

CITY OF WESTMINSTER			
PLANNING (MAJOR) APPLICATIONS SUB COMMITTEE	Date 8 October 2019	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Development site at 127-143 Oxford Street, 53-55 Berwick Street and 199-205 Wardour Street, London		
Proposal	Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade), 199 Wardour Street (behind retained front and rear façades) and 55 Berwick Street. Excavation to provide new Basement 02 level. Redevelopment of site to provide ancillary plant and facilities at Basement 02 and part Basement 01 level; nightclub (sui generis) at part Basement 01 and 02 with ground floor entrance at No. 55 Berwick Street; retail (Class A1) floorspace at part Basement 01, part ground and part first floor levels; office (Class B1) at part ground, part first and second to sixth floor levels, and roof top plant.		
Agent	JLL		
On behalf of	Daejan Investments Limited		
Registered Number	19/05171/FULL and 19/05172/LBC	Date amended/ completed	3 July 2019
Date Application Received	3 July 2019		
Historic Building Grade	Grade II -133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street).		
Conservation Area	Soho (except 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street).		

1. RECOMMENDATION

1. Grant conditional permission subject to a legal agreement to secure the following:
 - a) A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.
 - b) A Carbon Offset Contribution of £70,000 (index linked), payable prior to commencement of development.
 - c) Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street),

- wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
- d) A contribution of £89,000 (index linked) to support the Westminster Employment Service (payable prior to the commencement of development).
 - e) The re-provision of a nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
 - f) The costs of monitoring the S106 legal agreement.
2. If the S106 legal agreement has not been completed within six weeks of the date of this resolution then:
- a) The Director of Place Shaping and Planning shall consider whether it will be possible or appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Place Shaping and Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
 - b) The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Place Shaping and Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That Committee authorises the making of a draft order pursuant to s247 or s248 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway. That the Director of Place Shaping and Planning, Executive Director of City Management and Communities, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.
4. Grant conditional listed building consent
5. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

2. SUMMARY

The application site comprises a group of buildings within the Core Central Activities Zone (Core CAZ) bound by Oxford Street, Wardour Street and Berwick Street. With the exception of 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street, the site is located within the Soho Conservation Area. Ilford House (133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street)) is Grade II listed. The site is in use as retail units over basement and ground floor levels fronting onto Oxford Street, a language school and offices on the upper floors, three nightclubs at rear ground and Basement 01 floor levels, a restaurant at 55 Berwick Street and a sandwich shop (Class A1) at front ground and part basement and offices at part basement, rear ground first, second, third and fourth floors at 199 Wardour Street.

The application proposes the demolition in their entirety of 205 Wardour Street / 127 Oxford Street, 129 - 131 Oxford Street, 55 Berwick Street and 137 Oxford Street. 139-143 Oxford Street (Berwick

House) is proposed to be demolished behind a retained façade that will then be raised up by 1.25m in order for the floorplates to align with the rest of the development. Substantial demolition is proposed to Ilford House, although parts of the interior and its three facades are proposed to be retained. The basement, as well as front and rear facades of 199 Wardour Street is proposed to be retained, albeit with substantial demolition of the ground, first floor rear elements and the interior. Excavation is proposed to expand the existing Basement 02 level.

The site is proposed to be redeveloped through the erection of a part six / part seven storey building behind the retained / altered facades for use as a nightclub over Basement 01 and Basement 02 levels (accessed from Berwick Street), retail units fronting onto Oxford Street over Basement 01, ground and first floor levels, and offices over second to sixth floor levels (accessed from a lobby / reception within 199 Wardour Street).

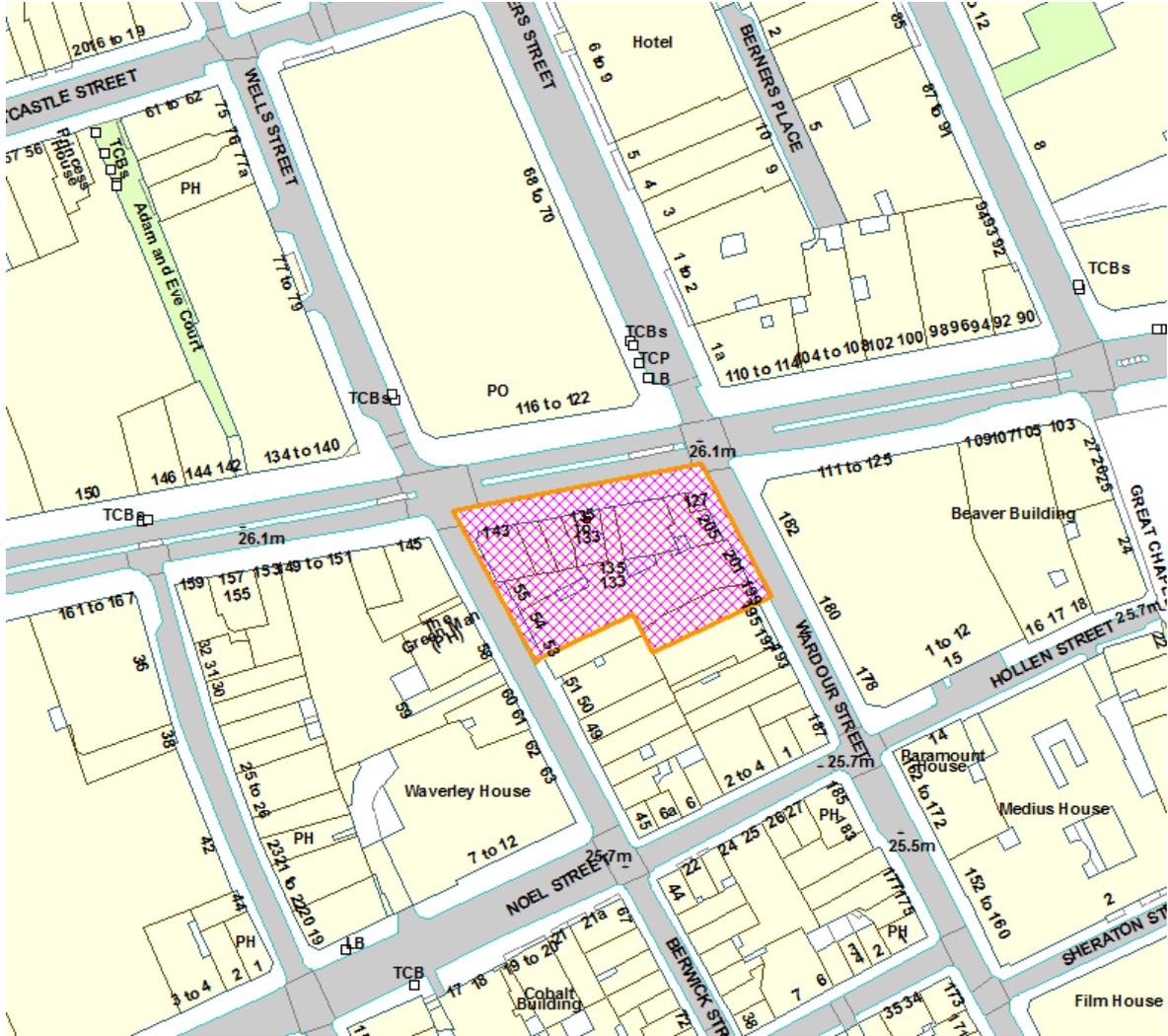
The proposal is similar to that approved by the City Council on 21 August 2019. The main differences in the current application are that: (i) The site has expanded to include 199 Wardour Street which is proposed to form the office entrance, allowing a deeper retail floorplate at the corner of Oxford Street and Wardour Street; and (ii) No new Basement 03 level is proposed to be excavated.

The key issues for consideration are:

- Whether the loss of 715 sq.m of evening / night-time economy floorspace is acceptable in this instance given the competing demands of providing additional retail floorspace on Oxford Street.
- Whether: (i) The demolition of 137 Oxford Street and 55 Berwick Street; (ii) The height and bulk of the eastern building on Oxford Street, particularly in terms of its relationship with Ilford House; and (iii) The substantial demolition of the interior of Ilford House, causes less than substantial heritage harm to the special interest of this listed building and to the character and appearance of the Soho Conservation Area; and, if so, whether this harm is outweighed by the public benefits derived from the additional retail floorspace (1,435 sq.m GIA) on Oxford Street and the additional office floorspace (2,593 sq.m GIA) within the Core CAZ that will unlock the potential of this site to contribute towards the continued regeneration of the east end of Oxford Street.

The proposal is considered acceptable in land use, amenity and transportation terms, complying with the policies set out in the London Plan, Unitary Development Plan (UDP) and the Westminster City Plan (City Plan) in these respects. Whilst the proposals do not fully comply with all the urban design and conservation policies, most notably DES 9, with respect to the Soho Conservation Area, and DES 10 with respect to the listed building, it is considered that there is clear and convincing justification for the harm to designated heritage assets and that the public benefits deriving from the proposed development outweigh this less than substantial heritage harm. For these reasons it is recommended that conditional planning permission and listed building consent be granted subject to a legal agreement securing the items listed within Section 8.12 of this report. It is further recommended that the Sub-Committee authorises the making of a draft order for the 'stopping up' of parts of the public highway required to enable the development to take place.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Site as seen from the junction of Oxford Street and Wells Street:



5. CONSULTATIONS

SOHO SOCIETY:

- Any response to be reported verbally.

PROJECTS OFFICER (WASTE):

- Although the proposal does include waste storage for the office and retail units at Basement 01 and 02 levels, objection on the grounds that: (i) No storage for food waste for the office floorspace is shown; (ii) Waste storage for the nightclub needs to be shown; (iii) A single waste store for the office and retail units should be proposed; (iv) The waste holding area at ground floor level is too small; and (v) The doors to the waste holding area need to be widened to at least 1.3m.

HIGHWAYS PLANNING:

- Objects to loss of chamfered corner at the junction of Oxford Street / Wardour Street.

ENVIRONMENTAL SCIENCES:

- Objection to the proposed increase in nightclub floorspace of 236 sq.m (GIA) on noise from servicing arrangements and access and egress from patrons [As set out within Section 7 of this report, the proposal would see a reduction in nightclub floorspace of 413 sq.m GIA].
- No objection to noise from proposed plant and transfer of noise from the proposed nightclub, subject to conditions.
- No objection from an air quality perspective, with the proposed development being air quality neutral.
- No objection from an overheating and ventilation perspective.

BUILDING CONTROL:

- Any response to be reported verbally.

LONDON UNDERGROUND LIMITED:

- No objection.

THAMES WATER UTILITIES LTD:

- Advises that there is an inability of the existing combined waste water infrastructure to accommodate the needs of the development proposal. As such, request that a condition be imposed that: (i) Prevents occupation of the development until all combined water network upgrades to accommodate the additional flows from the development have been completed; or (ii) Requires a phased occupation plan for the development to be agreed.
- Due to the proposed development being within 15m of a strategic water main, request that a condition be imposed requiring the submission of a piling method statement for approval in order to prevent damage to this infrastructure.
- Due to the proposed development being within 5m of a strategic water main and Thames Water do not permit building within this distance, request a condition requiring the submission of revised drawings showing how the development will be realigned so as to be at least 5m from a strategic water main.
- Expects surface water to be attenuated to greenfield run-off rates (5l/s/ha).
- Requires the drainage strategy to specify the point(s) of connection and peak discharge rates into the public sewer system for foul and surface water.

- Requires demonstration of how the surface water hierarchy has been implemented to this site and why connection to the combined sewer is the preferred option.

HISTORIC ENGLAND:

- Authorisation provided for the City Council to determine the application for listed building consent as it see fit.

HISTORIC ENGLAND (ARCHAEOLOGY):

- No objection subject to the imposition of conditions securing: (i) A two-stage process of archaeological investigation; and (ii) A written scheme of historic building investigation.

ANCIENT MONUMENTS SOCIETY:

- Any response to be reported verbally.

COUNCIL FOR BRITISH ARCHAEOLOGY:

- Any response to be reported verbally.

THE GEORGIAN GROUP:

- Any response to be reported verbally.

SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS:

- Any response to be reported verbally.

TWENTIETH CENTURY SOCIETY:

- Any response to be reported verbally.

THE VICTORIAN SOCIETY:

- Any response to be reported verbally.

METROPOLITAN POLICE:

- Any response to be reported verbally.

NEW WEST END COMPANY:

- Supports this revised proposal on the grounds that the integration of 199 Wardour Street into the development site: (i) Allows the office entrance on Wardour Street to be relocated further south and thereby create a larger frontage for the retail unit; and (ii) Allows some plant to be relocated from the formerly proposed third basement level, thereby reducing the construction impact of the proposed basement excavation.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 328

Total No. of replies: 2

No. of objections: 0

No. in support: 0

Objections received on the following grounds:

- The inclusion of a nightclub in the proposal which was not included in the previous scheme would lead to queues on the pavement, late-night exits and noise. [An almost identical nightclub was granted planning permission at this site on 21 August 2019].
- Overbearing impact of proposed development on neighbouring properties.
- The proposed increase in height of the buildings on Oxford Street will have a significant impact in the street scene.
- Daylight / sunlight concerns and, in particular, that windows maps are not included in the submitted assessment making it impossible to assess the impact on particular windows. [Window maps have now been provided and shared with this neighbouring resident].
- The proposed partial demolition of Ilford House is greater than previously approved and this harm to the significance of this heritage asset represents 'substantial harm' that is not necessary to achieve substantial public benefits that outweigh that harm, contrary to paragraph 195 of the NPPF.
- The height of the proposed building behind the retained façade of Ilford House will impact negatively on the visual quality of the roof form in views along Oxford Street.
- The loss of 137 and 55 Berwick Street will erode the historic grain of the Soho Conservation Area. This, combined with the overbearing scale of the proposed development, will harm the character and appearance of the Soho Conservation Area.
- The loss of the sandwich shop (Class A1) at ground floor level of 199 Wardour Street removes a use that reflects the traditional character of the Soho Conservation Area. This, combined with the proposed works to 199 Wardour Street, would harm the character and appearance of the Soho Conservation Area.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is bound by Oxford Street to the north, Wardour Street to the east and Berwick Street to the west. The site is located within the Core CAZ, the Soho Stress Area and the West End Special Retail Policy Area. Beneath the northern part of the site is the London Underground Central line. The Oxford Street frontage forms part of the Primary Frontage of the West End International Shopping Centre.

With the exception of 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street, the site is located within the Soho Conservation Area. Ilford House is a Grade II listed building (added to the listed in 2009). 55 Berwick Street, 137 Oxford Street, Berwick House and 199 Wardour Street are all identified as contributing to the character and appearance of the Soho Conservation Area. The site is located within a Tier 2 Archaeological Priority Area (The Great Estates Archaeological Priority Area). The site is not located within a strategic viewing corridor.

To the north of the site is the East Marylebone Conservation Area. Immediately to the south of the application site is the Grade II listed 52 Berwick Street. To the west of the site are 57 Berwick Street and 58 Berwick Street, both Grade II listed.

A small Basement 02 is located within the centre of the site and is used for plant. A number of retail (Class A1) units fronting onto Oxford Street are located over Basement 01 and ground floor levels. Three nightclubs (*Sui Generis*) operate from Basement 01 and ground floor levels. Two are accessed from Wardour Street and one is accessed from Berwick Street. Ilford House is in office use, having been converted from a language school pursuant to planning permission dated 9 November 2016 (see Section 6.2 of this report for more detail). Berwick House is in use as a language school (Class D1). The upper floors of 205 Wardour Street and 127 – 131 Oxford Street are in office use. 55 Berwick Street is in use as a restaurant (Class A3) over basement, ground and first floor levels, with ancillary landlord's maisonette over second and third floor levels. Finally, 199 Wardour Street is in use as offices (Class B1), with the exception of a sandwich shop (Class A1) over front ground and part basement level.

Records indicate that the nearest residential properties are located at:

- 52 Berwick Street - 2 x flats on the upper floors.
- 57 Berwick Street - an ancillary landlord's flat at second floor level above the Green Man public house.
- 58 Berwick Street – a maisonette over first to third floor levels.
- 50 Berwick Street - 4 x flats on the upper floors.
- 49 Berwick Street - 4 x flats on the upper floors.
- 195-195 Wardour Street - 4 x flats on the upper floors.
- 191 Wardour Street – 1 x flat at first floor level.

6.2 Recent Relevant History

Berwick House

16/05656/FULL - Dual/alternative use of part ground and first to fourth floors for office (Class B1) and / or educational (Class D1) purposes. Permitted – 09.11.16

Ilford House

16/05658/FULL - Dual/alternative use of part ground and first to fourth floors for office (Class B1) and / or educational (Class D1) purposes. Permitted – 09.11.16.

127-143 Oxford Street, 53-55 Berwick Street and 201-205 Wardour Street

18/00175/FULL and 18/00176/LBC - Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade) and 55 Berwick Street. Excavation to provide new Basement 02 and Basement 03 levels. Redevelopment of site to provide ancillary plant and facilities at Basement 03 and part Basement 02 level; nightclub (*sui generis*) at part Basement 02 and part Basement 01 level (with ground floor entrance at No. 55 Berwick Street); retail (Class A1) floorspace at part Basement 01, part ground and part first floor levels; and office (Class B1) at part ground, part first and second to sixth floor levels, and roof top plant. Permitted – 21.08.19

7. THE PROPOSAL

Planning permission and listed building consent are sought to excavate to enlarge the existing Basement 02 level. 205 Wardour Street / 127 Oxford Street and 129 - 131 Oxford Street, 137 Oxford Street and 55 Berwick Street are all proposed to be demolished in their entirety. The stone façade of Berwick House is proposed to be retained in situ, albeit raised in height by 1.25m in order for the floorplans to align with the remainder of the development. The roof and corner turret of Berwick House are proposed to be demolished and reinstated following the erection of the new building behind the retained stone façade. The three facades of Ilford House are proposed to be retained, as are some staircases and the majority of the rear wings of the building at basement to third floor levels. At fourth floor and above, with the exception of the three facades, Ilford House is proposed to be demolished. 199 Wardour Street is proposed to be demolished with the exception of the front and rear facades.

The site is proposed to be redeveloped behind the retained facades of Berwick House, Ilford House (as well as some retained internal elements of Ilford House) and 199 Wardour Street to provide a replacement development over Basement 02, Basement 01, ground and part five / part six upper floors with roof plant above.

Around half of Basement 02 is proposed to be used as a cycle centre, a refuse store for the office floorspace and plant. A replacement nightclub is proposed over part Basement 02 and part Basement 01, with a small ground floor entrance on Berwick Street. Retail floorspace fronting onto Oxford Street is proposed across the majority of Basement 01, ground and first floor levels. The entirety of second to sixth floors are proposed to be used as offices, accessed from quadruple height reception / lobby within 199 Wardour Street. Terraces for use in association with the office accommodation are proposed at fourth, fifth and sixth floor levels.

A summary of the land use implications of the proposed development is set out below:

	Existing GIA (sq.m)	Proposed GIA (sq.m)	+/-
Shops (Class A1)	1,708.8	3,144.0	+1,435.2
Restaurant (Class A3)	302.2	0	-302.2
Nightclub (<i>Sui Generis</i>)	1,118.4	705.0	-413.4
Office (Class B1)	3,168.8	5,762.0	+2,593.2
Language School (Class D1)	562.4	0	-562.4
Total	6860.6	9,611.0	+2750.4 (i.e. +40% of existing building)

Table 1: Existing and proposed floorspace by use (shared space is attributed to each use proportionately).

The proposed replacement building is proposed to extend the existing ground floor building line on Wardour Street by between 1.0m and 1.1m. Whilst within the applicant's ownership, this land has been enjoyed by the public as a right of way without interruption for at least the last 20 years and is therefore deemed to be dedicated as highway.

The application is very similar to that permitted on 21 August 2019 (please see Section 6.2 of this report for more detail). The main differences are as follows:

- The inclusion of 199 Wardour Street within the site allows the ground floor office reception to be located within this building in the form of a quadruple height space rather than within the ground floor of 201 Wardour Street. The result is a deeper retail unit at the corner of Wardour Street and Oxford Street, enabling the provision of a greater net increase in retail floorspace (1,435 sq.m GIA compared to 1,227 sq.m GIA in the approved development).
- The inclusion within the site of 199 Wardour Street that already includes office floorspace means that, although the quantum of office floorspace proposed is slightly greater than as approved (5,762 sq.m GIA compared to 5,646 sq.m GIA), the net increase in office floorspace is slightly smaller than as approved (2,593 sq.m GIA compared to 2,899 sq.m GIA).
- A greater degree of demolition is proposed at Basement 01, ground and first floor levels, including two flights of staircase within Ilford House on the Berwick Street frontage between ground and Basement 01 level.
- The proposed excavation of a new Basement 03 level has been omitted, with the sprinkler and water attenuation tanks relocated to the basement of 199 Wardour Street and a reconfigured Basement 02 level.
- The number of cycle parking spaces for the office element of the development is proposed to be reduced from 98 x spaces to 90 x spaces (although still policy-compliant) and the male and female drying rooms are now omitted from the development.
- The number of cycle parking spaces for the retail element of the development is proposed to increase slightly from 18 x spaces to 20 x spaces.
- The size of the UKPN sub-station at ground floor level on the Berwick Street frontage is now slightly larger than as approved.
- Additional photovoltaic panels are proposed at roof level, a roof terrace has been omitted and minor alterations are made to the plant enclosure.

The application has been amended during the course of its assessment in the following ways: (i) To slightly alter the plant at sixth and seventh floor levels to accommodate additional ducts; (ii) Additional windows have been added to the stair core within the rear (south) elevation which has resulted in a reduction in photovoltaic arrays in this location (an amended Energy Assessment has been submitted); and (iii) The proposed extension at rear first floor level of 199 Wardour Street has been reduced in height and the rear rooflight increased in size.

These amendments are minor and do not alter the appearance of the building from any of the agreed verified view locations. As such, it was not considered necessary to undertake a further round of public notification.

8. DETAILED CONSIDERATIONS

The application is required to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the London Plan (adopted March 2016), Westminster's City Plan (adopted November 2016)

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and the remaining 'saved' and not superseded policies within the City of Westminster UDP (adopted January 2007). This development plan remains unchanged from that used to assess the application permitted on 21 August 2019.

As set out in more detail in Section 8.8 of this report, the City Council is currently working on a complete review of its City Plan, with formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between 19 June 2019 and 31 July 2019. Following this consultation period, the City Council is now reviewing the comments received before submitting the City Plan for examination. Given that the draft City Plan remains at a pre-submission it generally attracts very limited weight at this present time.

The Examination in Public for the draft new London Plan took place between 15 January 2019 and 22 May 2019. Following this examination, the Mayor published a consolidated suggested changes version of the plan on 15 July 2019. The emerging new London Plan is a material consideration in the determination of this application. The weight attributed to this document is a matter for the decision maker. The closer the document is to adoption, the greater the weight that should be given to it.

The revised National Planning Policy Framework (NPPF) was published in February 2019 (i.e. after the consideration of the most recent application to redevelop this site took place at Sub-Committee in 22 January 2019). The NPPF is also a material consideration in the determination of this application.

8.1 Land Use

8.1.1 Loss of Language School

As set out within Section 6.2 of this report, permission was granted by the City Council on 9 November 2016 for the conversion of the language schools within Berwick House and Ilford House to office accommodation. The language school within Ilford House has vacated and the building is now in office use. There is still, however, a language school within Berwick House (1,118 sq.m GIA) which is proposed to be lost. This element of the development remains unchanged from the development approved on 21 August 2019.

Whilst the loss of this social and community facility is contrary to City Plan Policy S34 and UDP Policy SOC 1, the City Council determined in its assessment of these application that these language schools offered very little social benefit to the community and are essentially commercial enterprises. This, combined with the benefits of the increased office accommodation that would have been provided in this part of the Core CAZ, meant that the City Council considered that a departure from the usual policy requirement to protect such floorspace was justifiable.

In light of the lack of material change in policy since November 2016 and that there is an extant permission to convert Berwick House to offices, there is no objection to the loss of this language school in this instance.

8.1.2 Additional Retail Floorspace

The proposed increase in retail floorspace of 1,435 sq.m (GIA) is slightly greater than the 1,227 sq.m approved by the City Council on 21 August 2019. Further, the proposal will result in deeper retail provision at the corner of Wardour Street and Oxford Street. The provision of retail floorspace on Oxford Street over the majority of Basement 01, ground and first floor levels is welcome, enhancing the unique status of the West End West End Special Retail Policy Area and enhancing the character and function of the West End International Shopping Centre, in accordance with City Plan Policies S6, S7 and S21 and UDP Policy SS3. This provision of high-quality, flexible retail floorspace in this location is a public benefit of the proposal.

8.1.3 Additional office floorspace

Despite the quantum of office provision in the development is slightly greater than as approved on 21 August 2019, the net increase is slight reduced (2,593 sq.m GIA compared to 2,899 sq.m GIA) due to the existing office floorspace within 199 Wardour Street that it now included within the application site.

Nevertheless, given the site's location within the Core CAZ, the increase of 2,593 sq.m (GIA) of additional office floorspace is welcome, as set out within City Plan Policies S6, S18 and S20. The provision of modern, high quality and flexible office space will contribute towards meeting the job and office floorspace targets set out within City Plan Policy S20. This is also a public benefit of the proposal.

8.1.4 Mixed use in the CAZ

There is a requirement under City Plan Policy S1(3)(B) to provide 535.2 sq.m of residential floorspace on-site, off-site, by mixed use credit or as a payment in lieu of residential floorspace. It is at the applicant's discretion which of these options is pursued and the applicant has indicated that it wishes to make a payment towards the City Council's Affordable Housing Fund rather than providing the residential floorspace. A policy-compliant payment is £933,000.

This is lower than the £1,735,000 policy-compliant payment secured under the extant 2019 permission due to: (i) The net increase in office provision being slightly lower in the current application due to the existence of office floorspace within 199 Wardour Street and the removal of floorspace to enable the creation of a quadruple height office entrance space within 199 Wardour Street; (ii) The 30% of the existing building discount permitted by City Plan Policy S1 being larger due to the inclusion of 199 Wardour Street within the application site. In respect to the removal of floorspace within 199 Wardour Street, if the voids within 199 Wardour Street were infilled with office floorspace at a later date (works that would not need planning permission), the policy compliant payment would rise to £1,171,000.

In any event, the applicant has offered to carry across the previously committed £1,735,000 payment to the City Council's Affordable Housing Fund. This payment will be secured by legal agreement. As this exceeds the policy compliant payment were the voids within 199 Wardour Street infilled, there is no need to impose a condition preventing these works from taking place.

8.1.5 Evening and Night Time Economy / Cultural Uses

The nightclub within the proposal is almost identical to that approved on 21 August 2019, being arranged over Basement 01 and Basement 02 level and accessed from the same location on Berwick Street.

The site is located within a strategic cluster of night time activity of international importance. City Plan Policy S22 protects all arts and cultural uses and London Plan Policy 4.6 outlines how boroughs should, '*... support the continued success of London's diverse range of arts, cultural, professional sporting and entertainment enterprises and the cultural, social and economic benefits that they offer to its residents, workers and visitors*'. In addition, Policy HC6(B)(6) of the draft London Plan states that in planning decisions, boroughs should, '*... protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues*'.

The total floorspace of this new nightclub is 705 sq.m (GIA). This is 413 sq.m smaller than existing. In addition, the proposal would see the loss of the 302 sq.m (GIA) restaurant at 55 Berwick Street. There is therefore a total loss of evening and night time entertainment / cultural floorspace of 715 sq.m (GIA). However, the provision of a meaningful replacement nightclub is considered to strike the right balance between the competing policies relating to protecting the night time economy and cultural offer that this provides and the strong planning policies supporting retail growth on Oxford Street. On this basis, it is considered that the loss of evening and night time entertainment / cultural floorspace is acceptable in this instance.

The fact that no additional entertainment floorspace is proposed means that the scheme is compliant with City Plan Policy S24 and exceptional circumstances exist to provide a new night club in respect to UDP Policy TACE 10. This is notwithstanding the site's location within the West End Stress Area. This is subject to provisions in the legal agreement securing the completion of the nightclub to shell and core, ready for tenant fit out, prior to the occupation of any of the office floorspace on site. This is in order to ensure the delivery of the new nightclub.

There are no planning hours restrictions on the operation of the existing nightclub, with the premises licence allowing the night club to operate between 10.00 and 06.00 (Monday to Saturday) and between 10.00 and 00.30 (Sunday). The applicant has stated that it wishes to retain the ability to operate the nightclub until 03.00 (Monday to Saturday). Given the lack of planning control over the existing night club and the site's central location, it is recommended that hours of operation are conditioned to between 10.00 and 03.00 (the following morning) (Monday to Saturday) and to between 10.00 and 00.30 (the following morning) (Sunday). Conditions will also be imposed ensuring that the structure of the building prevents noise outbreak to neighbouring residential properties.

The objection from a neighbouring resident on the grounds of the provision of a *new* nightclub that was not approved in the permission dated 21 August 2019 is unfounded. A very similar nightclub was approved in this permission. Again, the proposed nightclub is a replacement for three nightclubs operating from the site, the cumulative floorspace of

which is greater than the proposed nightclub. There has been no material change in policy to justify departing from the decision taken on 21 August 2019.

8.1.6 Efficient Use of Land

The proposal includes the demolition of the interior of 199 Wardour Street to create a quadruple height reception space for the proposed offices over second to sixth floor levels. The removal of the floors to create this space results in the loss of approximately 137 sq.m GIA of floorspace. NPPF Para. 123 states that local planning authorities should refuse application which they consider fail to make efficient use of land.

In isolation, the loss of floorspace to create a 'grand' office entrance would normally be resisted. However, as part of a development that would result in a net increase in 2,750 sq.m of floorspace on the site in the form of a building that is far more efficient compared to the numerous separate buildings that currently exist, it is considered that the development as a whole makes an efficient use of land despite the loss of floorspace within 199 Wardour Street.

8.2 Townscape and Design

8.2.1 Legal and Policy Background

In considering the applications the City Council has a statutory duty to:

- a) Have special regard to the desirability of preserving Ilford House or its setting or any features of special architectural or historic interest which it possesses (Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- b) Pay special attention to the desirability of preserving or enhancing the character or appearance of the Soho Conservation Area (Section 72 of the above Act).

Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (NPPF Para. 184). The importance of protecting the significance of heritage assets is emphasised in NPPF Para. 193 that requires the City Council to give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm to, or loss of, significance of a designated heritage asset (i.e. Ilford House and the Soho Conservation Area) should require clear and convincing justification (NPPF Para. 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (NPPF Para. 196).

8.2.2 Assessment of Design Quality and Heritage Impact

The main design changes from that approved on 21 August 2019 relate to the inclusion of 199 Wardour Street within the application site.

In order to create a quadruple-height office entrance lobby at 199 Wardour Street, the scheme involves removing the floors to create an entrance lobby which extends the

whole height of the interior, to roof level. This has been permitted before at Bonhams at 101 New Bond Street. It is an unusual proposal, and unlikely to be repeated frequently, as it involves loss of floorspace. In this case it will have limited visual impact on the external appearance of the building, not harming the character and appearance of the Soho Conservation Area. The roof and rear part of the building is to be demolished and rebuilt. In this case these make little contribution to the conservation area and their replacement, including the rear extension which is in part lower than existing, is uncontentious. For these reasons, these elements of works to 199 Wardour Street are considered acceptable.

The proposed design of the entrance to 199 Wardour Street is modern and is not a suitable replacement for the existing shopfront. It is recommended that this part be subject to a condition requiring a revised design which is more traditional and responds to the design of the existing building and the character and appearance of the conservation area.

The other changes from that permitted on 21 August 2019 involve a small increase in roof level plant and additional internal demolition to Ilford House.

In respect to the additional plant at roof level, this is not significantly different from the approved scheme in terms of its impact on the appearance of the building and the conservation area. It is considered acceptable.

In respect to the additional demolition, the most relevant areas are at the southern end of the listed building. However, the approved scheme allowed for the removal of much of the interior of this part of the building which is not considered to be of special interest. This is evident on the approved proposed floor plans. For example, in the Berwick Street wing, the main staircase (at the north end of the Berwick Street frontage) is retained but the rest of the interior replaced. The current proposals do not differ significantly from this, except for the removal of the stair from basement to ground, and partial removal of the party wall with 199 Wardour Street at ground floor level. This demolition is considered acceptable in the context of the scheme as a whole. It will cause only minor harm to the special interest of the listed building. Overall, the extent of demolition is not considered to be significantly different from that approved on 21 August 2019.

As in the assessment of the applications granted permission and listed building consent on 21 August 2019, the substantial scale of the proposed demolition of Ilford House resulting in the loss of some surviving internal features, plan form and original fabric is considered to be harmful to the special interest of this listed building. Furthermore, the bulk and height of the replacement building (particularly at the corner of Wardour Street and Oxford Street) through this part of the development being taller than Ilford House and the loss of two unlisted buildings of merit in the form of 137 Oxford Street and 55 Berwick Street, are also considered to be both harmful to the character and appearance of the Soho Conservation Area and to the setting of Ilford House. In this respect, the harm to townscape views along Oxford Street raised by a local residents are agreed with.

However, the facades of Ilford House will be retained, as will key elements of significance, including the plan form at second and third floor level and two internal

staircases. Some internal features such as part of the main staircase, the barrel-vaulted ground floor ceiling and the ceiling of the first-floor front room will also be reinstated following their removal. Even with the additional internal demolition now proposed, Ilford House will remain a building that will still be recognisable as a design by a notable architect.

In conservation area terms, whilst there is some increase in height and bulk, this is not unusual in the northern part of the Soho Conservation Area where it rises up to the more commercial and larger buildings on Oxford Street. In addition, the proposed development's height next to Ilford House is not excessively overbearing given that the top two storeys are set back. In addition, the replacement buildings for 55 Berwick St and 137 Oxford St are considered to be of good quality.

Given the above, despite the additional internal demolition proposed, it is not considered that the proposals amount to anything near total loss of significance to these designated heritage assets and it is therefore concluded that the harm is less than substantial. The same conclusion was reached in the assessment of the applications granted permission and listed building consent on 21 August 2019. Officers do not agree with the objection from a neighbouring resident that the harm to the significance of heritage assets represents substantial harm.

8.2.3 Assessment of Public Benefits against Heritage Harm

As set out within Section 8.2.2 of this report, the proposal is considered to cause less than substantial harm to the significance of Ilford House and to its setting. Furthermore, the proposal is considered to cause less than substantial harm to the character and appearance of the Soho Conservation Area. Even with the additional internal demolition to Ilford House now proposed, the level of harm is considered to be very similar to that in the extant permission and listed building consent.

Para. 196 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the 'public benefits' of the proposal, including optimising its optimum viable use. 'Public benefits' could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

When undertaking this weighing exercise, the Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 8.2.1 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

In this instance, the public benefits are considered to derive from: (i) The replacement of the poor quality retailing on site with a greater quantum (+1,435) of high quality and flexible retail floorspace over basement, ground and first floor levels; and (ii) The replacement of the fragmented and poor quality office accommodation on site with a greater quantum (+2,593 sq.m GIA) of high quality and flexible office floorspace.

The improved retail offer on site will enhance the unique status of the West End West End Special Retail Policy Area and enhance the character and function of the West End International Shopping Centre. The contribution that this will provide to the continued regeneration of the east end of Oxford Street is a significant public benefit. The improved office floorspace in this part of the Core CAZ will contribute to meeting the target set out within City Plan Policy S20 for an additional 774,000 sq.m of office floorspace between 2016/17 and 2036/37 (providing capacity for at least 58,000 new jobs). The applicant estimates that the new office floorspace will create approximately 431 jobs. Again, this is a public benefit.

An alternative scheme which is more conservation-based would cause less harm to heritage assets and could be more acceptable, but it would not produce the same amount of commercial floorspace. A balance has to be struck between creating more, modern floorspace and the conservation of the heritage assets. The nature of this site is that the T-shape of Ilford House creates two lightwells in the centre of the site. Without the proposed significant demolition of Ilford House, the large retail and office floorplates proposed would not be possible and the result would be a significant reduction in the public benefits that the scheme delivers. It is considered that an appropriate balance has been struck between the statutory duties within Section 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the desirability of unlocking the development potential of the site that will enable the proposal to generate the public benefits that are considered to outweigh the less than substantial harm to Ilford House, its setting and to the character and appearance of the Soho Conservation Area. It is accordingly considered that there is clear and convincing justification for the harm to designated heritage assets.

For these reasons, it is considered that the scheme complies with the requirements of the NPPF and elements of 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, DES 6, DES 9 and DES 10. Whilst the proposals do not fully comply with all the urban design and conservation policies, most notably DES 9, with respect to the Soho Conservation Area, and DES 10 with respect to the listed building, it is considered that they do comply with the City Council's development plan policies when taken as a whole.

8.3 Residential Amenity

The City Council places high priority on protecting residential amenity, with UDP Policy ENV 13 stating that the City Council will normally resist proposals which result in a material loss of daylight or sunlight to neighbouring properties. Similarly, City Plan Policy S29 seeks to ensure that development proposals safeguard the amenities of neighbouring residents in terms of privacy, outlook and noise. Policy ENV13 also states that regard should be given to the Building Research Establishment guidance entitled, '*Site layout planning for daylight and sunlight: a guide to good practice*' (the BRE Guide). The second edition of this guidance was published in September 2011.

8.3.1 Daylight and Sunlight

The applicant has submitted a Daylight and Sunlight Report that assesses the impact on the proposed development on the amount of daylight and sunlight received by neighbouring residential windows. Originally, the submitted report did not include windows maps and therefore it was not possible to cross-reference the numerical impact set out in the report against a particular window. A local resident has objected to the application on this ground. A revised report including window maps has been shared with this local resident. On this basis and given that there are no material losses in either daylight or sunlight to any windows of this local resident's property, it is not considered that their ability to comment on the application has been prejudiced.

No objections from the occupants of properties that will see material losses in daylight or sunlight as a result of the proposed development have been made to the application. As such, it has not been possible to visit the affected rooms in order to assess their use or layout. This is with the exception of the ancillary second floor landlord's flat above the Green Man Public House at 57 Berwick Street. Whilst the occupier of this flat has not objected, access was possible.

Daylight

The most commonly used BRE method for assessing daylighting matters is the 'vertical sky component' (VSC), which measures the amount of sky that is visible from the outside face of a window. Using this method, if an affected window is already relatively poorly lit and the light received by the affected window would be reduced by 20% or more as a result of the proposed development, the loss would be noticeable and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to living rooms, kitchens and bedrooms.

Where the layout of affected room is known, the daylight distribution test can plot the 'no sky line' (NSL) which is a point on a working plane in a room between where the sky can and cannot be seen. Comparing the existing situation and proposed daylight distributions helps assess the likely impact a development will have. If, following construction of a new development, the no sky line moves so that the area of the existing room, which does not receive direct skylight, is reduced to less than 0.8 times its former value, this is likely to be noticeable to the occupants.

The layout of the residential properties is not known and therefore, for the purposes of the daylight distribution test, reasonable assumptions have been used.

Sunlight

With regard to sunlighting, the BRE guidelines state that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of 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, and the total loss over the whole year is greater than 4%. Only windows facing within 90 degrees of due south of the proposed development need to be tested.

Assessment

In sunlight terms, the development proposal does not result in any material losses.

In daylight terms, the development proposal is expected to result in:

- 57 Berwick Street – Between 22.7% and 25.4% losses in VSC to windows serving two bedrooms and one kitchen (not dining) of a second floor landlord's flat above the Green Man Public House at 57 Berwick Street. This compares to losses in VSC of between 21.4% and 22.7% to these windows in the approved development.
- 195-197 Wardour Street – Between 44.6% and 43.9% losses in VSC to two windows facing back to the site. This compares to losses in VSC of between 43.2% and 42.1% to these windows in the approved development.
- 193 Wardour Street – A 35.7% loss in VSC to one window. This compared to a VSC loss of 34.0% to this window in the approved development.
- 191 Wardour Street – Between 21.3% and 27.2% losses in VSC to windows within the rear extension at first floor level and second. This compared to losses of VSC to windows within this wing of the building of between 24.1% and 26.2% in the approved development.

These losses in daylight are not materially different from the impact in the development approved on 21 August 2019 and are considered to be acceptable for the following reasons:

- 57 Berwick Street – The expected losses are only just above the 20% threshold beyond which they will be noticeable. Furthermore, the rooms affected are bedrooms and a non-dining kitchen which are not afforded as much protection as living rooms and dining rooms and the retained VSC levels (all above 14%) are considered to still retain good levels of daylight for this central location.
- 195-197 Wardour Street – The windows that are expected to see material losses in daylight face towards the development site and are likely to serve the same room as larger windows that are not materially unaffected and retain very good daylight levels. As such, the overall quality of the daylight enjoyed by the occupants of these dwellings will remain of a good quality.
- 193 Wardour Street – The window is expected to see a material loss in daylight face towards the development site and is likely to serve the same room as larger windows that are not materially unaffected and retain good daylight levels. As such, the overall quality of the daylight enjoyed by this room will remain of a good quality.
- 191 Wardour Street – The expected losses are only just above the 20% threshold above which they will be noticeable and therefore are considered to be acceptable in this central location.

8.3.2 Sense of Enclosure and Privacy

The relationship between the proposed development and the affected residential means that there is not considered to be any material loss of privacy or material increase in the sense of enclosure for neighbouring residential properties. The impact will be very

similar to that in the proposal approved on 21 August 2019 and the objection on this ground is not considered to be sustainable.

8.4 Transportation/Parking

8.4.1 Cycle Parking

The scheme makes provision for storage for 110 cycles, as well as showers and lockers at Basement 02 level. A separate retail cycle storage area is proposed at Basement 01 level, whilst the office storage area is at Basement 02 level. Separate access from Berwick Street is proposed for cyclists, with access via a suitably sized lift. Whilst the cycle parking provision is slightly lower than as approved in the permission dated 21 August 2018 (116 x spaces), the quantum proposed is still policy compliant. The loss of the drying rooms in this revised proposed is disappointing but is considered to be acceptable in this instance given the competing demands for floorspace at Basement 02 level.

8.4.2 Servicing

As in the permission dated 21 August 2018, off-street serving is accepted as not being possible and therefore on-street servicing is again proposed to be retained. Again, given the use and size of the floor area increase of the proposed uses it is not considered that there would be a significant uplift in the servicing associated with the site. Adherence to the submitted Service Management Plan (SMP) which achieves rationalisation of servicing and the provision of a goods lift with associated storage area means that the impact upon the local highway network is acceptable.

8.4.3 Extension to Building Line

The development again proposes extending the building line by between 1.0m and 1.1m on Wardour Street. As in the permission granted on 21 August 2019, alterations to the highways arrangement at the crossroad of Oxford Street, Wardour Street and Berners Street involving widening the pavement on the west side of Wardour Street, 'wayleaving' an existing street light onto the proposed building and shifting the carriageway to the east is considered to adequately mitigate the loss of this section of sliver of public highway.

The Highways Planning Manager has no objection on this basis subject to the detailed design of the highways works being agreed with the City Council, the necessary alterations to the traffic orders both being confirmed prior to the commencement of development and the applicant securing the completion of these works (all to be secured by legal agreement).

In order for the development to proceed, a narrow section of public highway measuring between 1.0m and 1.1m would need 'stopping up'.

8.4.4 Impact on Subterranean Transport Infrastructure

London Underground raises no objection to the proposed basement excavation in terms of its impact on the integrity of the Central Line beneath Oxford Street, subject to a

condition securing the submission of detailed design and method statements for the City Council's approval prior to the commencement of the demolition of the existing building.

8.5 Economic Considerations

The proposed increase in office and retail floorspace are welcome through supporting economic growth in this part of the Core CAZ and the West End Special Retail Policy Area.

8.6 Access

All entrances will provide level access and there will be lift access throughout the proposed replacement building.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Noise

Subject to the imposition of suitable conditions securing the submission of a supplementary acoustic report once the plant has been selected, Environmental Health has no objection from an environmental nuisance perspective agreeing that the plant is capable of complying with the relevant criterion within UDP Policy ENV 7.

8.7.2 Refuse / Recycling

The refuse storage arrangements remain unchanged from that approved on 21 August 2019. The only difference is that a slightly less deep (but slightly wider) waste holding area is proposed at ground floor level.

Whilst the concerns of the Projects Officer (Waste) are noted, the updated Recycling and Waste Storage Requirements guidance were in place when the previous application was in place when it was considered by Sub-Committee on 22 January 2019. Furthermore, the separate waste stores cumulatively provide more storage capacity than the consolidated waste store recommended by the Projects Officer (Waste). For these reasons, the proposed waste storage is considered to be acceptable.

In respect to the size of the bin holding area and the door widths, it is recommended that a condition be imposed requiring amended drawings showing a slightly deeper waste holding area and widened doors (to at least 1.3m).

As with the approved development, a separate refuse store is proposed to be created within the proposed floor area of the night-time use by the eventual occupier. The refuse store will be appropriately sized to accommodate the waste and recycling requirements of the night-time use. Further details are proposed to be secured by condition.

8.7.3 Biodiversity and Flooding

The site is not located within a flood risk zone. Some of the flat roofs are proposed to be used for terraces in association with the proposed office accommodation and for plant. The remainder will be living roofs to mitigate surface water run-off and maximise the

biodiversity potential of the site, in accordance with City Plan Policy S38 and UDP Policies ENV 4 and ENV 17.

In order to ensure that the flat roofs do not result in flooding and associated pollution, the application has included a 70 cubic metre storm water attenuation tank at basement level in order to meet the storage requirement when considering a 1 in 100-year rainfall event plus a climate change factor of 20%. Whilst Thames Water requests that the surface water runoff to be increase further, the size of the attenuation tank is considered to be the maximum reasonably required and the development will achieve at least 50% attenuation of the site's (prior to redevelopment) surface water run-off at peak times.

It is therefore concluded that the proposal is in accordance with City Plan Policy S30 through reducing the risk of flooding.

8.7.4 Sustainability

The proposal includes 114 sq.m of roof and facade mounted solar panels. The total area proposed is slightly greater than as approved in the extant permission dated 21 August 2016 (102 sq.m).

The energy strategy now results in site wide carbon savings of 19.2% compared to a 2013 Building Regulations Compliant scheme which is considered to be the maximum achievable. This falls short of the 35% reduction in carbon dioxide emissions against Part L 2013 required by London Plan Policy 5.2. There is therefore a shortfall of 24.6 tonnes to be off-set. Based on a carbon off-set price of £95 per tonne, the required contribution to off-site carbon savings is £70,000 for the notional 30-year life of the development. This contribution is recommended to be secured by legal agreement. The shortfall is slightly less than the approved development and therefore the payment in lieu is slightly reduced (from £80,000 to £70,000).

It is understood that there are no district wide heat networks in the vicinity of the site and none are planned. The development will be future-proofed to enable future connection to any district heating scheme.

8.7.5 Basement Excavation

There is no objection to the proposed excavation of a new sub-basement, with the applicant demonstrating demonstrate that site-specific ground conditions, drainage and water environment in the area of the development have been taken into account; that the structural stability of adjacent buildings will be safeguarded; and that the sub-basement basement will not increase flood risk on the site or beyond. The proposal is therefore compliant with City Plan Policy CM28.1.

Thames Water has requested that a condition be imposed requiring a piling method statement to be submitted for the City Council's approval to ensure that the proposed development will not harm the strategic water main. Although not imposed on the previous permission, in light of this request it is recommended that this condition be imposed.

Thames Water also request that a condition be imposed requiring the footprint of the proposed development to be modified so that it is not within 5m of a strategic water main. However, the excavation within the development proposal is all inbound of the retained existing perimeter walls which extend to 3m below ground level and the pavement vaults that extend below the footpaths on Berwick Street, Oxford Street and Wardour Street are all being retained (or infilled). For the reasons, it is not considered that the proposed development is within 5m of a strategic water main and therefore such a condition is not necessary for the development to go ahead.

8.7.6 Other

The site is within the city-wide Air Quality Management Area with declared exceedances for short and long term Nitrogen Dioxide NO₂ objectives. Short term objectives would be exceeded at the building façade and potentially also at height. Natural ventilation is not recommended and the applicant proposes mechanical ventilation with the air intake at roof level to ensure that air quality for users of the building is as clean as possible. Compliance with the City Council's Code of Construction Practice (see Section 8.12 below) will ensure that the impact of the construction phase on air quality is minimised.

The applicant has provided a statement confirming that the development is air quality neutral for building and transport emissions (GLA benchmarking assessment methodology). This is acceptable.

There is no objection from Historic England (Archaeology) to the proposal excavation subject to the imposition of a condition securing a two-stage process of archaeological evaluation and, if necessary, investigation and recording.

Thames Water advises that there is an inability of the existing combined waste water infrastructure to accommodate the needs of the development proposal. As such, request that a condition be imposed that: (i) Prevents occupation of the development until all combined water network upgrades to accommodate the additional flows from the development have been completed; or (ii) Requires a phased occupation plan for the development to be agreed. The applicant contends that the new discharge rates for both foul and surface water are an improvement on current discharge rates and therefore there should be no capacity issue. Discussions are ongoing with Thames Water to clarify its position and an update will be verbally reported to Sub-Committee.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Following informal consultation in 2018, the draft plan has been revised and formal consultation was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between 19 June 2019 and 31 July 2019. Following this consultation period, the City Council is now reviewing the comments received before submitting the City Plan for examination. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the

tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

The Soho Neighbourhood Area was designated by the City Council on 17th May 2013 and the site will be within the plan area for the forthcoming Soho Plan. The draft plan is still in development and therefore can be afforded little to no weight at the present time.

8.10 London Plan

This application raises no strategic issues. The maximum height of the proposed building is below the 30.0m threshold for referral to the Mayor of London.

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:

- Detailed drawings showing how the parts of the building which are to be kept during building work will be supported and protected.
- Arrangements to secure the completion of the development as a single operation.
- The applicant's adherence to the City Council's Code of Construction Practice.
- A written scheme of investigation for a programme of archaeological work.
- Detailed design and method statements for demolition, all of the foundations, basement and ground floor structures in order to ensure the protection of subterranean transport infrastructure.
- An independent review of the environmental sustainability features.
- Updated Energy Calculations to show compliance with the carbon saving envisaged.

The applicant's response will be verbally reported to Committee.

8.12 Planning Obligations

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

- a. A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.

- b. A Carbon Offset Contribution of £70,000 (index linked), payable prior to commencement of development.
- c. Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street), wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
- d. A contribution of £89,000 to support the Westminster Employment Service (index linked and payable prior to the commencement of development).
- e. The re-provision of a nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
- f. The costs of monitoring the S106 legal agreement.

The estimated CIL payments are:

- Westminster CIL - £682,018
- Mayor CIL - £508,824

8.13 Environmental Impact Assessment

The scheme is of insufficient size and impact to require assessment under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015.

8.14 Other Issues

None.

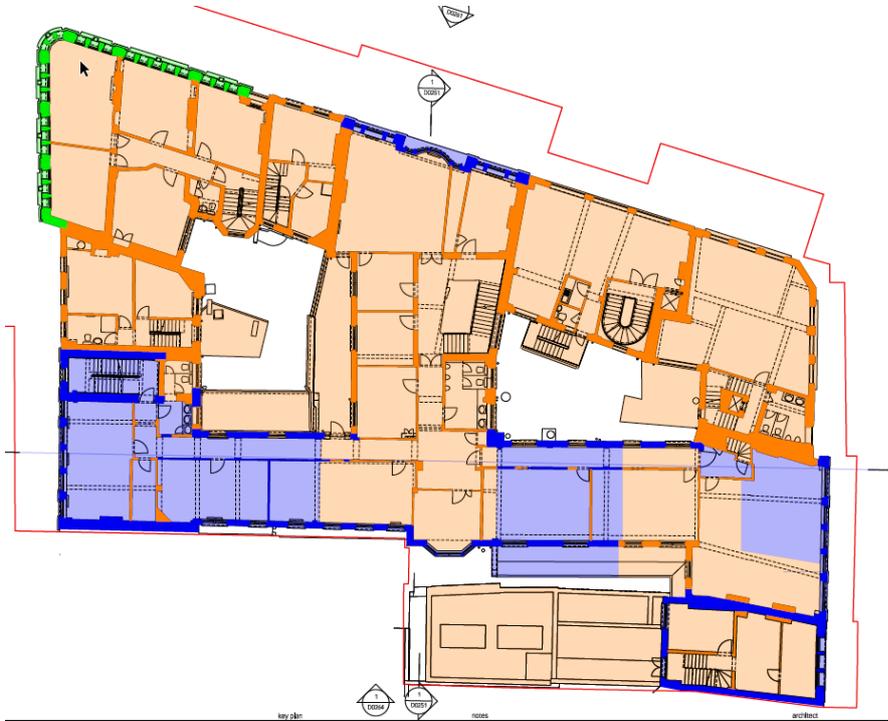
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

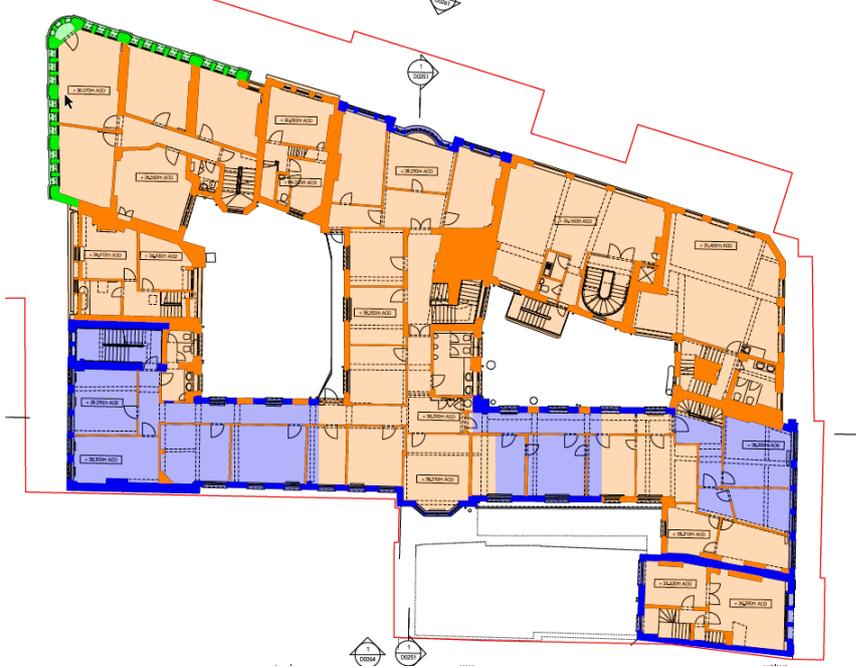
9. KEY DRAWINGS



Demolition second floorplan:



Demolition third floorplan:



Demolition fourth floorplan:



Demolition north (Oxford Street) elevation:



Demolition south (rear) elevation:



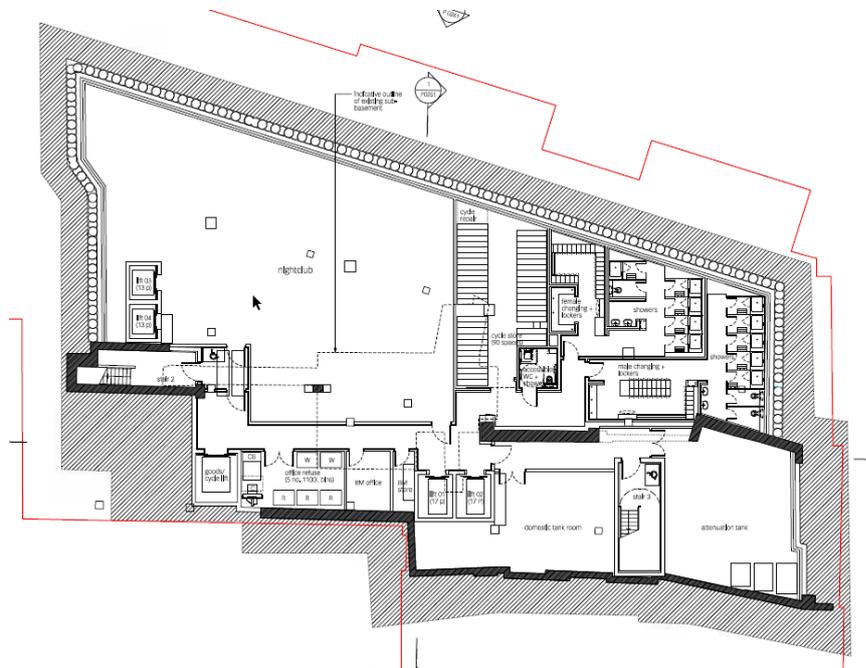
Demolition west (Berwick Street) elevation:



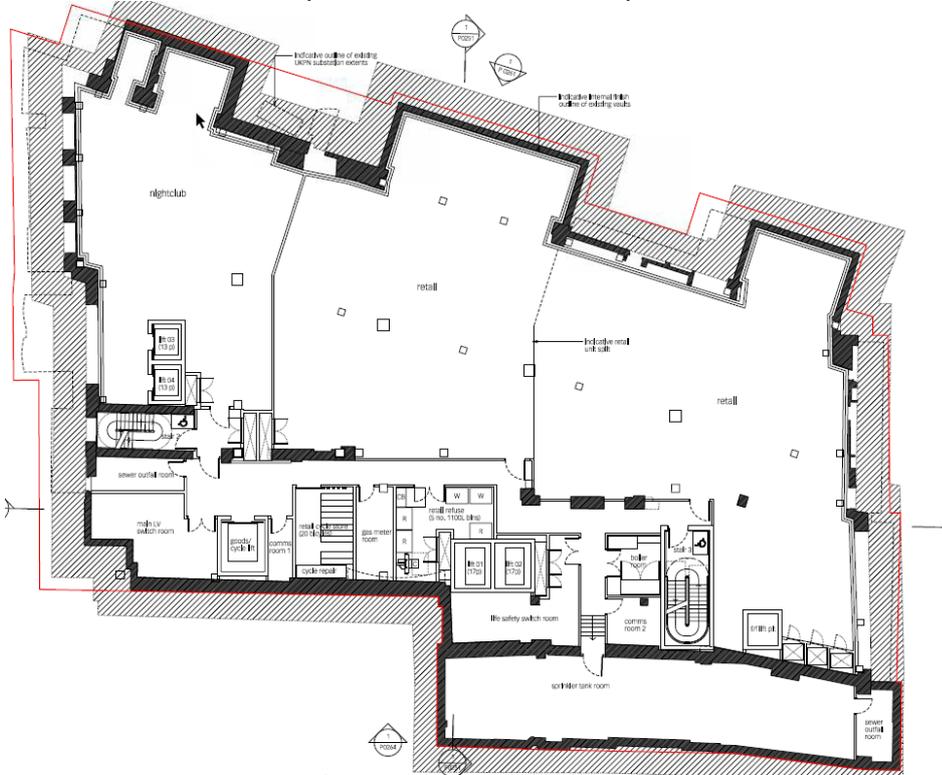
Demolition east (Wardour Street) elevation:



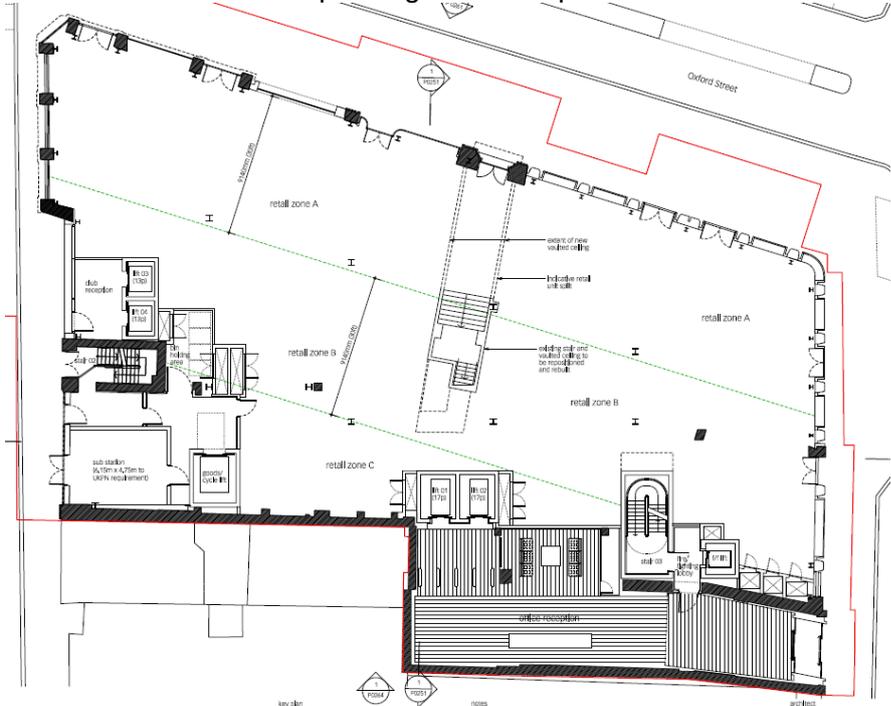
Proposed Basement 02 floorplan:



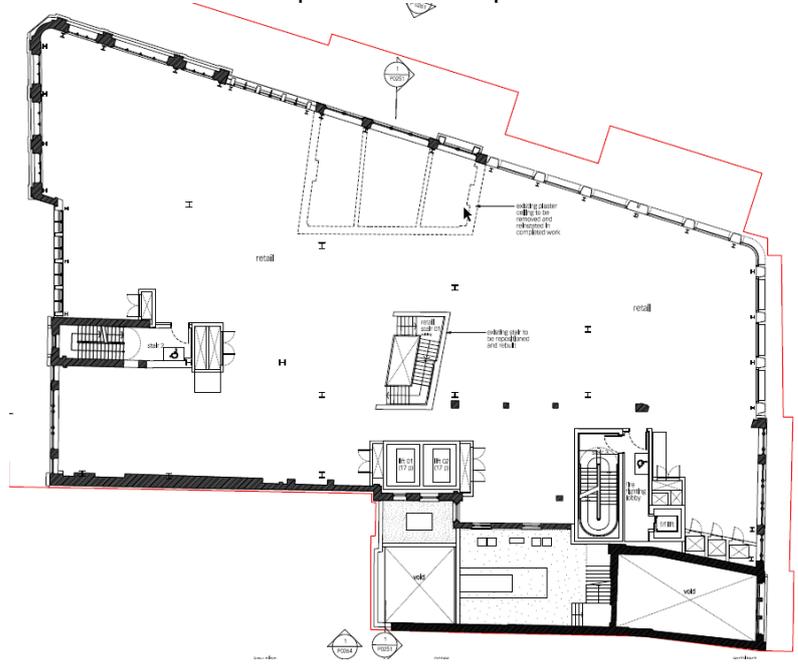
Proposed Basement 01 floorplan:



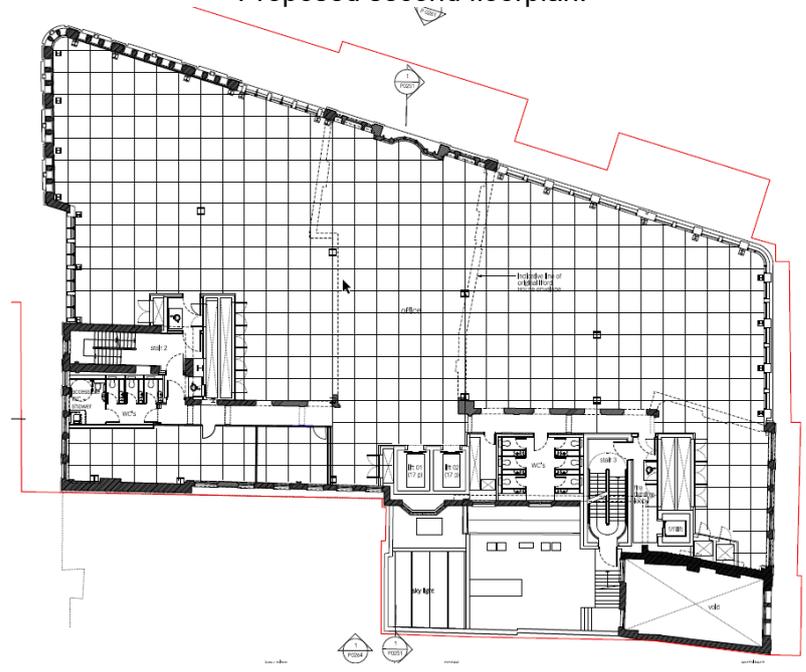
Proposed ground floorplan:



Proposed first floorplan:



Proposed second floorplan:



Proposed south (Oxford Street) elevation:



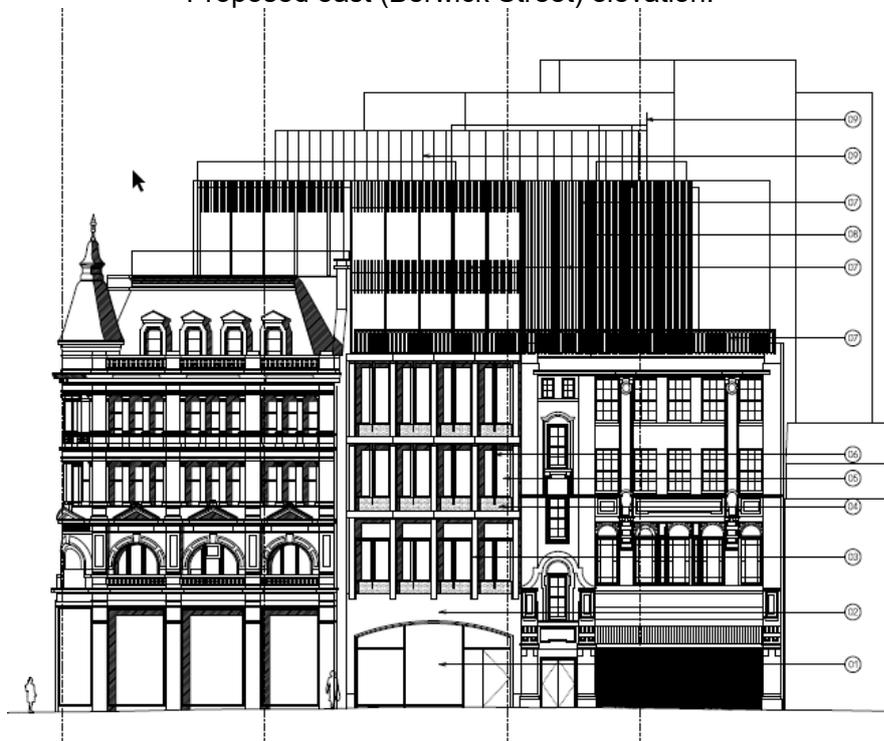
Proposed south (rear) elevation:



Proposed west (Wardour Street) elevation:



Proposed east (Berwick Street) elevation:



Existing Oxford Street (junction with Wells Street) view:



Proposed Oxford Street (junction with Wells Street) view:



DRAFT DECISION LETTER (PLANNING PERMISSION)

Address: Development Site At 127-143 Oxford Street, 53-55 Berwick Street And 199-205, Wardour Street, London,

Proposal: Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade), 199 Wardour Street (behind retained front and rear façades) and 55 Berwick Street. Excavation to provide new Basement 02 level. Redevelopment of site to provide ancillary plant and facilities at Basement 02 and part Basement 01 level; nightclub (sui generis) at part Basement 01 and 02 with ground floor entrance at No. 55 Berwick Street; retail (Class A1) floorspace at part Basement 01, part ground and part first floor levels; office (Class B1) at part ground, part first and second to sixth floor levels, and roof top plant.

Plan Nos: Demolition drawings:

D0201, D0202, D0203, D0204, D01205, D0206, D0207, D0208, D0209, D0210, D0251, D0252, D0261, D0262, D0263 and D0264.

Proposed drawings:

P0201, P0202, P0203, P0204 Rev. A, P0205 Rev. A, P0206 Rev. A, P0207 Rev. A, P0208 Rev. A, P0209 Rev. A, P0210, P0251, P0252, P0261 Rev. A, P0262 Rev. A, P0263 and P0264 Rev. A.

Approved documents:

Delivery and Servicing Plan dated 14 June 2019.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

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

Reason:

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

- 2 You must apply to us for approval of samples of the facing materials you will use,

including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

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

Typical details of all new facades at all levels.

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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 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 (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

- 5 You must apply to us for approval of a comprehensive method statement and drawings of the following parts of the development.

Proposals for jacking up and modifying the retained street facades of 139-143 Oxford Street.

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 documents. (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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 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)

- 6 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 and appearance of the Soho Conservation Area and the special architectural and historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 (B) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29CC)

- 7 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings showing how you will support and protect the parts of the building which are to be kept during building work. You must not start work until we have approved what you have sent us. You must then carry out the work according to these drawings. (C28AB)

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

- 8 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved in writing either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission, 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. (C29AD)

Reason:

To maintain the character and appearance of the Soho Conservation Area and the special architectural and historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 9 (B) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29CC)

- 9 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)

- 10 **Pre Commencement Condition.** Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its written approval of such an application (C11CC)

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)

- 11 **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)

12 Pre Commencement Condition.

The development hereby permitted shall not be commenced until detailed design and method statements for each stage of the development (in consultation with London Underground) for demolition, all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

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

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

Reason:

To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with Policy 6.2 of the London Plan (2016), Policy T3 of the draft London Plan (December 2017) and Land for Industry and Transport SPG (September 2012).

- 13** You must provide each cycle parking space, the changing / shower rooms and lockers shown on the approved drawings prior to occupation of any part of the building. Thereafter these areas must be retained and the space used for no other purpose. All occupiers of the building shall have access to the cycle parking spaces, the changing / shower rooms and lockers shown on the approved drawings.

Reason:

To provide cycle parking spaces and associated facilities for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016.

- 14 You must hang all doors or gates so that they do not open over or across the road or pavement. This is with the exception of the sub-station on Berwick Street. (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)
- 15 You must provide the waste stores shown on drawing P0201 and P0202 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the retail and office floorspace. 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 stores 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 (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)
- 16 (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 (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)

- 17 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)

- 18 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) 16 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 (November 2016), by contributing to reducing excessive ambient noise levels. (R51AB)

- 19 (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)

- 20 The design and structure of the development shall be of such a standard that it will not result in the transfer of ground borne noise from underground railway lines through the building structure and fabric of this development to adjoining residential properties so that they are exposed to levels indoors of more than 35 dB LASmax within habitable rooms during day and night.

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)

- 21 You must put up the plant screen 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 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)

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

- Rainfall attenuation tank (with a capacity of at least 70 cubic metres).
- Photovoltaic panels comprising at least 114 m² of net active area of roof and façade mounted PV panels.
- Glazing with g-value of not exceeding 0.34 throughout.
- Allowance for connections to any future heat network in the vicinity of the site.
- The 'living' green roofs on the non-terrace roof space, as shown on the approved drawings.

You must not remove any of these features.

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)

- 23 You must adhere to the approved Delivery and Servicing Plan dated 14 June 2019 for the life of the development.

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)

- 24 Maximum noise levels generated by the proposed new development in terms of LAF_{max} shall not exceed the NR 15 curve inside the existing neighbouring premises. This includes noise from all sources (including amplified music from the nightclub and activities in the retail unit).

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)

- 25 **Pre Commencement Condition.**

a) You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM), you must

provide a Design Stage Interim BREEAM rating and certificate of assessment. This review must show that the development is expected to have achieved an 'excellent' rating under BREEAM UK New Construction 2014. If you use another method, you must achieve an equally high standard.

b) You must apply to us for approval of details of a post construction stage report which demonstrates that the development meets an "Excellent" rating under BREEAM UK New Construction 2014. This report shall be submitted to us within 6 months of the occupation of any part of the building. If you use another method, you must achieve an equally high standard.

Reason:

To make sure that the development affects the environment as little as possible, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44BC)

26 Pre Commencement Condition.

Updated Energy Calculations (and relevant design drawings) shall be provided prior to the commencement of development to demonstrate that the development will achieve at least a 19.2% reduction in regulated carbon dioxide emissions beyond Part L the 2013 Building Regulations. You must provide all the environmental sustainability features referred to in the review before you start to use any part of the building. You must then not remove any of these features.

Reason:

To make sure that the development affects the environment as little as possible and minimises carbon dioxide emissions, as set out in S28 or S40, or both, of Westminster's City Plan (November 2016) and Policy 5.2 of the London Plan (2016).

27 Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it) the Class A1 retail accommodation hereby approved shall not be used as a food retail supermarket outlet or similar.

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)

28 You must apply to us for approval of details of how waste and recycling is going to be stored on the site for the nightclub hereby approved. You must not occupy the nightclub (sui generis) use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling store in line with the approved details prior to occupation, and clearly mark it and make it available at all times to everyone using the nightclub (sui generis). You must not use the waste and recycling store for any other purpose. (C14GA)

Reason:

To protect the environment and provide suitable storage for waste 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. (R14BD)

29 Customers shall not be permitted within the nightclub premises:

- Before 10.00 or after 04.00 (the following morning) on Monday to Saturdays; or
- Before 10.00 or after 00.30 (the following morning) on Sunday or Bank Holidays.

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 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

30 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises.

Reason:

We do not have enough information to decide whether it would be possible to provide extractor equipment that would deal properly with cooking smells and look suitable. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05DC)

31 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- The entrance (shopfront) at 199 Wardour Street shall be of a traditional timber and glass design which responds to the architectural character of the existing building.

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 this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 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)

32 No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water.

Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason:

The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure.

- 33 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- A deeper waste holding area with widened door openings (to at least 1.3m).

You must not occupy any of the retail or office floorspace until we have approved what you have sent us. You must then carry out the work according to the approved drawings.

Reason:

To protect the environment and provide suitable storage for waste 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. (R14BD)

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, neighbourhood plan (where relevant), 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 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. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website:
<https://www.westminster.gov.uk/street-naming-numbering> (I54AB)
- 3 The term 'clearly mark' in condition 15 and 28 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 4 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)

- 5 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)

- 6 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.
- 7 As this development involves demolishing the buildings on the site, we recommend that you survey the buildings thoroughly before demolition begins, to see if asbestos materials or other contaminated materials are present - for example, hydrocarbon tanks associated with heating systems. If you find any unexpected contamination while developing the site, you must contact:

Contaminated Land Officer
Environmental Health Consultation Team
Westminster City Council
Westminster City Hall
64 Victoria Street
London SW1E 6QP

Phone: 020 7641 3153
(I73CA)

- 8 Conditions 16 and 18 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)
- 9 With reference to condition 10 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.

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

- 10 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:
- a. A contribution to the City Council's Affordable Housing Fund of £1,735,000 (index linked), payable prior to commencement of development.
 - b. A Carbon Offset Contribution of £70,000 (index linked), payable prior to commencement of development.
 - c. Undertaking of highways works in the vicinity of the site, including alterations to the crossroad of Oxford Street, Wardour Street and Berners Street including but not necessarily limited to kerb line alterations (to enable widening of the footway outside the site on Wardour Street), wayleaving of street light in Wardour Street onto the application site's frontage, associated traffic order making, alterations to crossing points, associated carriageway marking positions and any other associated works to accommodate the development (highways works to have been agreed and alterations to traffic orders to have been confirmed prior to commencement of development).
 - d. A contribution of £89,000 to support the Westminster Employment Service (index linked and payable prior to the commencement of development).
 - e. The re-provision of a nightclub (Sui Generis) on site to shell and core (ready for tenant fit out) prior to the occupation of any of the office floorspace on site.
 - f. The costs of monitoring the S106 legal agreement.

- 11 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

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

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DRAFT DECISION LETTER (DRAFT DECISION LETTER (LISTED BUILDING CONSENT))

- Address:** Development Site At 127-143 Oxford Street, 53-55 Berwick Street And 199-205, Wardour Street, London,
- Proposal:** Demolition of 127 Oxford Street and 205 Wardour Street, 129-131 Oxford Street, 133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) (behind retained Oxford, Wardour and Berwick Street facades and partially retained interior), 137 Oxford Street, 139-143 Oxford Street (behind retained façade), 199 Wardour Street (within retained façades) and 55 Berwick Street. Excavation to provide new Basement 02 level. Erection of replacement building over basement 02, basement 01, ground and six upper storeys.
- Plan Nos:** Demolition drawings:
- D0201, D0202, D0203, D0204, D01205, D0206, D0207, D0208, D0209, D0210, D0251, D0252, D0261, D0262, D0263 and D0264.
- Proposed drawings:
- P0201, P0202, P0203, P0204 Rev. A, P0205 Rev. A, P0206 Rev. A, P0207 Rev. A, P0208 Rev. A, P0209 Rev. A, P0210, P0251, P0252, P0261 Rev. A, P0262 Rev. A, P0263 and P0264 Rev. A.
- Case Officer:** Mark Hollington **Direct Tel. No.** 020 7641 2523

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

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

Reason:
For the avoidance of doubt and in the interests of proper planning.
- 2 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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

(R27AC)

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

Typical details of all new facades of extensions to the listed building.

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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 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 protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 You must apply to us for approval of a comprehensive method statement and drawings of the following parts of the development.

Proposals for the reuse of existing internal features, including the main staircase.

You must not start any demolition of Ilford House (133-135 Oxford Street (including 53-64 Berwick Street and 201 Wardour Street)) until we have approved what you have sent us. You must then carry out the work according to these documents. (C26DB)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26ED)

- 6 **Pre Commencement Condition.** You must apply to us for approval of detailed drawings showing how you will support and protect the parts of the building which are to be kept during building work. You must not start work until we have approved what you have sent us. You must then carry out the work according to these drawings. (C28AB)

Reason:

To protect the parts of the building which are to be preserved during building work. (R28AA)

- 7 **Pre Commencement Condition.** You must not start any demolition work on site until we have approved in writing either:

- (a) a construction contract with the builder to complete the redevelopment work for which we have given planning permission, 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. (C29AD)

Reason:

To maintain the special architectural or historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29BC)

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

Reason:

To maintain the special architectural or historic interest of this listed building as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.129 to 10.146 of our Unitary Development Plan that we adopted in January 2007 and Section 74(3) or Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990. (R29BC)

- 9 No demolition of Ilford House (133-135 Oxford Street (including 53-54 Berwick Street and 201 Wardour Street) shall take place until a written scheme of historic building investigation (WSI) has been submitted to and approved by the local planning authority in writing. For buildings that are included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- A. The programme and methodology of historic building investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason:

Built heritage assets on this site will be affected by the development. The planning authority wishes to secure building recording in line with NPPF, and publication of results, in accordance

with Section 12 of the NPPF.

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -
In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework July 2018, the London Plan March 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations.

The City Council decided that whilst the proposed works would cause some harm the special architectural and historic interest of this listed building, that the scheme will deliver public benefits which outweigh the harm to heritage assets. The heritage harm is necessary to unlock the sufficiently important benefits of creating significant amounts of new retail and office floorspace .

In reaching this decision the following were of particular relevance:

S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph HB1-3 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 For the purposes of Condition 9, the written scheme of investigation will need to be prepared and implemented by a suitably professionally accredited heritage practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London

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.