



CITY OF WESTMINSTER

MINUTES

Planning (Major Applications) Sub-Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning (Major Applications) Sub-Committee** held on **Tuesday 7th September, 2021**, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Robert Rigby (Chairman), David Boothroyd, Geoff Barraclough, Jim Glen, Louise Hyams and Eoghain Murphy

1 MEMBERSHIP

- 1.1 It was noted that Councillor Eoghain Murphy had replaced Councillor Mark Shearer.

2 DECLARATIONS OF INTEREST

- 2.1 Councillor Robert Rigby explained that a week before the meeting, all six Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and e-mails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the issue had been ignored. Members will have read about the issue and comments made by correspondents in the papers read prior to the meeting.
- 2.2 Councillor Robert Rigby declared an interest in respect of Item 1 he had met with the Applicant and Officers on 22 February 2021. He further declared that some of the objectors resided in his Ward and confirmed that he had not held any discussion with the above mentioned.
- 2.3 Councillor Eoghain Murphy declared an interest in respect of Item 1 the Application site was near his Ward. He also advised that the images provided on the different viewing points for the Application had been taken from his Ward.

2.4 Councillor Jim Glen declared an interest in respect of Item 1 he was a Trustee of the Westminster Tree Trust and confirmed that his membership would not affect his views.

2.5 Councillor Boothroyd declared an interest in respect of Item 1 he knew some of the representatives who had made a representation.

3 MINUTES

3.1 That the minutes of the meeting held on 3 August 2021 be signed by the Chair as a correct record of proceedings.

4 PLANNING APPLICATIONS

1 PADDINGTON GREEN POLICE <STATION 4 HARROW ROAD LONDON W2 1XJ

Demolition and redevelopment of the site to provide three buildings, providing private and affordable residential units (Class C3), commercial uses (Class E), flexible community/affordable workspace (Class E/F.1), provision of private and public amenity space, landscaping, tree and other planting, public realm improvements throughout the site including new pedestrian and cycle links, provision of public art and play space, basement level excavation to provide associated plant, servicing and disabled car and cycle parking, connecting through to the basement of the neighbouring West End Gate development. This application is accompanied by an Environmental Impact Assessment

Additional Representations were received from WCC Affordable Housing and Partnership (Unknown), WCC Public Protection and Licensing Environmental Services (03.06.21), WCC Place Shaping and Town Planning (27.08.21) and Berkeley Group (02.09.21).

Late Representations were received from Local Resident (06.09.21), Church Street Ward Planning & Licensing Group (06.09.21), Councillor Melvyn Caplan, Councillor Lorraine Dean and Councillor Matthew Green (06.09.21)

The Presenting tabled the following amendments to the Report and Additional Conditions.

1. AMENDMENTS to s106 heads of terms on pages 13, 15 and 115 of the agenda as follows:
 - a) *“Provision of 210 affordable units on-site comprising 84 socially rented units and 126 intermediate units. The affordable units to be provided at affordability levels to be agreed with the Head of Affordable Housing and Partnerships;*
 - b) *Provision of an early-stage viability review mechanism, in accordance with policy H5 of the London Plan and the Mayor’s Affordable Housing and Viability SPG;*

- c) *Developer undertaking to use ~~best~~ **reasonable** endeavours to secure nomination rights to 68 intermediate affordable homes within the London Borough of Barnet;*
- d) *Payment of a carbon offset payment of £1,356,600.00 (index linked) payable on commencement of the development;*
- e) *Payment of a financial contribution of £200,000.00 (index linked) towards an additional cycle hire docking station or enlargement of an existing docking station within the vicinity of the site payment of commencement;*
- f) *Payment of a financial contribution of ~~£200,000.00~~ **£82,059.00** towards additional play facilities within the vicinity of the site and payment on commencement;*
- g) *A Walkways and Cycling Agreement to safeguard publicly accessible routes through the site;*
- h) *Highways works associated with the development on Paddington Green, Harrow Road and Edgware Road;*
- i) *Provision of the Affordable Workspace unit within Block I at an affordable rental level ~~prior to first occupation~~ **(50% market rent) prior to first occupation of the commercial units;***
- j) *A scheme for the relocation of **part of** the existing concrete sculptural relief panels **(extent to be agreed)** from the southern flank walls of the existing building to a location either on-site or nearby, or a combination of both, including provision of site-interpretation information at the developer's expense;*
- k) *Submit an Employment and Skills Plan and a financial contribution of £401,793.00 towards the Westminster Employment Service prior to commencement of development;*
- l) *Provision of a Car Parking Design and Management Plan for parking for the proposed development, within the WEG developments basement levels prior to first occupation;*
- m) *Provision of a Delivery and Service Plan for deliveries and servicing for the proposed development within the WEG developments basement levels prior to first occupation; and*
- n) *Payment of a financial contribution of £100,000.00 (index linked) towards Transport for London's Rain Garden project, prior to commencement of Block K;*
- o) *The cost of monitoring the s106 agreement."*

Reason for amendments.

With regards to nomination rights to off-site provision, this is entirely within LB Barnet's control. Although assurances have been given from officers at LB Barnet, the applicant and the City Council cannot control this. Applicant is rightly concerned that 'best endeavours' may commit them to something that is entirely beyond their control. Amended to 'reasonable endeavours' accordingly.

With regards to the play contribution, the amended figure is based on the City Council's Draft Planning Obligations SPD (August 2015) and adjected for inflation. Although not adopted, the evidence base supporting the playspace

contribution in this SPD is the most up to date figure the City Council has at present.

With regards to the affordable workspace obligation, the applicant has clarified the rental level. The trigger for provision of the unit has been amended to take into account phasing of the development.

With regards to relocation of the existing sculptural reliefs, it is recognised that they cannot be retained/relocated in their entirety given their size. The obligation has been amended to reflect this.

Following further comments from TfL, an additional contribution of £100,000.00 has been secured for TfL's Rain Garden project in the Joe Strummer Subway

2. AMEND last paragraph/first paragraph on pages 17 and 18 as follows:

*“The proposed buildings are named Blocks, I, J and K, in accordance with the naming convention of the blocks at the West End Green (WEG) development. Block I would be located at the western end of the site, opposite Paddington Green, this building would be 18 storeys high or approximately 65 m to the top of the rooftop plant (97.65 m AOD). The ground floor would contain affordable workspace (Class E or F.1) with active frontages to the southern and part of the north-western facades. Two flats and the entrances to the flats above would also be located at ground floor, on the north-western and eastern facades. The upper floors would contain intermediate flats to level 10 and private flats on the floors above. Block J would be located to the east of Block I, between it and Block J K. It would be 15 storeys high. Blocks J and K are connected at ground, first and second floors. The ground level of both blocks contain flexible commercial space (Class E). The first and second floors of both blocks contain 4,762 sqm office floorspace (Class E). The upper floors of Block J would contain social rent flats to level 12, with ~~private~~ **intermediate** flats on the floors above. The roof of Block J would have a roof garden for the use of residents within that block.”*

Reason for amendment.

Correct typo and factual inaccuracy.

3. AMEND last paragraph on page 45 and first paragraph on page 46 as follows:

“Located to the east of Block I and between it and Block J, K this building would be 15 storeys high or approximately 58 m to the top of the rooftop plant (90.83 m AOD). Blocks J and K are connected at ground, first and second floors. The ground level of both blocks contains 1,088 sqm GIA of flexible commercial space (Class E) with active frontages to all elevations, except for an area of plant room on the southern elevation of Block J. The first and second floors of both blocks contain 4,762 sqm GIA of office floorspace.

*The upper floors of Block J would contain social rent flats to level 12, with private **intermediate** flats on the floors above. Like Block I and the WEG mansion blocks, Block J would be constructed primarily from red GRC with bronze PPC windows, balconies and spandrels and repeats the bay pattern found on the mansion blocks. The roof of Block J would have a roof garden for the use of residents within that block.”*

Reason for amendment.

Correct typo and factual inaccuracy.

4. AMEND third paragraph on page 50 of the agenda as follows:

*“It is proposed that 126 (60%) of the affordable housing units would be provided as intermediate housing (**80 Sub-market Rent and 46 Shared Ownership**) and 84 (40%) would be social housing (Low-Cost Rent). This tenure split meets policy 9 of the City Plan.”*

Reason for amendment.

The Head of Affordable Housing and Partnerships has clarified the intermediate offer that has been negotiated with the applicant (see attached memo).

5. REPLACE condition 27 on page 145 of the agenda with the following:

“27 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens.

The design of the separating wall and/or floor should be such that the received value in the residential habitable spaces, with music playing, should be 10 dB below that measure without music events taking place, at the quietest time of day and night, measured over a period of 5 minutes and in the indices of Leq & LFMmax in the octave bands of 63 Hz & 125 Hz.

Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021).”

Reason for amendment.

Amendment to condition recommended by Environmental Health Officer.

6. REPLACE condition 37 on page 148 of the agenda with the following:

“37 *Prior to commencement of development save demolition, where required, details of a system of mechanical ventilation, incorporating appropriate air quality filtration, shall be submitted to and agreed in writing by the LPA.*

The ventilation system shall be capable of ensuring that the national Air Quality Objectives and WHO guideline levels for Nitrogen Dioxide (NO₂) and Particulate Matter (PM_{10/2.5}) are not exceeded in receptor location, and capable of meeting the internal residential noise criteria set by condition C49AA where windows are required to be kept closed due to the external noise environment

The chosen mechanical ventilation scheme must be designed to prevent overheating (as defined in CIBSE Technical Memorandum 59)

The approved system shall be installed before occupation of residential accommodation. The system shall be checked and maintained in accordance with the manufacture specification and retained unless otherwise agreed by the local planning authority.

(Note windows need to be openable to allow purge ventilation)

Reason:

To safeguard the health of future residents of the development, in accordance with policy SI 1 of the London Plan (March 2021) and policy 32 of the City Plan 2019-2040 (April 2021).”

Reason for amendment.

Amendment to condition recommended by Environmental Health Officer.

7. ADD the following condition 53 to page 151 of the agenda:

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

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

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

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

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

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

Reason:

To make sure that any contamination under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in Policy 33(E) of the City Plan 2019 - 2040 (April 2021). (R18AB)”

Reason for amendment.

Additional condition recommended by Environmental Health Officer.

8. ADD the following condition 54 to the agenda:

“54 (1) *Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the commercial units 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 in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.*

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the commercial units 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 in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
 - (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
 - (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
 - (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
 - (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
 - (f) The proposed maximum noise level to be emitted by the activity.
- (C47AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R47AC)”

Reason for amendment.

Additional condition recommended by Environmental Health Officer.

9. ADD the following condition 55 to the agenda:

“55 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the sound insulation will be sufficient to protect residential from external noise and that the development will comply with the Council's noise criteria set out in Conditions 27 and 54 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AC)”

Reason for amendment.

Additional condition recommended by Environmental Health Officer.

10 ADD the attached “*Technical Addendum - Daylight and Sunlight Losses Beyond WEG Site to Existing Residents*” to the end of the officer’s report.

Reason for amendment.

To provide further information on high/major light loss levels to sites beyond the applicant’s control.

11 ADD the following condition 56 to the agenda:

56. ***Pre-Commencement Condition.*** *Prior to commencement of development, you must apply to us (in liaison with Transport for London) for approval of detailed drawings of a hard and soft landscaping scheme for those parts of the application site on Edgware and Harrow Roads. 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 landscaping and planting within one year of completing the development (or within any other time limit we agree to in writing). If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within five years of planting them, you must replace them with trees of a similar size and species.*

Reason:

To provide green and sustainable infrastructure, in accordance with policies T1, T2 and T4 of the London Plan (March 2021)”.

Reason for amendment.

Subject to applicant's agreement to pre-commencement condition, additional condition requested by TfL to ensure that the developments landscaping does not prejudice their rain garden project

12. ADD the following condition 57 to the agenda:

"57 At least 10% of the residential units hereby approved shall be wheelchair accessible, with the remaining 90% being wheelchair adaptable. These proportions shall apply across all housing tenures and be maintained as such for the lifetime of the development.

Reason:

To ensure the residential units are accessible to residents in wheelchairs, in accordance with policy D7 of the London Plan (March 2021)".

Reason for amendment.

Condition added to ensure continued provision of accessible residential units

13. ADD the following condition 58 to the agenda:

"58 The development shall be carried out and maintained in accordance with the Circular Economy Statement by WSP dated July 2021 for the lifetime of the development.

Reason:

To promote efficient resource use and waste minimisation, in accordance with policy SI7 of the London Plan (March 2021)."

Reason for amendment.

Condition added to secure efficient resource use and waste minimisation.

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- ADD the following condition 59 to the agenda:

"59 Prior to commencement of development, you must apply to us for a Sustainable Urban Drainage Scheme (SUDs) for the application site that aims to achieve greenfield run-off rates and ensures that surface water run-off is managed as close to its source as possible. You must then carry out the SUDS in accordance with the approved details and maintain them for the lifetime of the development.

Reason:

To ensure that surface water run-off from the site is mitigated at source, in accordance with policy SI 13 of the London Plan (March 2021)."

Reason for amendment.

Condition added to ensure that run-off from the site is minimised, does not contribute to flooding off-site and does not overwhelm existing infrastructure.

Kay Buxton addressed the Sub-Committee in support of the application.

Duncan Matthews addressed the Sub-Committee in support to the application.

RESOLVED: (For Councillor Robert Rigby: **Against** Councillors Eoghain Murphy, Jim Glen, Louise Hyams, Geoff Barraclough and David Boothroyd).

That Conditional permission be refused, and the Application be referred to the Mayor of London for call in and the reasons for refusal be agreed with the Chair.

Reasons

1. Height of the proposed 32-storey tower and the substantial harm to designated heritage assets contrary to policies S41 and 38,39 and 40.
2. Loss of daylight and sunlight as a result of the proposed development contrary to policies 7 and 33 in the City Plan.
3. Standard of the residential accommodation being provided – contrary to policy S12 in the City Plan

The Meeting ended at 8.50 pm

CHAIRMAN: _____

DATE _____