saturdays and from 09.00 until 1800 hours on Sundays, Bank Holidays and Public Holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

31

The restaurant plant/machinery hereby permitted (excluding refrigeration plant) shall not be operated except between 06.30 and 23.30 on Monday to Friday; 0700 and 23.30 on Saturday and 08.00 until 1900 hours on Sundays and Bank Holidays.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

32

You must put up the plant enclosure shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect the environment of people in neighbouring properties and the appearance of the site. This is in line with S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7, DES 5 and DES 6 of our Unitary Development Plan that we adopted in January 2007. (R13CC)

33

You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (July 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

34

The Class A3 restaurant use hereby approved shall not operate a food or drink delivery service

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (July 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

35

You must not allow more than 120 customers into the restaurant premise, including the private forecourt area on Great Portland Street, at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (July 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

36

All servicing must take place between 0800 and 2000 hours. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building (other than in the case of waste collections by Council contractors).

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

37

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

green roof

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

Reason:

To increase the biodiversity of the environment, as set out in S38 of Westminster's City Plan (July 2016) and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R43FB)

38

You must provide the environmental sustainability features (environmentally friendly features) set out in the Sustainability Statement (Hurley Palmer Flatt dated October 2015 Issue 3) before you start to use any part of the development, as set out in your application.

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (July 2016). (R44AC)

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 (July 2016), 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

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 highways works around the site to facilitate the development (including the creation of a new crossover), a Car Lift Management and Maintenance Plan, the provision of unallocated residential parking, Life time car club membership in association with each of the new flats (minimum 25 years), the replacement of any street trees removed to facilitate the development and s106 monitoring costs. (I55AA)

3

You are advised that the development should be faced in natural Portland stone.

4

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. (I54AA)

5

Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

6

The term 'clearly mark' in condition means marked by a permanent wall notice or floor markings, or both. (I88AA)

7

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)

8

You are advised that the Servicing Management Plan required under Condition 25 should clearly outline how servicing will take place on a day-to-day basis ensuring that goods and delivery vehicles spend the least amount of time on the highway and do not cause an obstruction to other highway users. It should identify process, internal storage locations, scheduling of deliveries and staffing.

9

You are reminded that the trees on the highway adjacent to the building frontages are owned by the City Council. Prior to the commencement of any works on site, you must contact the Council's arboricultural officers to discuss measures for the protection of these street trees during the course of construction.

10

You may need separate licensing approval for the 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)

11

You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)

12

You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423,

siteenquiries@ccscheme.org.uk or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).

13

With reference to condition please refer to the Council's Code of Construction Practice at (<https://www.westminster.gov.uk/code-construction-practice>). You will be required to enter into the relevant Code appropriate to this scale of development and to pay the relevant fees prior to starting work. The Code does require the submission of a full Site Environmental Management Plan or Construction Management Plan as appropriate 40 days prior to commencement of works (including demolition). You are urged therefore to give this your early attention.

14

Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the part basement (B1) and part ground floor can change between the retail (Class A1) and restaurant (Class A3) 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. (I62A)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.