

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 15 September 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Hyde Park	
Subject of Report	5 Kingdom Street, London		
Proposal	Erection of a mixed-use development comprising ground floor (at Kingdom Street level) plus 19 storeys to provide offices (B1a) and retail (A1/A3) plus plant and amenity areas at roof level. Three floors below Kingdom Street delivered in phases to provide an auditorium (Sui Generis), and a flexible mix of business (B1a), retail (A1/A3/Sui Generis), sport and leisure (D2) and exhibition/conference (D1/Sui Generis) uses within the former 'Crossrail box'. New outdoor terraces adjacent to railway at basement level; creation of a new pedestrian and cycle link between Harrow Road and Kingdom Street including internal and external garden and landscaping; and associated works.		
Agent	Laura Elias		
On behalf of	C/o Agent		
Registered Number	GLA/4925 19/03673/FULL	Date amended/ completed	6 August 2020
Date Application Received	14 May 2019		
Historic Building Grade	Unlisted		
Conservation Area	Outside		

1. RECOMMENDATION

Following the council's resolution, on the 23 March 2020, the Deputy Mayor for Planning, Regeneration & Skills, acting under delegated authority issued a direction to the Council that the Mayor will act as the Local Planning Authority for the purposes of determining the Application (under Article 7 of the Town and Country Planning (Mayor of London) Order 2008 and the powers conferred by Section 2A of the Town and Country Planning Act 1990 (as amended)). The applicant has submitted revisions to the mayor who has consulted the Council. The committee is asked to agree the following representations:

1. To raise objection to the revised height, mass, location and design of the proposed building, which would result in less than substantial harm being caused to the setting of a number of nearby designated heritage assets, and to protected and local views including those identified within the London Views Management Framework. The identified harm is not sufficiently outweighed by the revised public benefits that the proposed development would secure.

2. To raise no objection on grounds of loss of daylight and sunlight to windows serving habitable rooms of neighbouring residential properties in light of the new evidence submitted by the applicant.
3. To raise objection to the loss of the dedicated 150sqm of community space.
4. That in the event the Mayor of London resolves to grant permission following the public hearing, to delegate authority to the Director of Place Shaping and Town Planning to enter into a S106 agreement to secure the planning obligations as may be agreed by the Mayor of London acting as the local planning authority under article 7 of the Mayor of London Order (2008).

2. SUMMARY

This application was presented to planning application committee on 7 January 2020, where it was resolved to refuse planning permission for the following two reasons:

1: Because of its height, mass, location and design the proposed 18 storey tower (plus plant rooms) would harm the character and appearance of this part of the City and result in less than substantial harm to a range of designated heritage assets including harm to the setting of numerous grade II listed Victorian terraces and villas (notably 9-31 Porchester Square; 14-20 Westbourne Terrace Road; 21-26 Westbourne Terrace Road; villas and terraces in Blomfield Road facing Little Venice (34-44 Blomfield Road); villas on south-west side of Warwick Avenue (nos.7-31); and the terraces on either side of the southern end of Warrington Crescent (nos.1-49 and 4-36); harm to the setting of the grade I registered parks of Kensington Gardens and Hyde Park; harm to the setting of the Royal Parks Conservation Area, the Bayswater Conservation Area, the Maida Vale Conservation Area, the Westbourne Conservation Area; and harm to the setting of the Little Venice canal intersection. The proposed public benefits are not considered to outweigh this harm. The development would therefore not meet S3, S11, S18, S25, S26, S28 and S37 of Westminster's City Plan (November 2016) and DES1, DES3, DES4, DES9, DES10, DES12, DES13 and DES 15 of our Unitary Development Plan that we adopted in January 2007.

2. Insufficient information has been submitted to demonstrate that the proposed building, by reason of its height and mass would not result in a cumulative material loss of light to the detriment of the amenities of the occupiers of the properties on Westbourne Terrace Road and Warwick Crescent following the Councils resolution to grant planning permission for the development on Blomfield Mews (RN: 19/00026/COFUL). The proposal is therefore contrary to policy S 29 of Westminster's City Plan (November 2016) and Policy EN V13 of the Unitary Development Plan adopted in January 2007.

Following the council's resolution, this application was referred back to the Mayor under Stage 2. On the 23 March 2020 a letter was received from the Mayor saying that they will act as the Local Planning Authority for the purposes of determining the application. The application is due to be heard at a hearing on 29 October 2020 at City Hall. The applicant has submitted revisions to the mayor (as acting Local Planning Authority) who has consulted the Council. The revisions are summarised as follows:

1. Increasing the contribution to Westminster's affordable housing fund to £14.3 million (from £1.75 million);
2. Increasing the affordable workspace to 3,900 sqm (GIA) and providing this in the 'Crossrail Box' (from 1,400 sqm), with consequent reduction of 'flexible' space from 7,866 sqm to 3,490 sqm;
3. Revising the energy strategy to achieve 43% carbon saving based on current modelling and achieving a net zero carbon development by maximising on site opportunities for savings up to completion and making off-site contribution measures if necessary;
4. Reconfiguring the Garden space linking Harrow Road to Kingdom Street and to the 'Crossrail Box';
5. Reconfiguring the office entrance and the floor plans of levels 18 and 19, with an increase in office floorspace of 570 sqm (now totals 48.264sqm);
6. Raising the height of the lift over-runs and selected rooftop plant by 4.32m above the parapet

(which is retained at the same height originally proposed);

7. In addition, supplementary information has been submitted in relation to the impact of the development proposals on the daylight and sunlight as a result of the permitted development at Blomfield Mews, pursuant to reason for refusal number 2 (RN: 19/00026/COFUL);
8. S106 and loss of 150sqm community room.

1. Affordable Housing

Through revisions to the layout of the building and a rooftop plant and lift overrun extension, to allow an increase in the amount of office floorspace and other efficiencies, the applicant has put forward an increased offer towards the affordable housing fund, from £1.75m to £14.3m. The applicant maintains their position that the development is not viable, in that it does not result in enough profit to require any payment, however as noted by the applicant, given British Lands unique position as a long term investor, they are looking to up their payment through the aforementioned changes. It is currently proposed that the affordable housing will be provided in three instalments (all index linked): The first on commencement, the second 18 months after commencement and the third on practical completion of the office element.

The City Council has instructed Lambert Smith Hampton (LSH) to re-assess the revised viability information. They consider that the increased offer is acceptable and it is therefore recommended that this is secured via the legal agreement. The triggers will need to be agreed as part of the S106 negotiations, should the Mayor resolve to grant permission.

2. Increased affordable workspace

Additional affordable workspace is to be provided at the lower levels of the building. Subject to this space being secured via a suitably worded legal agreement, the increase in affordable office workspace is welcomed.

3. Revised energy strategy

Efforts to increase the performance of the building are welcomed.

4. Reconfiguration of the garden space

The revisions maintain the publicly accessible through garden route from Harrow Road to Kingdom Street, which remains acceptable.

5. Alterations to office layout at both lower and upper levels

The alterations move the office lobby down to Kingdom Street level and provide an additional level of offices at Level 18. This alterations results in amendments to the amount of floorspace of different uses, but has notable impacts on reducing the amount of retail, and increasing the amount of office floorspace. These alterations will have an impact on both the CIL payment (up from £23,117,184 to £23,229,221) and the Councils Employment & Training Skills Payment (up from £2,087,820 to £2,136,726). Subject to the alterations to these payments, no objection is raised to the amendments in land use terms.

6. New lift over-run and plant enclosure

Design and heritage / townscape impacts

As before, the proposals would affect the setting of a large number of designated and non-designated heritage assets, and also local and protected views from both short and longer distances.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy DES 9 (F) in the UDP requires that where development will have a visibly adverse effect upon a conservation area’s recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require that great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be demonstrably outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

A detailed assessment of the impacts of the proposals was made as part of the recommendation to refuse the previous scheme, the report for which can be seen on the council’s website.

This amendment results in additional height, bulk and mass (albeit in a setback location). This additional height would be visible in both short and longer distance views including from the Maida Vale Conservation Area, Royal Parks Conservation Area (and Hyde Park and Kensington Gardens Registered Parks), and would impact upon the protected views from the Serpentine Bridge.

This additional height not only prevents any reduction in the impacts previously identified by the Council, but would in fact slightly increase the harm caused to the setting of the nearby conservation areas, Royal Parks and to the views from both near and further range including those from the Serpentine Bridge. This further substantiates reason for refusal number 1, increasing further the significant weight that this should be given in accordance with the Act and the NPPF.

The proposals fail to accord with policies DES 1, DES 9/10 and S25 / S28 of the UDP and City Plan and the public benefits proposed (as amended), would not outweigh the less than substantial but widespread harm that would be caused to the setting of a large number of designated heritage assets. Therefore, the recommendation to refuse permission is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. Daylight and Sunlight

The applicants have submitted an update to the daylight and sunlight report, to take account of the additional bulk to the roof and to address the City Councils’ reason for refusal No. 2, which relates to insufficient information to take account to a planning permission for a development on Blomfield Mews (RN: 19/00026/COFUL). Due to the increase in height of the building, the report has also been

updated to take this into account. Comments are also provided in relation to the impact of this additional bulk.

Roof level additional bulk:

A stepped plant and lift overrun, which increased the height of the building by 4.2m is proposed. This additional bulk is stepped and located centrally on the building, set away from the roof edge. The submitted revised report confirms that the impact of the proposed rooftop enclosure will be minimal, with losses being similar to those of the original scheme. It is not considered that the minor additional impact would warrant an objection.

Blomfield Mews:

Following the submission of the original application, permission was granted for a development at Blomfield Mews. This was not considered as part of the application, and therefore permission was refused on the grounds of insufficient information. The applicant has submitted additional information within the daylight sunlight report, which looks at the cumulative impact of both the proposed revised development and the scheme approved at Blomfield Mews.

Due to the location of the development the most affected properties are located on Warwick Crescent and Westbourne Terrace Road.

Table 1: Warwick Crescent windows with increased cumulative impact VSC (in excess of 20% loss)

Address	Window	existing	proposed	% loss proposed	Cumulative	% loss cumulative
3-65	W1 ground	9.5	7.8	17.9	7.1	25.3
	W2 ground	8.7	6.5	25.3	3.6	58.6
	W3 ground	13.7	12.9	5.8	11.3	17.5
	W4 ground	13.5	11.9	11.9	9.2	31.9
	W5 ground	10.1	8.6	14.9	7.2	28.7
	W6 ground	10.5	8.2	21.9	8.2	21.9
	W7 ground	9.8	7.4	24.5	6.9	29.6
	W1 first	10.7	7.8	27.1	7.1	33.6
	W1 third	12.6	9.7	23	9.4	25.4

Table 2: Westbourne Terrace Road with increased cumulative impact VSC (in excess of 20% loss)

Address	Window	existing	proposed	% loss proposed)	cumulative	% loss cumulative
22	W2/Ground	21.7	19.3	11.5	16.2	25.7
23	W1/Ground	28.6	24.3	15	20.3	29
	W2/Ground	29.2	24.7	15.4	21	28.1
	W3/Ground	28	23.5	16.1	20.2	27.9
24	W1/Ground	22.4	22.1	1.3	17.7	21
	W2/Ground	26.3	22.9	12.9	18.6	29.3
	W3/Ground	27.9	23.3	16.5	19	31.9
	W12/Ground	3	2.1	30	1.5	50
	W1/First	15.6	10.8	30.8	10.8	30.3

	W4/First	31.2	25.8	17.3	24.6	21.2
25	W1/Ground	21.5	18.6	13.5	15.8	26.5
	W2/Ground	22.8	18	21.1	15.8	30.7
	W3/Ground	23.3	19.7	15.5	17	27
	W4/Ground	20.8	17.1	17.8	14.8	28.8
	W1/First	30.9	24.3	21.4	23.4	24.3
26	W2/Ground	19.1	16.5	13.6	15.2	20.4
	W3/Ground	20.2	17.6	12.9	15.5	23.6
	W4/Ground	20.8	16.6	20.2	14.7	29.3
	W4/First	30.6	23.6	22.9	22.7	25.8

The results do indicate some significant additional losses, particularly to windows within Warwick Crescent, with a number of windows now experiencing losses of in excess of 20% their former value. These high percentage losses are generally however caused by existing lower levels of light. On the whole the retained levels of light are considered to be representative of what is expected within an urban context and therefore an objection on the grounds of these additional losses is not raised. It is therefore considered that reason for refusal 2 has been suitably addressed within the revised submission.

8. S106 and community room

The applicant has started negotiation to draft the S106. These negotiations largely relate to the wording rather than the heads of terms. However, it is proposed to remove the 150sqm dedicated community room. Following initial investigations by the applicant, they do not consider there to be a demand for such a dedicated space, and therefore seek to allow for community uses to be provided within the flexible workspace, which would then be secured via the legal agreement.

Given the overall scale of the development, the watering down of this public benefit and given that it is considered to be too early to fully understand whether or not there would be interest in such a space, an objection is raised in relation to the loss of this dedicated community space, and the alternative arrangements for securing community space within the proposed flexible workspace.

EIA & Transport:

It is not considered that the revised proposals raise any additional comments since the previous report.

Conclusion:

The proposals changes to the scheme do result in some additional benefits, namely the increase in affordable housing payment and the additional affordable office space. However, they do also result in a small increase in the height of the building, by 4.5m to accommodate a new pitched plant and lift overrun, adding unwelcome bulk, which will be visible in medium to long distance views. The revised height, mass, location and design of the proposed building would result in less than substantial harm being caused to the setting of a number of nearby designated heritage assets, and to protected and local views including those identified within the London Views Management Framework. The identified harm is not sufficiently outweighed by the revised public benefits that the proposed development would secure. An objection is therefore raised on these grounds.

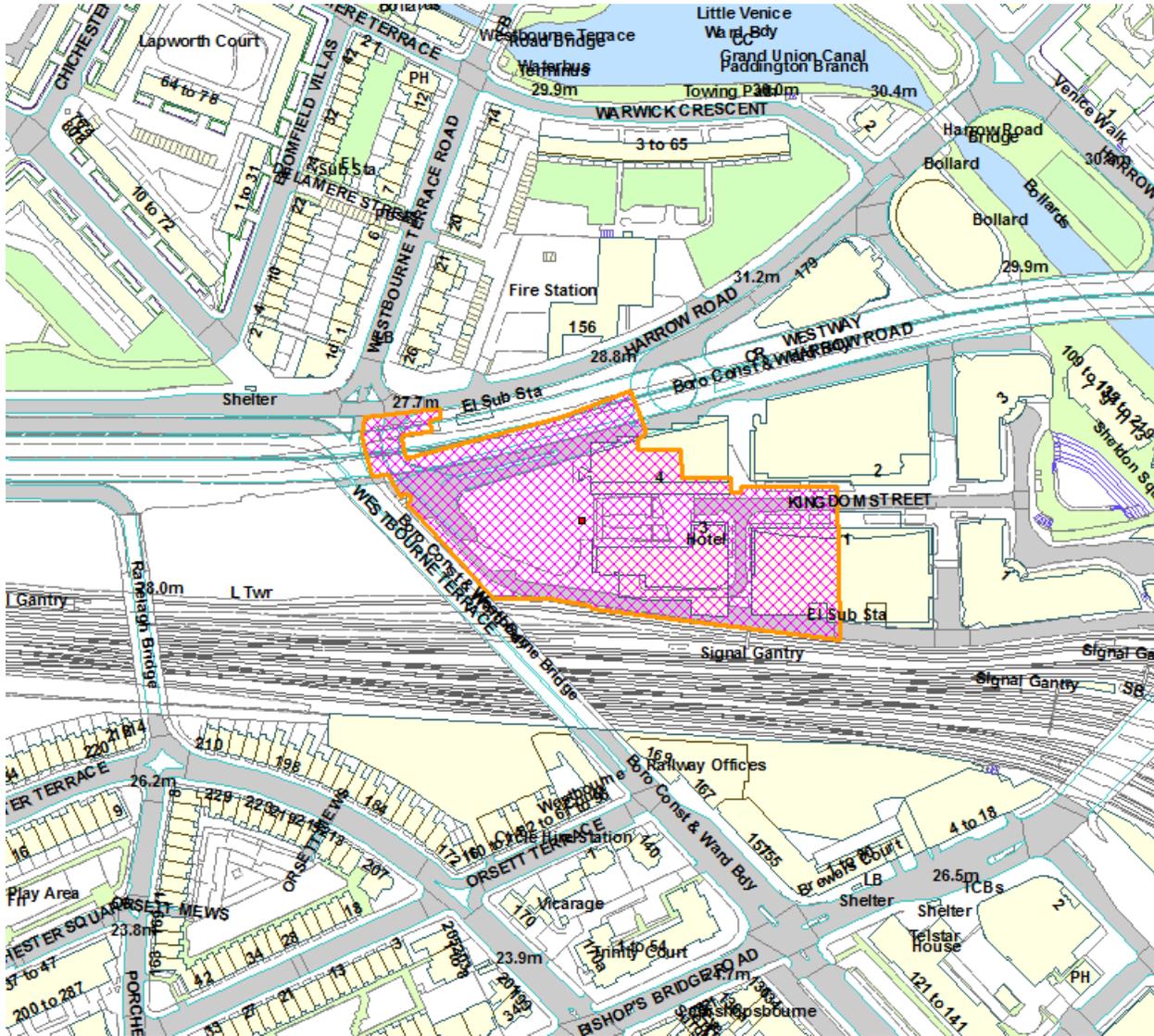
Item No.

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It is considered that the submitted additional daylight and sunlight information suitably addresses the councils second reason for refusal. No objection is raised on these grounds.

The loss of the community room is most regrettable. At this stage of the S106 negotiations, it is not know how or what community facilities would be secured, and therefore an objection is raised.

3. LOCATION PLAN



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4. CONSULTATIONS

The Mayor directed (under the powers conferred by Section 2A of the 1990 Act) that they will act as the local planning authority for the purposes of determining the planning application. Their reasons were as follows:

- a) The development would have a significant impact on the implementation of the London Plan because of the potential for the scheme to contribute towards the aims of London Plan Policies 2.10, 2.11, 2.13 and 4.2, London's economy and the implications for London's continued success as a world city, as set out in the attached report.
- b) The development would have a significant effect on more than one London Borough because of a clear functional relationship with the wider CAZ and Paddington Opportunity Area. Furthermore, the site is located within an area of nationally significant economic activity which contributes towards the strategic employment function of London as a whole, as set out in the attached report.
- c) There are sound planning reasons for the Mayor's intervention, because failure to promote appropriate development on sites such as this could potentially impact upon the economic health of the Central Activities Zone, the Paddington Opportunity Area and London as a whole, as well as wider regeneration objectives for the Opportunity Area, as set out in the attached report.

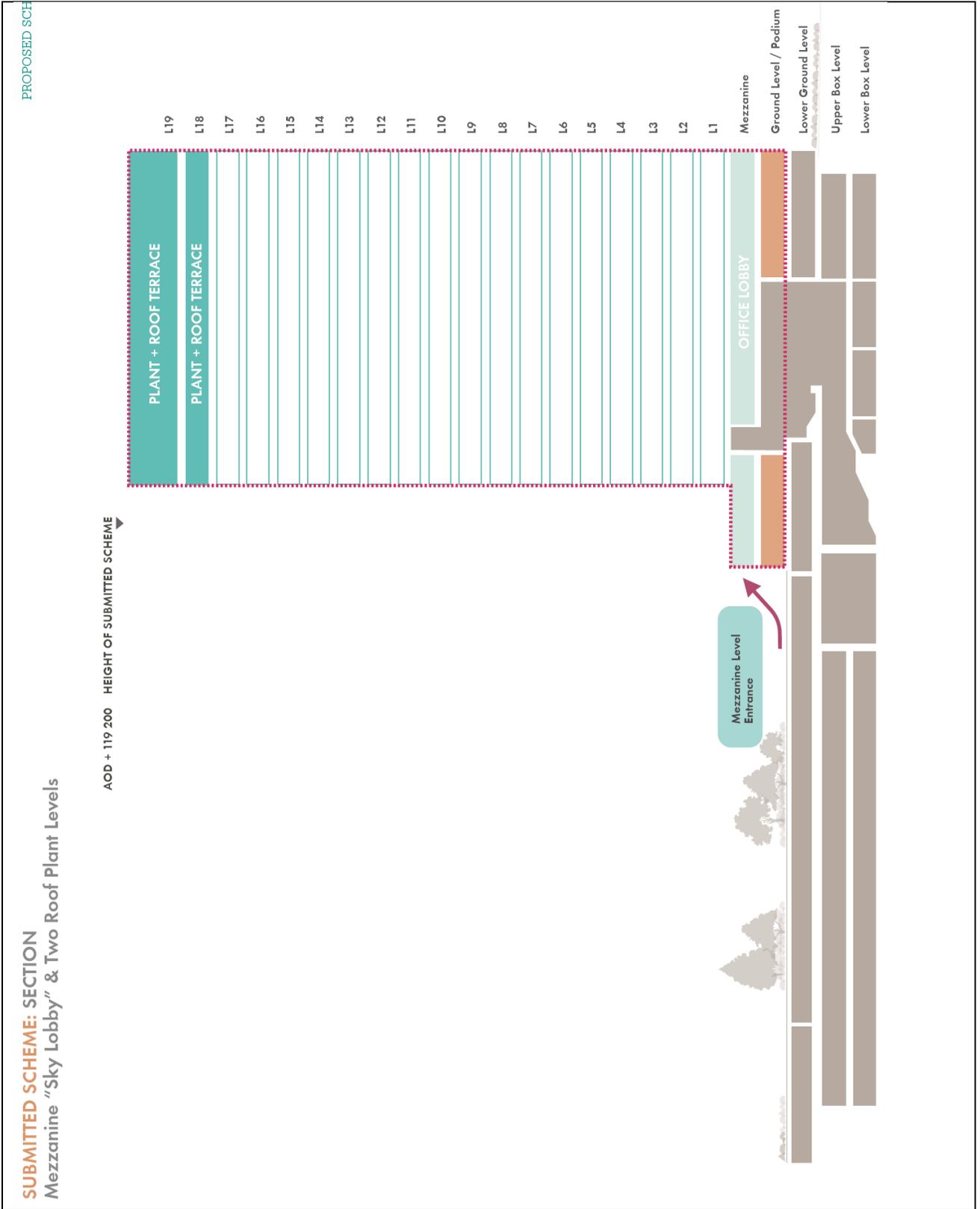
As the GLA are now the determining body for this application, they have undertaken their own consultation on the revised scheme. The public consultation runs from the 6 August to 12 September 2020. These are to be collated and considered by them as part of their assessment of the proposals.

Please note that a summary of the consultation responses received on the original application are summarised within the officers committee report dated 7 January 2020.

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

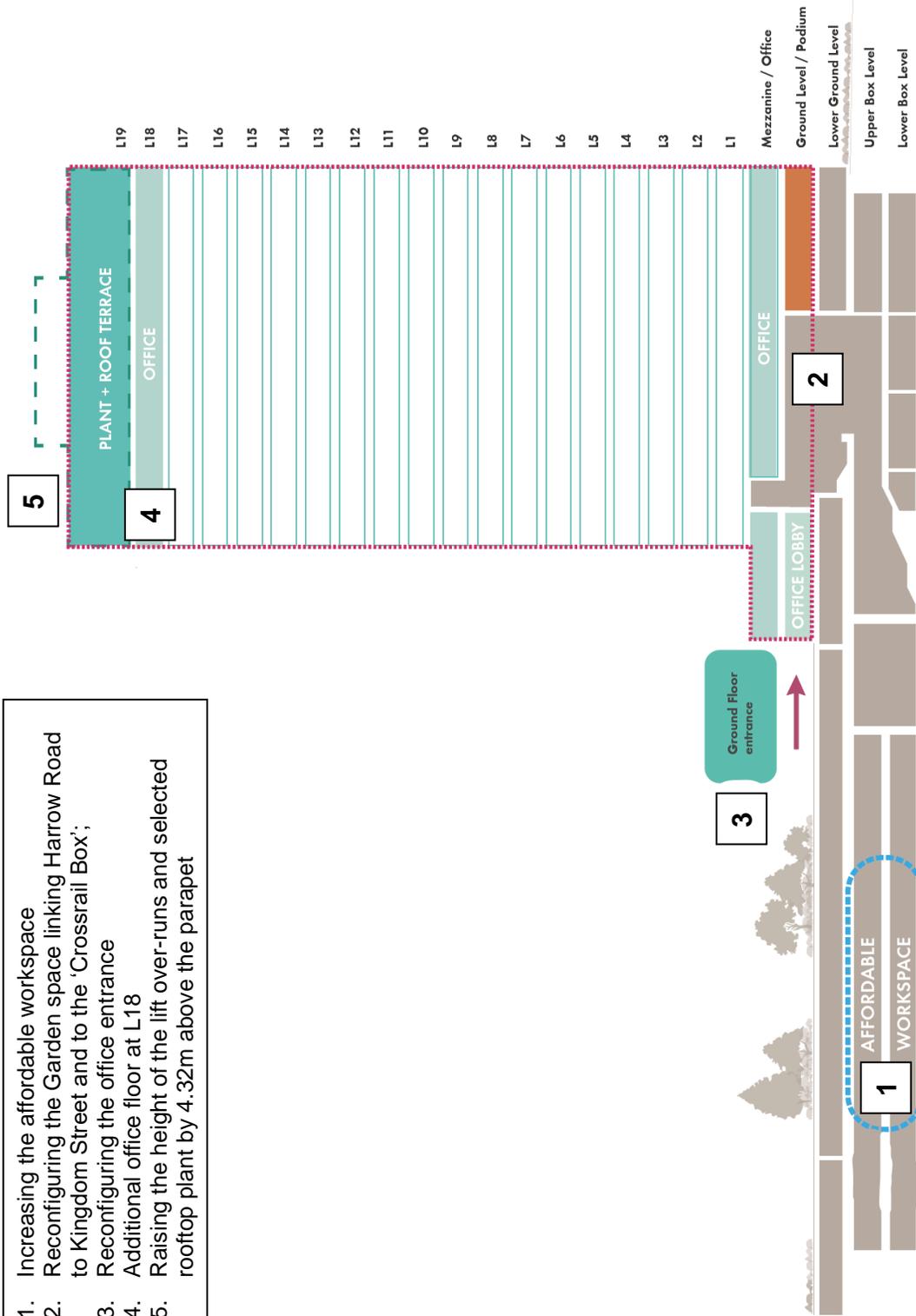
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: **RUPERT HANDLEY** BY EMAIL AT rhandley@westminster.gov.uk

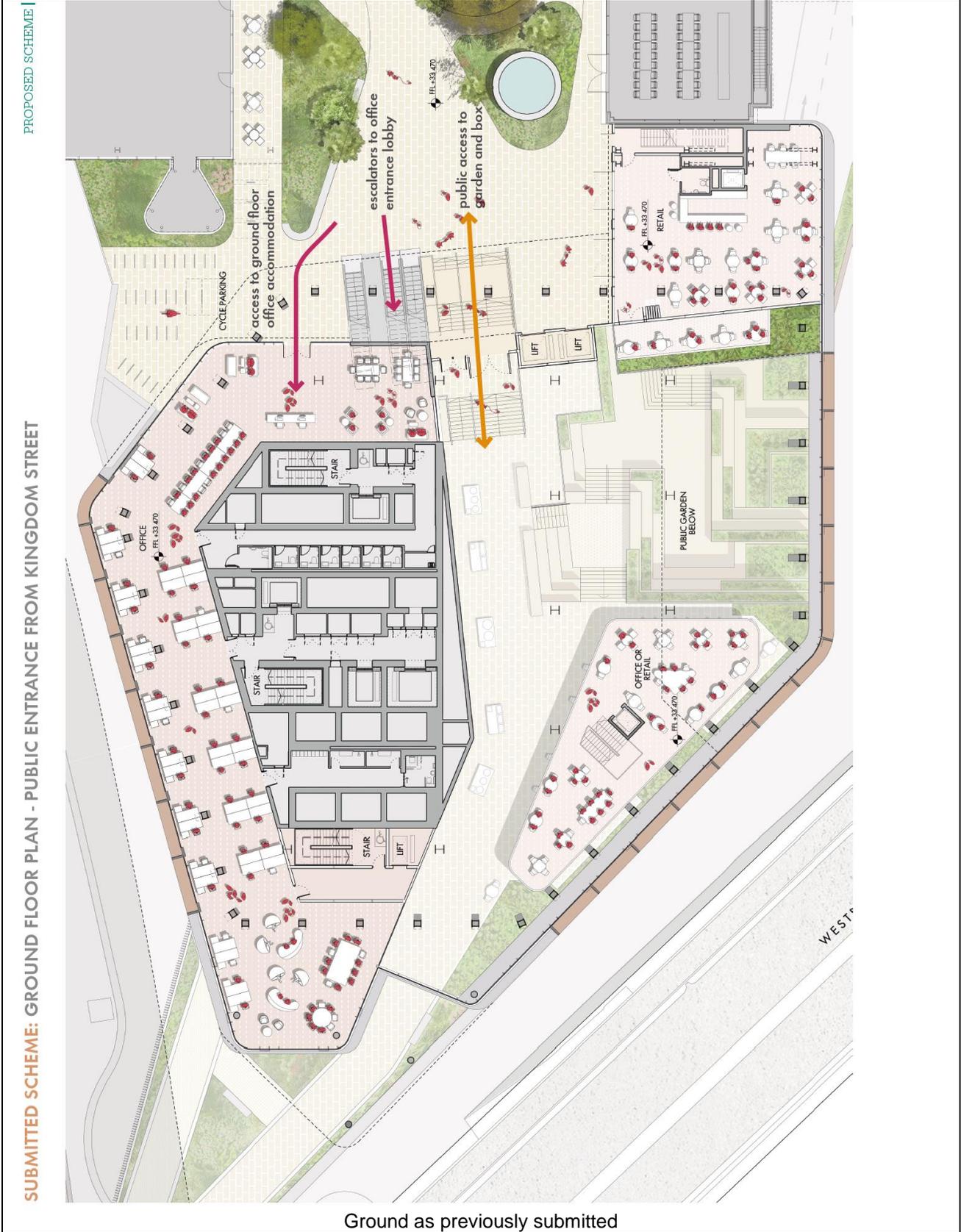
5. KEY DRAWINGS



PROPOSED SCHEME: SECTION AMENDMENTS

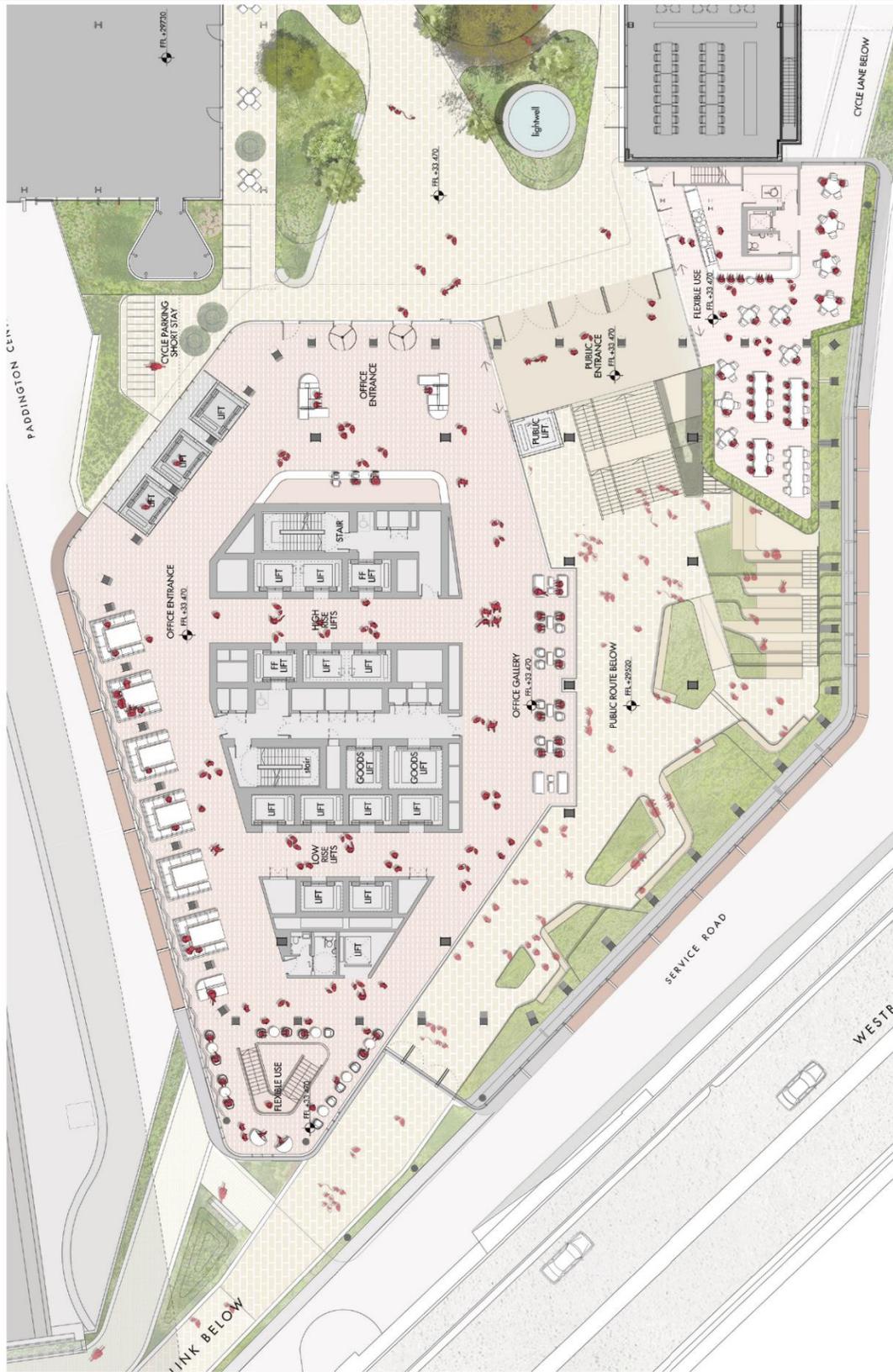
1. Increasing the affordable workspace
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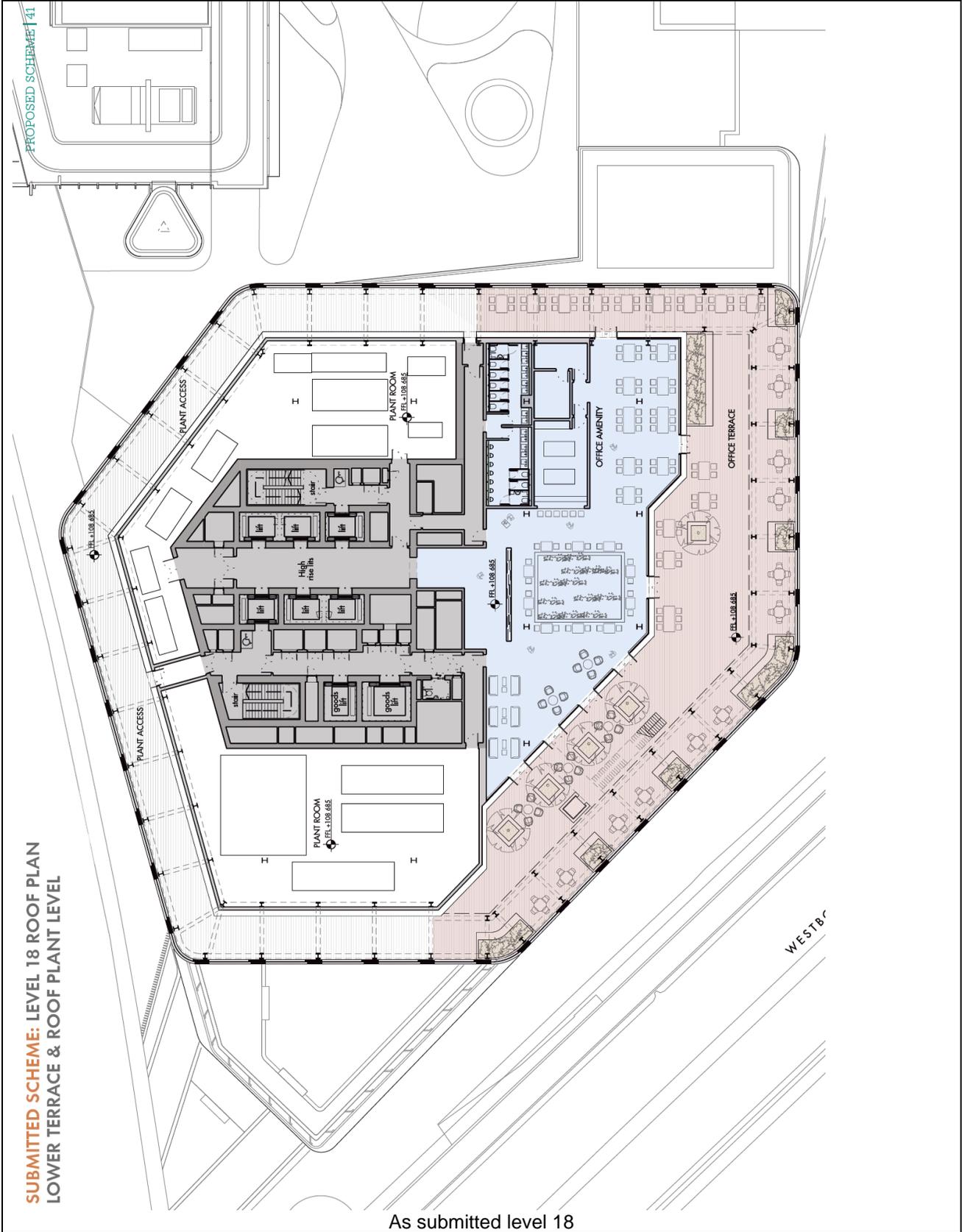


PROPOSED SCHEME: GROUND FLOOR PLAN

PROPOSED SCHEME | 3

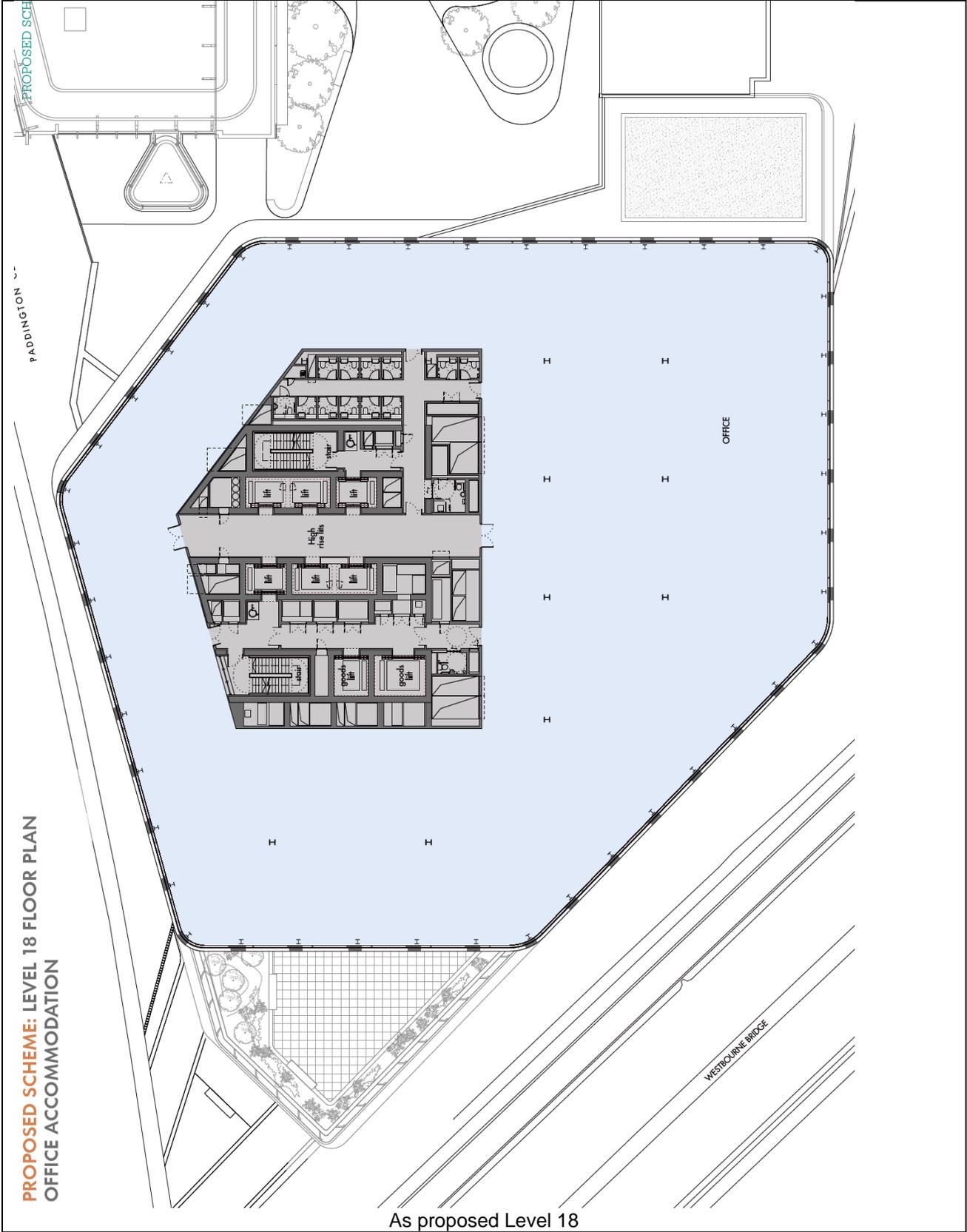


Ground as now proposed



**SUBMITTED SCHEME: LEVEL 18 ROOF PLAN
LOWER TERRACE & ROOF PLANT LEVEL**

As submitted level 18



As proposed Level 18

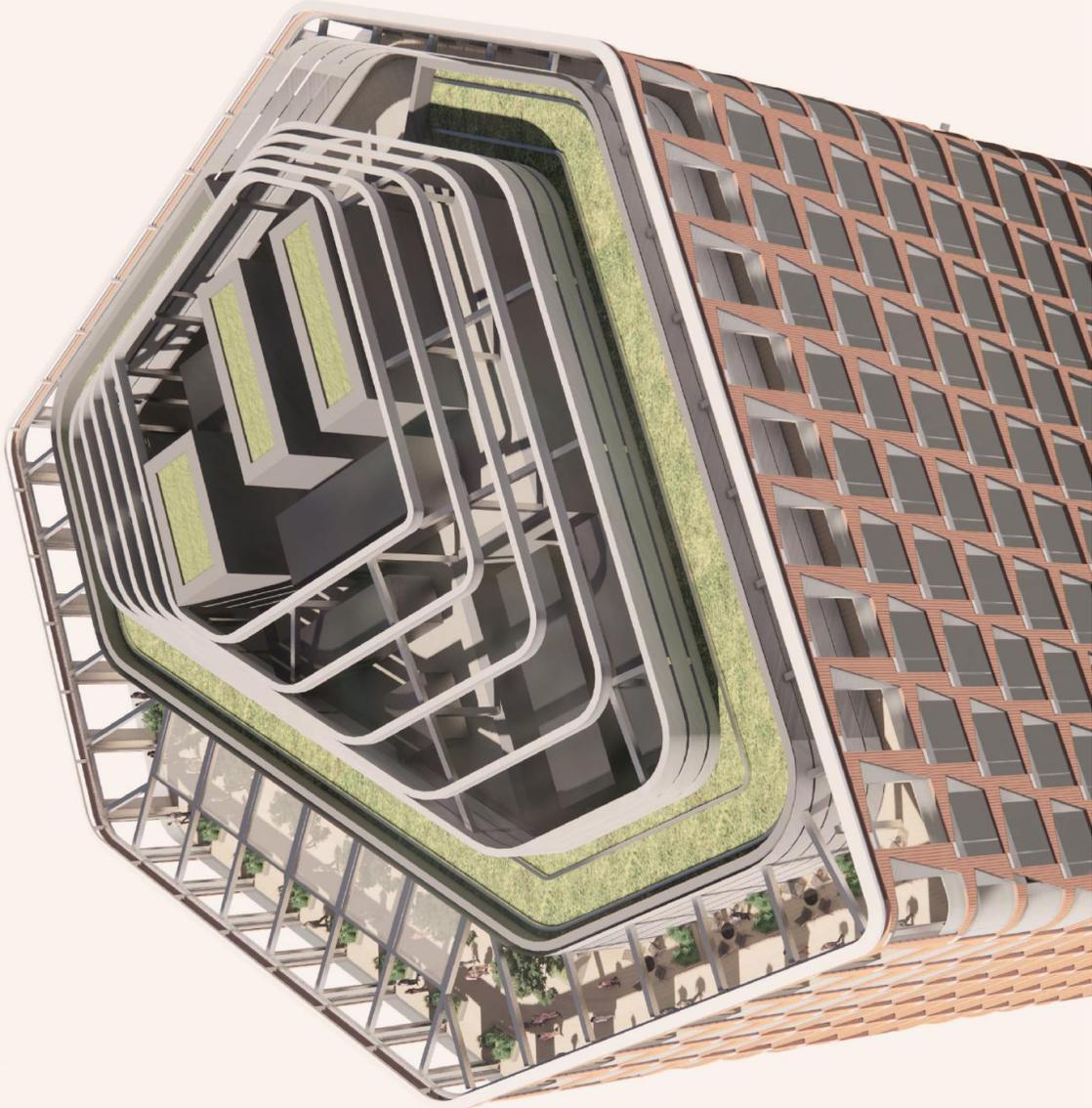


Illustration of additional plant / lift overrun

DRAFT DECISION LETTER

Address: 5 Kingdom Street, London,

Proposal: Erection of a mixed-use development comprising ground floor (at Kingdom Street level) plus 19 storeys to provide offices (B1a) and retail (A1/A3) plus plant and amenity areas at roof level. Three floors below Kingdom Street delivered in phases to provide an auditorium (Sui Generis), and a flexible mix of business (B1a), retail (A1/A3/Sui Generis), sport and leisure (D2) and exhibition/conference (D1/Sui Generis) uses within the former 'Crossrail box'. New outdoor terraces adjacent to railway at basement level; creation of a new pedestrian and cycle link between Harrow Road and Kingdom Street including internal and external garden and landscaping; and associated works.

Reference: 19/03673/FULL

Plan Nos: 606_07_001 Rev P2; 606_07_002 Rev P2; 606_07_003 Rev P2; 606_07_004 Rev P2; 606_07_010 Rev P2; 606_07_011 Rev P2; 606_07_012 Rev P2; 606_07_013 Rev P2; 606_07_100 Rev P2; 606_07_101 Rev P2; 606_07_102 Rev P2; 606_07_103 Rev P2; 606_07_104 Rev P2; 606_07_105 Rev P2; 606_07_111 Rev P2; 606_07_119 Rev P2; 606_07_123 Rev P2; 606_07_124 Rev P2; 606_07_200 Rev P2; 606_07_201 Rev P2; 606_07_202 Rev P2; 606_07_203 Rev P2; 606_07_204 Rev P2; 606_07_205 Rev P2; 606_07_206 Rev P2; 606_07_207 Rev P2; 606_07_208 Rev P2; 606_07_209 Rev P2; 606_07_210 Rev P2; 606_07_211 Rev P2; 606_07_212 Rev P2; 606_07_213 Rev P2; 606_07_214 Rev P2; 606_07_215 Rev P2; 606_07_216 Rev P2; 606_07_300 Rev P2; 606_07_301 Rev P2; 606_07_302 Rev P2; 606_07_400 Rev P2; 606_07_401 Rev P2; 606_07_402 Rev P2; 606_07_403 Rev P2; 606_07_404 Rev P2; 606_07_405 Rev P2; 606_07_406 Rev P2; 606_07_407 Rev P2; 606_07_408 Rev P2.

For information only: Design and Access Statement by Allies and Morrison dated July 2020; Covering Letter by CBRE dated 3 May 2019; Planning Statement by CBRE dated July 2020; CIL form by CBRE dated July 2020; Energy Assessment by Ramboll dated July 2020; Operational Management Framework by M3 dated July 2020; Sustainability Statement by TFT dated 25 April 2019 and Addendum dated July 2020; Office Market Assessment by CBRE dated April 2019; Residential Site Search Assessment by CBRE dated 15 April 2019; Statement of Community Involvement by Kanda dated April 2019; Maximising the Positive Impacts of Development by British Land dated April 2019; Financial Viability Assessment by DS2 LLP dated May 2019; Television Interference Desk Based Report by Pager Power dated April 2019; Financial Viability Assessment by DS2 dated July 2020; Fire Statement by The Fire Surgery dated July 2020.

For information only: Environmental Impact Assessment by CBRE dated April 2019 and Addendum dated July 2020 including: Environmental Statement Vol I and II by CBRE dated April 2019 and Addendum dated July 2020; Townscape, Heritage & Visual Impact Assessment by Tavernor Consultancy dated April 2019 and Addendum dated July 2020; EIA Scoping Report by CBRE dated April 2019; Scoping Opinion and Subsequent Correspondence dated April 2019; Historic Environment (Archaeological) Assessment by MOLA dated April 2019; Phase I Environmental Assessment - Ground Conditions and Contamination by CBRE dated

April 2019; Transport Assessment by Sweco dated 24 April 2019 and Addendum dated July 2020; Travel Plan by Sweco dated 24 April 2019; Delivery, Servicing and Waste Management Plan by Sweco dated 24 April 2019 and Addendum dated July 2020; Flood Risk Assessment (inc drainage) by Ramboll dated 18 April 2019; Westminster SUDS proforma by Ramboll dated 18 April 2019; Ecological Impact Assessment by Lloyd Bore Ltd dated 24 April 2019; Air Quality Assessment by Ramboll dated 18 April 2019 and Addendum dated July 2020; Noise and Vibration Impact Assessment by Scotch Partners LLP dated 8 April 2019 and Addendum dated July 2020; Outline Construction Environmental Management Plan by CBRE dated April 2019 and Addendum dated July 2020; Socio-Economics - Significance Thresholds by CBRE dated April 2019; Socio-Economics - Baseline Data by CBRE dated April 2019, plus Transboundary Economic Baseline Data dated July 2020; Daylight, Sunlight Assessment by GIA dated July 2020; Blomfield Mews daylight/sunlight impact assessment letter by GIA, dated January 2020).

Case Officer: Rupert Handley

Direct Tel. No. 020 7641
07866036401

Recommended Condition(s) and Reason(s)

1. To raise objection to the revised height, mass, location and design of the proposed building, which would result in less than substantial harm being caused to the setting of a number of nearby designated heritage assets, and to protected and local views including those identified within the London Views Management Framework. The identified harm is not sufficiently outweighed by the revised public benefits that the proposed development would secure.
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