

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 5 February 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved Marylebone High Street	
Subject of Report	Welbeck Street Car Park, Welbeck Street, London, W1G 0BB		
Proposal	Demolition of the existing building and redevelopment to provide a new building comprising three basement levels, lower ground floor, ground floor level and first to ninth floor levels consisting of hotel (Class C1) with publicly accessible restaurant/bar (Class A3/A4) at ground floor, bar and roof terrace at ninth floor, function/events space at basement levels 2 and 3; and roof level swimming pool, roof level plant and associated works.		
Agent	DP9		
On behalf of	Marylebone Lane LP		
Registered Number	18/09467/FULL	Date amended/ completed	6 November 2018
Date Application Received	6 November 2018		
Historic Building Grade	Unlisted		
Conservation Area	N/A		

## 1. RECOMMENDATION

1. Subject to referral to the Mayor of London, grant conditional permission, subject to a Section 106 agreement to secure:

- i. A financial contribution of £194,937 (index linked and payable on commencement of development) toward the funding of Crossrail (minus any relevant Mayoral Community Infrastructure Levy paid);
- ii. An employment and training strategy for the demolition, construction and operational phases of the development;
- iii. Highway works including removing the existing crossovers and any associated works to accommodate the development;
- iv. Payment of cost of monitoring the agreement (£500 per head of term).

2. If the S106 legal agreement has not been completed within 6 weeks, then:

- a. The Executive Director Growth Planning and Housing shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Executive Director Growth Planning and Housing is authorised to determine and issue the decision under Delegated Powers; however, if not;

b. The Executive Director Growth Planning and Housing shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Executive Director Growth Planning and Housing is authorised to determine the application and agree appropriate reasons for refusal under Delegated Power

## 2. SUMMARY

The application involves the vacant NCP car park at the southern end of Welbeck Street and Marylebone Lane. Permission is sought for the demolition of the existing building, and the redevelopment of the site to provide a 10-storey (plus triple basement level) hotel, with a publicly accessible restaurant and bars and event space, together with a roof level pool and basement gym.

The scheme is similar in many respects to an application approved in 2017 for the redevelopment of the site to provide hotel, restaurant/cafe and spa facilities. The significant change involved in the current proposal include the excavation of two additional levels of basement to create a function/events space (some 360sqm).

The key issues in this case are:

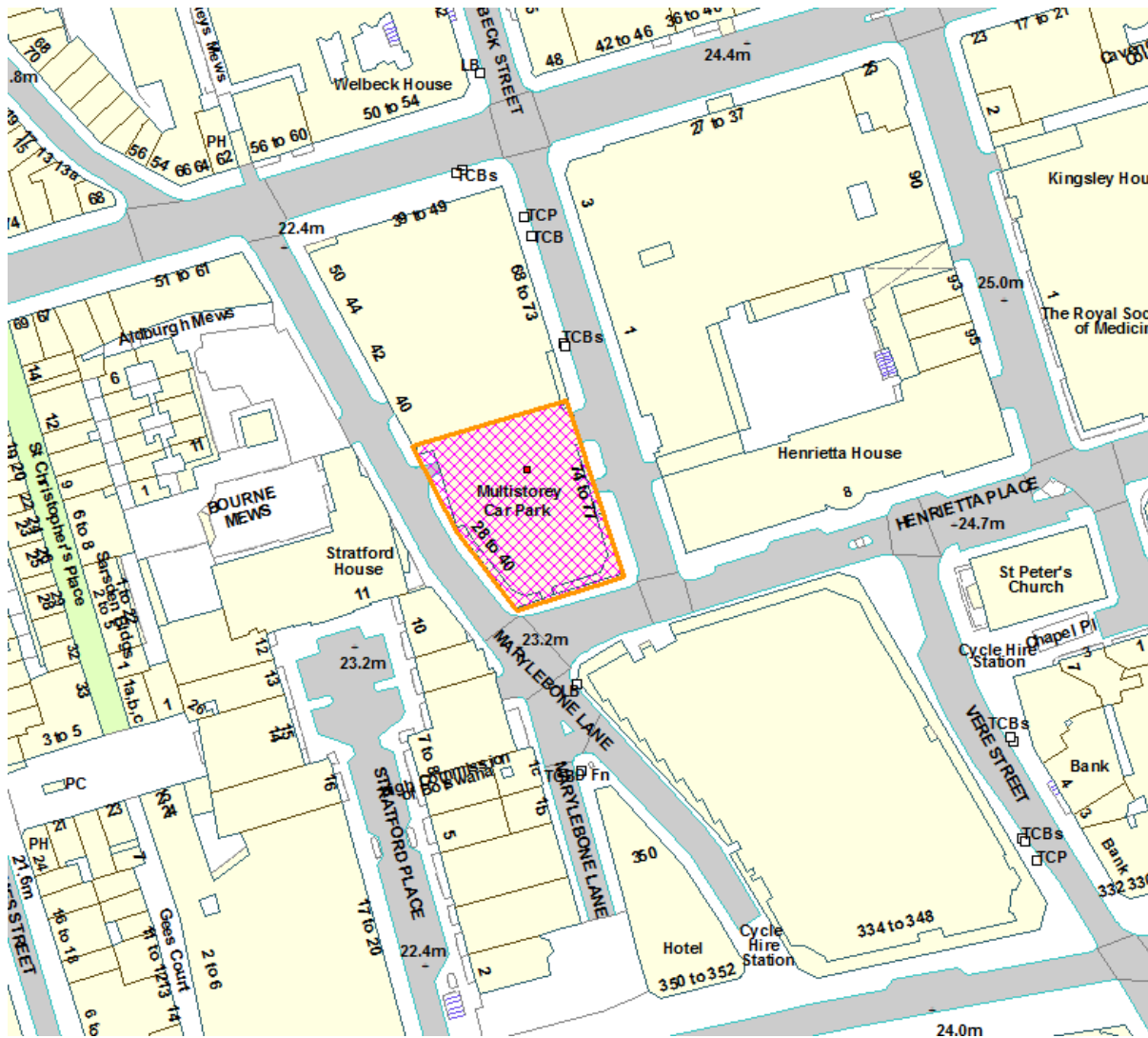
- \* The impact of the scheme on the character and appearance of the area
- \* The impact of the scheme on the amenity of neighbouring occupiers
- \* Highway issues particularly servicing and deliveries and the impact on other road users in the immediate vicinity of the site.

The site is not located within a conservation area and the contribution of the existing building to the character and appearance of this part of the city is considered to be neutral. Permission was granted in December 2017 for the demolition of the existing building there is no objection in principle again to its demolition. The proposed building is of significantly greater height and bulk than the existing car park, however, it's massing falls within the consented envelope of the extant consent. It's massing is also similar to the building to its immediate east and with the setting back of the upper floors, in the street level views, the visual impact of these floors is much reduced.

The design is considered a high quality building which will contribute positively to, and preserve and enhance, the character and appearance of the area.

The loss of the existing public car park complies with transport policies and the principle of hotel use is once again considered acceptable in land use terms. Subject to appropriate conditions controlling the hotel operation it is considered that the use would be neither harmful to residential amenity nor the character and function of the area. In other respects the scheme is considered to comply with policies set out in the City Plan and in the Unitary Development Plan (UDP).

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

View from Henrietta Place



View from Marylebone Lane



## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY

Strongly supports the principle of a hotel redevelopment but considers that further information on water efficiency, the heat pump and cooling demand is required, as well as confirmation of a centralised energy centre feeding a communal network; that further clarity on the pickup/ drops off arrangements for disabled users and to the location of cycle parking. A contribution is requested for Legible London, alongside conditions for travel plans, a delivery and servicing plan and a construction logistics plan

### TRANSPORT FOR LONDON

Requests further clarity required relating to blue badge provision together with drop off/pick up arrangements for taxis; suggests a review of the cycle parking and servicing strategy and requests conditions relating to a servicing and delivery plan, construction management plan, travel plan and a contribution towards Legible London.

### HISTORIC ENGLAND (ARCHAEOLOGY)

No objections raised subject to an archaeological condition being imposed.

### LONDON UNDERGROUND LIMITED

No objections raised.

### METROPOLITAN POLICE

Any response to be reported verbally.

### MARYLEBONE ASSOCIATION

Any comments to be reported verbally

### BUILDING CONTROL

No objections raised

### HIGHWAYS PLANNING MANAGER

No objections raised.

### ENVIRONMENTAL HEALTH

No objections subject to a revised air quality neutral assessment and mitigating measures relating to noise breakout from function rooms, bars, restaurants, rooftop bar, pool and the gym.

### WASTE PROJECT OFFICER

No objections raised.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 169;

Total No. of replies: One letter of objection on the following grounds:

\* Noise and nuisance caused from the main hotel entrance onto Henrietta Place

\* The location of the bar entrance onto Marylebone Lane would be directly opposite bedroom suites within the Oriental Club

\* Noise and nuisance from the creation of a large events space at basement levels

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The site is located at the southern end of Welbeck Street and Marylebone Lane, at the junction with Henrietta Place. It comprises a vacant NCP Car Park, a restaurant which is currently occupied by Meat Liquor, and a nightclub occupied by SophistiCats. There is also some redundant storage space in the basement which was previously used by Debenhams. This space was linked to 1-2 Welbeck Street by an underground tunnel which has now been severed.

The existing car park provides 359 spaces. It was formerly operated by NCP and takes its vehicular access from Marylebone Lane and Welbeck Street.

The site lies within the Core Central Activities Zone (CAZ) and the surrounding area has a mixture of mainly commercial uses. The buildings to the east of Marylebone Lane and along Henrietta Place and Welbeck Street are office and commercial buildings. Debenhams Department Store lies directly south of the site on Henrietta Place and the Oriental Club is directly opposite the site on the north side of Stratford Place. There are also residential properties near the site, including a new 7-storey residential development at 9 Marylebone Lane.

The site is not located within a Conservation Area but is located within the vicinity of the Stratford Place Conservation Area and the Harley Street Conservation Area. The site is also adjacent to a number of listed buildings, including Stratford House which is Grade I listed, and 2-7 and 8-10 Stratford Place which are Grade II listed.

### **6.2 Recent Relevant History**

28th March 1968 – permission granted for the erection of a ten storey building on the sites of 30-40 Marylebone Lane, 14-15 Henrietta Place and 74-77 Welbeck Street for use as shops and storage in the basement, shops and public car park on the ground floor and a public car park on the upper floors and roof.

25 April 1995 – certificate of lawfulness granted for the existing use of the ground floor lobby and basement as a night club and discotheque with the ancillary sale of food and drinks.

23 October 2009 - certificate of lawfulness granted for use of part ground to eighth floor including the roof as a public car park

5 April 2011- permission granted for the dual/alternative use of the ground floor of 77 Welbeck Street for either continued restaurant (Class A3) use and/or retail (Class A1) use.

1 December 2017 – permission granted for the demolition of the existing building and redevelopment to provide a new building comprising basement, lower ground floor, ground floor and first to ninth floor levels. Use of the building as an hotel with supporting facilities (Class C1) with publicly accessible restaurant/bar (Class A3/A4) and cafe (Class A3) at part ground floor level, publicly accessible spa and guest business facilities at lower ground floor level, roof terrace, roof level plant and associated works.

## 7. THE PROPOSAL

The application involves the demolition of the existing car park building and the redevelopment of the site to provide a 10-storey plus triple basement level hotel. 205 guest bedrooms are proposed, with a publicly accessible ground floor restaurant/ bar, roof level bar and terrace and a function/events space at basement levels 2 and 3. A gym at basement level and a roof level swimming pool are also proposed. The upper levels contain the hotel bedrooms designed around a central courtyard. Shiva Hotels are the intended hotel operator and have submitted a draft Operational Management Statement (OMS).

The scheme is similar in many respects to the application approved in 2017 for the redevelopment of the site to provide hotel, restaurant/cafe and spa facilities. The significant change involved in the current proposal include the excavation of two additional levels of basement to create a function/events space (some 360sqm).

The main entrance to the hotel is on the corner of Marylebone Lane and Henrietta Place, a separate entrance is proposed on Welbeck Street to the events space and further secondary entrances are proposed onto both Marylebone Lane and Welbeck Street to the restaurant/bar area. A dedicated servicing bay is also proposed onto Welbeck Street.

The existing and proposed land uses are summarised below:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Public car park	10,180	0	-10,180
Nightclub	406	0	-406
Restaurant/bar	366	579 (298 at ground floor and 281 at roof level)	+213
Storage/retail	745	0	-745
Hotel (including events space)	0	14313.5	+14,313.5
<b>Total</b>	<b>11,697</b>	<b>14,892.5</b>	<b>+3,195.5</b>

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of public car park

The proposals once again involve the loss of an existing public car park (359 spaces). UDP policy TRANS 25 states that the council will usually permit the loss of public off-street parking. In determining such proposals, the Council will consider the need to



reduce traffic levels and encourage more sustainable modes of transport, the average and peak usage of the car park, the availability of alternative, nearby public car parks; the impact on local on-street parking facilities; the impact on traffic and local residential amenity and any other factors considered relevant.

The applicant previously provided evidence which indicates that the peak demand for the car park on weekdays is 75 spaces (21%) and on Saturdays is for 52 spaces (14%). There is availability within car parks within the vicinity of the site (for example Cavendish Square and the Harley Street car park on Queen Anne Mews). On this basis, the loss of the car park is once again considered acceptable.

Other transportation and servicing issues are discussed in part 8.4 of this report.

### **Loss of retail storage**

The proposals also involve the loss of 745sqm of storage space which has historically been used by Debenhams as a satellite storage area for their retail goods. As such this space has been used as ancillary Class A1 retail space. However, the only means of access to this space is via an underground tunnel that linked the application site to 1-2 Welbeck Street on the opposite side of the street. This underground link has now been severed.

Whilst the proposals would result in the loss of 745sqm of Class A1 retail floorspace contrary to adopted policies, this space has never been used for active retail purposes, it is located entirely at basement floor and has no ground floor presence, and now that the underground link to this site and the main Debenhams store on Oxford Street has been severed, it is an entirely isolated space. The loss of this space was considered acceptable in the extant scheme and it is again considered that the loss of this space would not have any material harm on local shopping character and function.

### **New hotel use**

Hotels are important to support the visitor and business economy, and they have strong links with other activities in central London such as shopping, theatre and other cultural and entertainment activities. In addition to providing 205 rooms, the hotel will provide a ground floor restaurant/bar and roof level bar both of which would also open to the public. The ground floor restaurant/bar areas have a capacity of up to 195. Areas for alfresco dining are also proposed on Marylebone Lane and Welbeck Street.

Policy S23 of Westminster's City Plan directs new hotels to the CAZ and to those streets which do not have a predominantly residential character. Policy TACE 2 of the UDP is also permissive towards new hotels in the CAZ that do not have a predominantly residential character where (i) no adverse environmental and traffic effects would be generated and (ii) adequate on-site facilities are incorporated within developments proposing significant amounts of new visitor accommodation, including spaces for the setting down and picking up of visitors by coaches and for taxis serving the hotel.

Notwithstanding the recent residential permission at 9 Marylebone Lane, Marylebone Lane and Welbeck Street are still predominantly commercial in character. In these circumstances, the introduction of a new hotel on this site is once again considered acceptable in principle in land use terms.



The application is supported by a draft Operational Management Statement which includes measures designed to ameliorate the impact of the hotel and entertainment uses on residents' amenities and local environment quality and this is discussed below. The impact of the proposals on traffic and parking is set out in section 8.4.

### **New restaurant and bar use**

Although the restaurant and bars would be an integral part of the hotel and under the same management, as is typical of a hotel of the nature proposed, these areas would be open to non-residents. Although these areas would not be operated as stand-alone facilities and would be ancillary to the primary hotel use (Class C1), the impact of these uses needs to be assessed against the City Council's entertainment policies.

The proposed restaurant and bars involve 579 sqm of floor area (GIA) and therefore falls to be considered within Policies TACE 10 and S24 of the City Plan. Policy TACE 10 states that entertainment uses over 500m<sup>2</sup> will only be permissible in exceptional circumstances. Policy S24 states that 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area'. The policy also states that new large scale late night entertainment uses measuring in excess of 500sqm (GEA), will not generally be appropriate within Westminster.

The area occupied for restaurant and bar use is smaller than the areas occupied by the existing entertainment uses on this site, the Meat Liquor restaurant and SophistiCats night club (some 772 sqm). In this regard it would be difficult to argue that the impact of the restaurant/bars would be harmful in this location.

In terms of the impact of the use on residential amenity, despite the location of the restaurant within relatively close proximity to residential properties in the recent development at 9 Marylebone Lane no objections have been received to the introduction of the new restaurant/bar use. Given the location of hotel bedrooms directly above, it will be in the interests of the hotel to ensure that these areas are properly managed. Furthermore, the restaurant is intended as a sit-down facility with waiter service and no take away facilities, and the total capacity of the ground floor restaurant and bar would be restricted to 195 (as in the consented scheme) and 120 in the roof top bar. A condition is also proposed to limit all fresco dining hours until 11pm on the Marylebone Lane frontage and midnight on Welbeck Street.

The proposed development includes a roof terrace which would be used in conjunction with the proposed roof level bar. A roof terrace was proposed in the extant scheme but the terrace proposed now is significantly larger.

The nearest residential properties are within 50 Marylebone Lane to the immediate north of the site. The application is supported by a noise report which states that the proposed pool and terrace are set back from the edge of the building and located at a much higher level than surrounding noise sensitive windows. However, the drawings submitted with the application show a terrace of over 200 sqm in size and therefore there is potential for the terrace to be intensively used. In this regard, it is considered that the hours of use of the terrace should be limited until 23:00 hours daily and the

applicant has agreed to such a condition, and to a condition requiring windows and doors to the terrace area to be closed at 23:00. With these conditions in place it is considered that the impact on adjacent residential occupiers from noise from the use of the terrace would be minimised.

Standard noise conditions regarding internal noise limits are also proposed for the roof top bar and Environmental Health suggest the need for a supplementary acoustic report to demonstrate that these limits can be met. The acoustic report also suggests a music noise limiter, which would be a condition of any future premises licence.

The application is accompanied by a draft Operational Management Statement (OMS) that sets out the hours non-resident guests can use the restaurant and bar areas, the provision of door staff and 24 hour security, a dedicated area for smoking (on Welbeck Street) and the inclusion of a liaison mechanism with local residents.

### **Loss of existing nightclub**

Draft London Plan Policy HC6 seeks to promote the night-time economy, where appropriate, particularly in the Central Activities Zone. The draft policy seeks to protect and support evening and night-time cultural venues such as night clubs.

The existing building contains SophistiCats night club. The proposed development provides a range of entertainment uses which will contribute to the night-time economy and in this context it is not considered that the proposals are objectionable in principle. The GLA have raised no objection to the loss of the existing night club.

### **New function/events space**

The proposals also include a double-height event space and pre-function bar located at basement levels 2 and 3. A number of hotels in London include conference and event spaces which are used for private functions in the daytime and evening, and the principal of the provision of space for functions and events is considered to be in accordance with adopted policy subject to amenity considerations which are detailed below.

The site lies within the Core Central Activities Zone (CAZ), and whilst there are residential properties at 9 and 50 Marylebone Lane and 3 Welbeck Street, the main entrance to the function space is via the hotel entrance onto Henrietta Place which does not have a predominantly residential character.

The applicants have advised that the function space will have a maximum capacity of 400 (although plans submitted with the application show a seated capacity of 234). The event space would operate until 01:00 daily. The applicant envisages that the space would be used for weddings, conferences/exhibitions, product launch events, fashion shows, general function space, supper club and private dining events.

The application therefore has the potential of the arrival and departure of large volumes of people and it is therefore necessary to ensure that the activities associated with the use would not cause unreasonable disturbance for local residents due to the comings and goings of guests, especially in the later evening and at weekends. The applicants advise that the arrivals and departures of guests would generally be staggered. Given the number of taxis in the area and due to the high public transport accessibility of the

site, the applicants have suggested that guests will disperse quickly. However it is considered that there is likely to be localised congestion for brief periods outside the hotel at both the beginning and end times of events. Guests arriving and particularly leaving may also result in local disturbance including noise issues from loud voices, taxi doors closing and engines idling etc. However the intention is that people leaving an evening event in the function room will use the entrance on Welbeck Street rather than the main entrance on Henrietta Place, which is more sensitive in terms of proximity to nearby residential properties on Marylebone Lane. The Oriental Club have also requested that when guests leave the events space that they use the dedicated side exit on Welbeck Street (as set out in the draft Operational Management Plan).

The site does currently include a nightclub that operates with a late night licence until 07:30 (Friday to Saturday), 06:00 on Wednesdays and Thursday, 05:00 on Mondays and Tuesdays. This is a long-standing nightclub use, however it appears that only one historic objection on noise grounds has been received, and this was from a hotel guest at Radisson Blu Berkshire Hotel on Marylebone Lane (in 2015). No complaints from nearby residents have been received regarding noise from customers leaving the venue. The current application has only received one letter of objection from the Oriental club who are concerned about the application subject to the sensitive management of the proposed event space.

The applicant has also submitted an acoustic report that sets out the measures to control noise from the function space. The report proposes a number of mitigating measures including high acoustic performance separating walls and floors between the commercial units and hotel guests, ensuring the external facades are designed to minimise noise breakout, imposing noise limits on commercial tenants and operating hours and delivery timings on these units. Environmental Health have requested conditions requiring compliance with internal noise conditions to ensure that noise break out does not adversely affect nearby residents. They also suggest conditions to limit the hours when deliveries, and servicing can take place. It is also proposed that the operation and management of the hotel, events space and the associated restaurant and bar facilities are controlled via an agreed Operational Management Plan (OMP) to ensure that the amenity of neighbouring residents and businesses and the quality of the surrounding environment is adequately safeguarded especially when visitors leave the premises at the end of an event. The applicants have submitted a draft OMP at this stage; it is recommended that a final version is secured by condition.

## **8.2 Townscape and Design**

The Welbeck Street multi-storey car park was built between 1968 and 1970, designed by Michael Blampied and Partners. The striking, sculptural facade comprises interlocking precast panels which are supported on a system of precast concrete frames and columns at ground level. In 2015 the building was assessed by English Heritage (now Historic England), and it was concluded that the building did not meet their criteria for listing. It is not of special architectural and historic interest.

The building is not in a conservation area, but is to the east of the Stratford Place Conservation Area. Its contribution to the character and appearance of this part of the city is considered to be neutral and therefore it is not considered to be a heritage (designated or undesignated) asset. Given its non-conservation area location, its

demolition does not require planning permission. Its replacement with a new building has already been accepted with the granting of planning permission for demolition and redevelopment in 2017.

The current proposal involves replacing the car park with a new hotel building of similar height and bulk to that of the previously approved scheme, but the design approach is different. The approved scheme had facades of coloured ceramics whereas the current scheme is more muted, using dark brick and reconstituted stone.

### **Plan form**

The building follows the historic building lines, with active ground floor frontages. On Marylebone Lane there is a bar, with outdoor seating in front. At the junction of Marylebone Lane and on Henrietta Place is the entrance, then to the east are the windows to the reception / lounge, set back behind planters. On Welbeck Street, at the southern end is the restaurant terrace, again set back behind planters, then an outdoor seating area, set under the building, and then the restaurant.

The service, back of house areas and UKPN substation on the ground floor are all located at the north end of the building on both Marylebone Lane and Welbeck Street. These somewhat dead frontages are inevitable but it is considered that they have been carefully considered and are acceptable.

Overall the frontages are a significant improvement on the existing building, as they will bring life and activity to this part of the city and Marylebone Lane in particular. On Henrietta Place it is proposed to realign the pavement to create more space for pedestrians. This all amounts to a significant benefit in urban design terms. It is considered that the detailed design of the ground floor frontages should be reserved by condition.

### **Height and bulk**

The proposed building is of significantly greater height and bulk than the existing car park but almost entirely within the envelope of the approved scheme. It is 10 storeys above street level, with the top two floors set back from the parapet and a screened plant area on the roof.

As with the approved scheme, the setting back of the upper floors means that, in the street level views, the visual impact of these floors is much reduced. In views along Henrietta Place and from Oxford Street the massing appears acceptable. It is only in a limited number of views from the north (Marylebone Lane and Welbeck Street) that its greater height, in relationship to adjacent buildings to the north, is more apparent. However, it appears acceptable in the context of the taller buildings in Henrietta Place and at the southern end of Marylebone Lane.

The top of the building is visible in some views from Stratford Place, within the Stratford Place Conservation Area, (above the roof of no. 10 Stratford Place) but this visual impact is limited and not harmful to the setting of the adjacent listed buildings or the conservation area. The height and bulk are considered acceptable.

## Design

The design of the hotel building is modern, but responds to its context. This has led the architects to use brick on Marylebone Lane and reconstituted stone (to resemble Portland stone) on the other two facades. On Marylebone Lane a dark brick is used for the piers, with bronze coloured metal framing of the hotel windows. A green wall is proposed at level 8.

On the other two facades the reconstituted stone is used with a smooth finish for the framework, and a fluted finish for the solid panels within the framework. The windows are framed with bronze coloured aluminium. At roof level the windows are again set within a bronze metal framework, which is more solid at level 8 and lighter weight, more glazed, at level 9.

The junction of the Marylebone Lane and Henrietta Place facades features the main hotel entrance, which is prominent in views from Oxford Street to the south. This is designed to be an eye-catching feature and takes the form of a circular tower, clad with a lattice work of bronze finished metal fins. At the base it features planting which is intended to climb up the lattice. The top of the tower has been revised through negotiation and this is now considered an acceptable design.

The design is arguably not as bold and eye-catching as the approved scheme but it is an acceptable alternative design approach. This is a high quality building which will contribute positively to, and preserve and enhance, the character and appearance of the area. There is no harm to heritage assets.

The scheme complies with the City Council's urban design and conservation policies, including strategic policies S25 and S28, and Unitary Development Plan policies including DES 1, DES 4 and DES 10.

## 8.3 Residential Amenity

The closest affected residential properties are within the recently completed development site at 9 Marylebone Lane to the north west of the site. There are also residential flats on the upper floors of 50 Marylebone Lane to the immediate north of the site and flats within 3 Welbeck Street to the north east of the site.

A daylight and sunlight report has been commissioned by Point 2 Surveyors which examines the impact on daylight and sunlight conditions to the adjacent residential properties. None of the adjacent or adjoining residential occupiers have raised objections on sunlight/daylight grounds.

### Sunlight

UDP Policy ENV 13 aims to protect and improve the amenity of the residential environment, which includes ensuring that sunlighting and daylighting levels to existing properties are not unreasonably compromised. In implementing this policy, the advice of the Building Research Establishment (BRE) with regard to natural lighting values is used. The report considers the Vertical Sky Component (VSC) and No Sky Line (NSL) in accordance with the BRE guidance. VSC is a measure of the amount of sky visible from the centre point of a window on its outside face. If this 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 NSL assesses daylight distribution by measuring the area of the room from which there is visible sky. If there are reductions from existing NSL values of more than 20% then the change is likely to be noticeable. The BRE guidelines seek mainly to protect daylighting to living rooms, dining rooms and kitchens (where they are sufficiently large to be used as a habitable room), whilst bedrooms are protected to a lesser extent.

The sunlight/daylight assessment submitted with the application demonstrates that only one window within the recently completed 9 Marylebone Lane would be adversely affected by more than the 20% recommended in the BRE guidelines. This is a living/kitchen/dining room window that would experience a 37% loss in VSC contrary to BRE guidance. However, this window is within a room served by six other windows none of which would be adversely affected by the proposals. In addition, this one window has a low (less than 0.5% absolute) existing VSC value where any change translates to a technical breach of BRE guidelines.

All other surrounding residential windows are too far away to be affected by the proposed development.

### **Sunlight**

With regard to sunlighting, the BRE guidelines state that where the amount of sunlight to an existing window is already limited and would be reduced by more than 20% as a result of a development, and has a 4% loss in total annual sunlight hours, the window is likely to be adversely affected. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

Two windows within 9 Marylebone Lane would experience losses in breach of the BRE guidelines. However both of these windows are within a living/kitchen/dining room where there are five other windows which are unaffected by the proposals.

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

### **Sense of Enclosure**

Policy ENV13(F) states that where developments result in an unacceptable increase in the sense of enclosure, planning permission will be refused. Policy S29 states that the Council will resist proposals that result in an unacceptable loss of residential amenity.

The building would be approximately two storeys higher than the existing car park and would be directly opposite the south facing windows within 50 Marylebone Lane and within close proximity to 9 Marylebone Lane. However, the additional massing proposed would be some 30m from the windows in 50 Marylebone Lane and there is only an oblique view of the proposed development from the newly completed 9 Marylebone Lane. Given the distances involved it is not considered that the impact on sense of enclosure would be so significant as to warrant refusal.

## 8.4 Transportation/Parking

A Transport Statement produced on behalf of the applicant identifies the site as being within a highly accessible location in terms of public transport. Trip generation modelling concludes that the majority of trips associated with the site will be via public transport or other sustainable modes (e.g. walking, cycling) and indicates that the proposal will not have a significantly adverse effect on the safety or operation of the highway network.

In addition, the number of vehicle trips generated by the proposed development is considered to be lower than the level of trips generated by the existing car park.

### Site servicing

In terms of servicing, Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that “vehicular servicing needs of developments are fully accommodated on-site and off-street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development”.

The applicant estimates that the proposed development will be serviced on average by 6 service vehicles daily. All servicing is proposed on-street on Welbeck Street adjacent to the goods-in entrance. Whilst there is a loading ban on this part of Welbeck Street, the Highways Planning Manager believes this is due to the proximity of the existing car park exits and does not foresee a problem with the loading ban being removed. The Highways Planning Manager has also confirmed that the submitted SMP has demonstrated that there is capacity on the surrounding street to deal with on-street servicing. As the SMP is currently in draft form, a revised SMP will be secured by condition.

Taxi's, coaches and minibuses picking up/dropping off at the site will stop on Welbeck Street which is within close proximity to the main entrance of the hotel. As Welbeck Street is one-way coaches and taxi's are able to stop without blocking through traffic. For day-to-day operation it is not envisaged that any special arrangements would be required to cater for the number of taxis that would be required to serve the hotel, but a larger number might clearly be required to service events.

It has been agreed through the Operational Management Plan that when large events are held at the hotel, guests will be asked to leave via Welbeck Street instead of Henrietta Place. The use of taxis would be managed by the hotel concierge staff and if necessary taxis should be able to queue on Welbeck Street without blocking the road. Guests would be asked to wait inside the hotel until their taxi has arrived and then taken to the waiting taxi.

In the previous Transport Statement it was agreed that 10% of people coming to the hotel would come by taxi. The event space could hold up to 400 people as an absolute maximum and would be used primarily in the evenings. The applicant argues that some of these guests would be staying in the hotel and others would share a taxi, and as a very worst case it is anticipated that some 40 taxis would drop off and collect guests. It is also argued that during events, arrival and departure times would be spread out over a few hours, however the Highways Planning Manager believes that even if all 40 taxis were to collect over the course of a single hour, the surrounding streets could



accommodate this activity. The Highways Planning Manager also concludes that the traffic generation by the hotel will be significantly less than it was when the car park was in more full operation.

The finalised SMP will set out how hotel arrivals and departures and deliveries will be managed, and with this in place, and with a requirement for the return of the existing footway crossovers to footpaths, the Highways Planning Manager considers the proposals acceptable in highway terms.

### **Public realm**

The applicant has indicated that they wish to investigate potential public realm improvements to widen the footway on the northern side of Henrietta Place, adjacent to the hotel restaurant and bar entrance. At present, there are two existing pay at phone parking bays located along the existing northern kerb line outside the site on Henrietta Place which would need to be relocated for these public realm works to take place. However, these proposals will need to be considered in line with any proposals that might emerge for Oxford Street and will be subject to further work, consultation and a decision by the relevant Cabinet Member, rather than this Committee.

### **Cycle parking**

66 cycle parking spaces are to be provided for staff at basement level in accordance with London Plan standards.

## **8.5 Economic Considerations**

The economic benefits generated are welcomed.

## **8.6 Access**

The design of the building provides inclusive step free accessible entrances to hotel reception and restaurant designed to meet Part M of the Building Regulations. In addition, ten percent of guest rooms will be designed to meet the needs of a wheelchair user and all floors are accessible by lift from the main circulation core. These will be secured by condition.

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

### **Plant**

Plant is proposed at basement levels 1 to 3 and roof level, and also at eighth floor level to serve the pool at ninth floor. The application is supported by an acoustic report. The Environmental Health officer has assessed the submitted acoustic report and raises no objection to the proposals subject to conditions relating to plant noise and vibration. However, as the plant scheme design is at an early stage, the applicant will need to provide a supplementary acoustic report to demonstrate that the selected equipment will operate in accordance with the standard noise condition. Subject to these conditions, it is not considered that the plant operation would adversely affect the amenities of existing, or future, residents.

The restaurant is served by a full height extract duct which is to be routed internally (from basement level) and extract at roof level. This will be secured by condition.

**Refuse /Recycling**

Dedicated waste storage areas are proposed at basement level 3 which provides adequate facilities for waste and recycling facilities for the hotel. These facilities will be secured through condition.

**Sustainability and Biodiversity**

The application is supported by an Energy and Sustainability Report. This assesses the proposals' compliance with policies and principles for sustainable development and energy efficiency. Policies 5.1 to 5.9 of the London Plan focus on how to mitigate climate change and the carbon dioxide emissions reduction targets that are necessary across London to achieve this. Developments are required to make the fullest contribution to tackling climate change by minimising carbon dioxide emissions (be lean), adopting sustainable design and construction measures and prioritising decentralised energy (be clean), including renewables (be green). London Plan Policy 5.2 sets out carbon reduction targets which apply to major developments and requires a 35% reduction of CO2 emissions over the baseline emissions to be achieved by the development.

The Energy and Sustainability report sets out passive design measures (thermal insulation and high specification glazing to reduce heating and cooling demand and enhanced air tightness to reduce heat losses) and the use of energy efficient building services (energy efficient mechanical ventilation, energy efficient heating, cooling, lighting and water systems) to improve the building's performance and to reduce CO2 emissions. In addition, the applicant proposes to provide an Air Source Heat Pump along with photovoltaic panels on the main roof. This results in total cumulative CO2 savings of 35.8%, set against the 35% target of policy.

A Sustainable Surface Water Report has been submitted which confirms that Sustainable Drainage Systems (SuDS) in the form of attenuation storage tanks will be provided. This accords with London Plan Policy 5.13 'Sustainable drainage' and will be secured by condition.

It is anticipated that the development would achieve a level of sustainability equivalent to BREEAM Excellent.

**Air Quality**

The development is located in an area of poor 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 air quality assessment acknowledges that mitigation measures will be required to address the impact of construction works and the performance of the completed development. The Environmental Health Officer has assessed the submitted report and has requested some additional information relating to the specific building or transport emissions. A revised air quality assessment has been received to address the concerns raised and members will be updated verbally at the committee meeting. Measures to control dust pollution generated during construction works would be covered under the COCP.

## 8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

## 8.9 Neighbourhood Plans

The submission version of the Mayfair Neighbourhood Plan has been submitted by Mayfair Neighbourhood Forum to the council for consultation and an independent examiner is due to be appointed shortly.

## 8.10 London Plan

The London Plan contains hotel-related objectives. These include the provision of 40,000 additional hotel bedrooms by 2031, to improve the quality, variety and distribution of visitor accommodation and facilities (Policy 4.5). The need to accommodate a wide range of provision is highlighted. The proposed 205 hotel bedrooms will help meet London Plan targets.

The proposal to redevelop this site is referable to the Mayor under Category 1C of the Mayor of London Order 2008 because the building is over 30m high. The Mayor considers that the application is broadly acceptable in strategic planning terms, however, requests further information/clarification on the following points:

- Provision of a recruitment and training strategy to be secured by condition. (This will be secured by legal agreement)
- Further commitments and/or clarifications are required relating to communal networks and centralised energy centre, heat pump proposals and cooling demand. Requests further information on flood risk management, sustainable drainage and water efficiency. (The applicant has submitted additional information to the Mayor to address these points)
- Blue badge parking should be provided and drop off/pick up arrangements for staff and guests with mobility difficulties should be clarified. (There are a number of on-street parking bays located around the site, included those dedicated to blue/white badge holders and further information relating to visitors with mobility issues has been requested. The SMP sets out how coach loading/unloading will be managed and this will be secured by condition).
- Requests a contributions towards Legible London signage. (However, the proposed development is a redevelopment on an existing, well-established street and

will not lead to any change in the hierarchy of spaces and street in the immediate area or to the legibility of pedestrian routes. In this regard, as in the consented scheme, it is not considered that such a contribution is necessary).

- Whilst cycle parking meets London Plan standards, further consideration should be given to locating short-stay cycle storage at a more convenient location (rather than at basement level). Showers should be provided for all staff who cycle. (A valet system is proposed for the parking visitors' cycles and additional short stay facilities are available on Wigmore Street. Showers will be provided within the staff changing area at basement level and these facilities will be secured by condition).
- The final servicing and delivery plan and construction management plan should be secured by condition. (The SMP and CoCP are secured by condition).
- A full hotel travel plan should be secured by S106 agreement. (Given the immediate proximity of this site to Bond Street tube and the new Crossrail station, the Council's Highways Planning Manager does not consider this requirement to be justified.)

Subject to clarification of these issues, the scheme is considered to comply with relevant policy.

### 8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the Council's Code of Construction Practice during the demolition/excavation and construction phases of the development, an archaeological watching brief and a condition relating to contaminated land. The applicant's response is awaited.

### 8.12 Planning Obligations

The draft 'Heads' of agreement are proposed to cover the following issues:

- i. A financial contribution of £194,937 (index linked and payable on commencement of development) toward the funding of Crossrail (minus any relevant Mayoral Community Infrastructure Levy paid);
- ii. An employment and training strategy for the demolition, construction and operational phases of the development;

iii. Highway works including removing the existing crossovers and any associated works to accommodate the development;  
iv. Payment of cost of monitoring the agreement (£500 per head of term).  
In relation to Community Infrastructure Levy payments, the development is estimated to be liable for a total of:

Mayoral CIL: £159,785 (index linked)  
Westminster CIL: £639,140 (index linked)  
Total CIL: £798,925 (index linked)

### 8.13 Environmental Impact Assessment

The application is not of a sufficient scale to require its own Environment Impact Assessment.

### 8.14 Other Issues

#### Basement

The proposal includes the excavation to create three additional basement levels. Policy CM28.1 requires that basement development be accompanied by a detailed structural methodology statement and a signed proforma Appendix A which demonstrates that the applicant will comply with relevant parts of the COCP. These have been submitted.

Part C (c) of the policy states that basement development to non-residential development adjoining residential properties where there is potential for an impact on those adjoining properties outside Core CAZ; will not involve the excavation of more than one storey below the lowest original floor level. Therefore, the excavation of one basement level complies with this section of the policy.

The applicant has also provided a Basement Impact Assessment explaining the likely methodology of excavation, as well as the drainage, groundwater regime and structural stability. Any report by a member of the relevant professional institution carries a duty of care which should be sufficient to demonstrate that the matter has been properly considered at this early stage.

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

This report has been considered by our Building Control officers who advise that the structural approach appears satisfactory. We are not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the building regulations in due course. This report will be attached for information purposes to the decision letter. It is considered that this is as far as we can reasonably take this matter

under the planning considerations of the proposal as matters of detailed engineering techniques and whether they secure the structural integrity of the development and neighbouring buildings during construction is not controlled through the planning regime but other statutory codes and regulations as cited above. To go further would be to act beyond the bounds of planning control.

**Construction impact**

The proposals constitute a level 2 type development requiring the applicant to sign up to the Council's Code of Construction Practice. This will be secured by condition.

**Archaeology**

The site is within the Tyburn Settlement Special Archaeological Priority Area (APA). English Heritage Archaeology has been consulted who have raised no objection to the proposals subject to the imposition of a condition requiring a written scheme of investigation prior to any demolition works taking place.

**Crime and security**

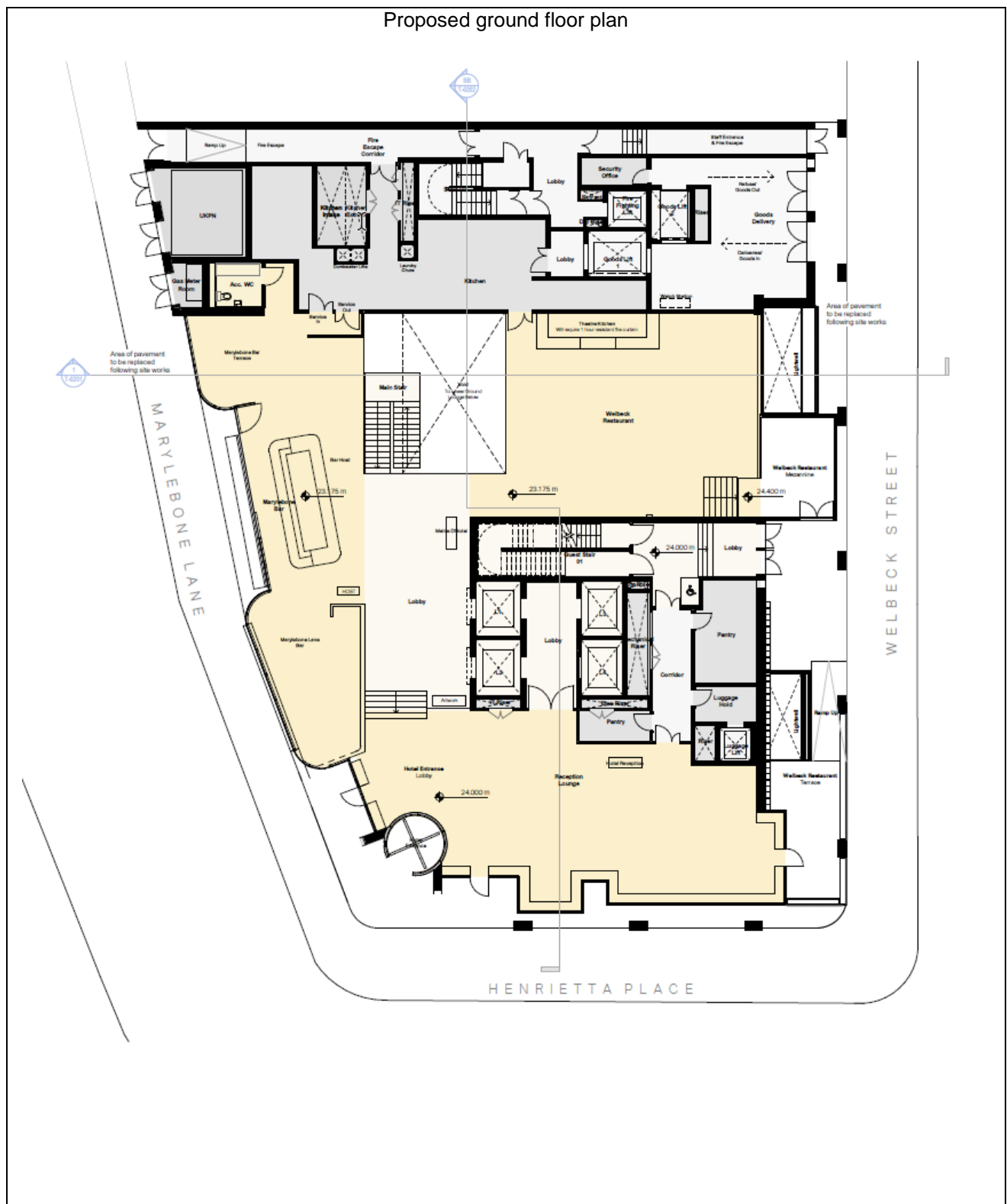
The Metropolitan Police have been consulted and any comments will be reported to members at the committee meeting.

(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: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)

## 9. KEY DRAWINGS

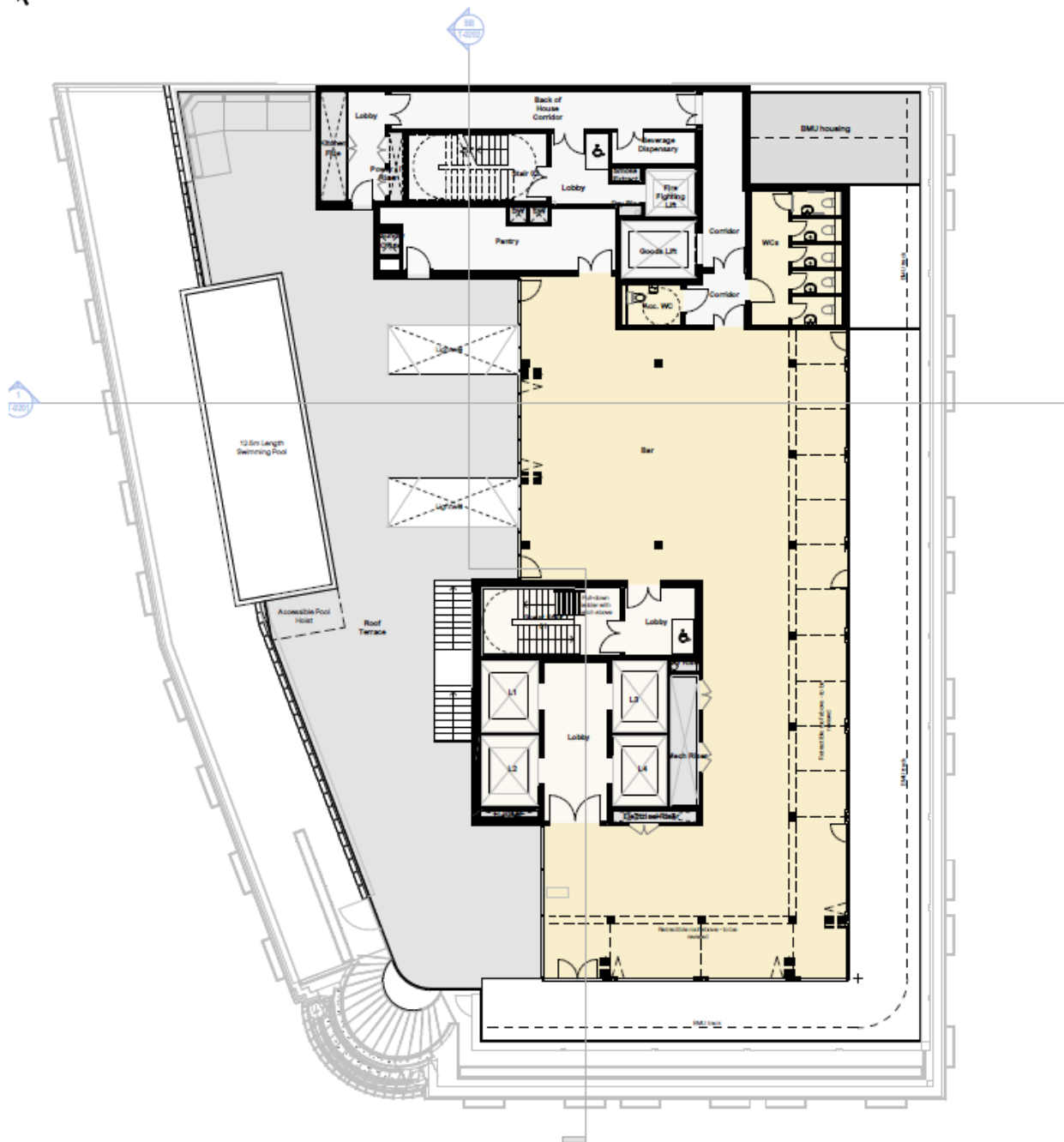
Proposed ground floor plan







Proposed roof level



Proposed south elevation (Henrietta Place)



Entrance detail



Proposed East Elevation (Welbeck Street)



Proposed West Elevation (Marylebone Lane)



**DRAFT DECISION LETTER**

**Address:** Welbeck Street Car Park, Welbeck Street, London, W1G 0BB,

**Proposal:** Demolition of the existing building and redevelopment to provide a new building comprising three basement levels, lower ground floor, ground floor level and first to ninth floor levels consisting of hotel (Class C1) with publicly accessible restaurant/bar (Class A3/A4) at ground floor, bar and roof terrace at ninth floor, function/events space at basement levels 2 and 3; and roof level swimming pool, roof level plant and associated works.

**Reference:** 18/09467/FULL

**Plan Nos:** 10684-EPR-01-B3-DR-A-T-0096 Rev T2, B2-DR-A-T-0097, B1-DR-A-T-0098, LG-DR-A-T-0099, GF-DR-A-T-0100 Rev T3, 01-DR-A-T-0101, 03-DR-A-T-0103, 08-DR-A-T-0108, 09-DR-A-T-0109, 10-DR-A-T-0110, 10-DR-A-T-0111; 10684-EPR-ZZ-EA-DR-A-T-0301, WE-DR-A-T-0302, SO-DR-A-T-0303, SO-DR-A-T-0304; 10684-EPR-01-ZZ-DR-A-T-0201, ZZ-DR-A-T-0202; Basement Impact Assessment (FOR INFORMATION ONLY)

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**Recommended Condition(s) and Reason(s)**

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

Reason:

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

- 2 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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

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

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

**4 Pre Commencement Condition.**

- (a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved in writing what you have sent us.
- (b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, and to the Greater London Sites and Monuments Record, Greater London Archaeological Advisory Service, Historic England, 4th floor, Cannon Bridge House, 25 Dowgate Hill, London EC4R 2YA.
- (c) You must not use any part of the new building until we have confirmed in writing that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

**Reason:**

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007. (R32BC)

- 5 Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

**Reason:**

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 6 No development shall take place other than in accordance with the detailed design and method statements approved under 18/01735/ADFULL dated 4 July 2019.

## Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2015 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

- 7 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:

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

- 8 You must apply to us for approval of detailed drawings (scales 1:20 and 1:5) of the following parts of the development:

1. Typical façade details at all levels, including the roof.
2. Ground floor frontages, including shopfronts, entrances, terraces, planters.
3. Public art

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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 9 Non-residents hotel guests shall not be permitted to access, or remain within the ground floor hotel restaurant/bar and ninth floor roof top bar except between 06.30 to midnight.

## Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 10 Non-residents hotel guests shall not be permitted to access, or remain within the basement event space except between 06:30 to 01:00

## Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development



Plan that we adopted in January 2007. (R12AC)

- 11 You must apply to us for approval of a management plan for the restaurant, bars and function room facilities to show how you will prevent customers who are leaving these uses within the hotel from causing nuisance for people in the area, including people who live in nearby buildings. You must not occupy the hotel 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, bars and function room facilities are in use.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 12 (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 LA90, 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 (November 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. (R46AB)

- 13 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. (R48AA)

- 14 (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, bars, event space and gym 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, bars, event space and gym 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 (November 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. (R47AB)

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

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development. (R49BA)

- 16 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 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 (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 17 You must provide the waste store shown on drawing 10684-EPR-01-B3-DR-A-T-0096 Rev T2 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 and materials for recycling as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

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

- 19 You must provide each cycle parking space shown on the approved drawings prior to occupation. You must also apply to us for details of short-stay cycle parking. You must not start on these parts of the development until we have approved what you have sent us. 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 2016 (R22FA)

- 20 All servicing must take place between 07:00 and 20:00 on Monday to Saturday and 08:00 and 18:00 on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

## 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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 21 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

## Reason:

To 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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 22 You must not put planters, tubs, tables, chairs or adverts on the road or pavement. (C24BA)

## Reason:

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

- 23 You must not allow more than 195 customers in the ground floor restaurant and bar and 120 customers in the ninth bar at any one time.

## Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 24 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(s) 12 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

## Reason:

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 (November 2016), by contributing to reducing excessive ambient noise levels. (R51BB)

- 24 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the internal activity associated with the roof level bar will comply with the Council's noise criteria as set out in Condition 14 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 (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 (November 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. (R47AB)

- 26 You must provide, maintain and retain the following energy efficiency measures before you start to use any part of the development, as set out in your application:

PV panels, air source heat pump and attenuation storage tanks,

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 (November 2016). (R44AC)

- 27 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.
- (2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.
- (3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AB)

- 28 The ground floor al fresco bar terrace on the Marylebone Lane frontage shall only be used by customers between 06.30 and 23.00 hours and the al fresco restaurant terraces on the Welbeck Street frontage shall only be used by customers between 06:30 to midnight.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 29 The roof terrace hereby approved can only be used between 07.30 and 23:00 hours daily. Outside of these hours you can only use the roof to escape in an emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 30 All doors and windows within the roof level bar shall be remain closed between the hours of 23:00 and 07:30

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 31 {b Pre Commencement Condition}. You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council in January 2018.

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

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

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

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

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

(C18AA)

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm

anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007. (R18AA)

- 32 The air quality mitigation measures as specified in the air quality assessment by DAR dated August 2018 must be installed before you start to use any part of the development and permanently retained thereafter.

Reason:

To make sure that the development provides the air quality mitigation measures included in your application as set out in S31 of Westminster's City Plan (November 2016)

- 33 At least 10% of all guest bedrooms must be accessible or adaptable.

Reason:

To make sure that there is reasonable access for people with disabilities, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

#### 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 (November 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 The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: , [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil) , Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an Assumption of Liability Form immediately. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a Commencement Form , CIL forms are available from the planning on the planning portal: , <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> , Forms can be submitted to CIL@Westminster.gov.uk , Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.
- 3 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building



work.

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

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

Phone: 020 7641 2000

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

- 4 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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 5 Conditions 12 & 13 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 6 With reference to condition 5 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). These documents must be sent to [environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk).  
  
Appendix A or B must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.  
  
You are urged to give this your early attention
- 7 You may need separate licensing approval for the restaurant and bars. 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)

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.

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