

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 21 July 2020	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>31 - 32 Soho Square, 65-66 Frith Street, 22-25 Dean Street and 10 Chapone Place, W1D 3AP,</b>		
<b>Proposal</b>	Demolition of 31- 32 Soho Square behind partially retained facade and 65-66 Frith Street and redevelopment to provide a building comprising 2 x basements, ground and six upper floors; alterations and works to 22-25 Dean Street including the erection of a rear extension at 1st and 2nd floors, alterations and works to 10 Chapone Place including the erection of an extension at 3rd floor level. Proposals include the enlargement and improvement to Chapone Place to provide a new public realm and route through the site linking Soho Square and Dean Street. Proposals will provide new, reconfigured and additional office (Class B1), flexible retail (Class A1)/restaurant (Class A3), retail (Class A1), enlarged restaurant (Class A3) and flexible Non- residential institutions (Class D1) /Assembly and leisure (Class D2) uses.		
<b>Agent</b>	CBRE		
<b>On behalf of</b>	Royal London UK Real Estate Fund		
<b>Registered Number</b>	19/04164/FULL	<b>Date amended/ completed</b>	25 March 2020
<b>Date Application Received</b>	29 May 2019		
<b>Historic Building Grade</b>	Unlisted Buildings		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

<p>1. Grant conditional permission subject to a S106 legal agreement to secure the following:</p> <ul style="list-style-type: none"> <li>• Carbon offset payment of £ 24,890 (index linked) to be paid on commencement of development.</li> <li>• All highway works immediately surrounding the site required for the development to occur, including changes works to Chapone Place and associated work (legal, administrative and physical) to be agreed prior to commencement of development and highway works to be completed prior to occupation of any of the new floorspace.</li> <li>• A financial contribution towards employment, training and skills of £77,589 (index linked) payable on commencement of development.</li> <li>• Costs of monitoring the S106 agreement.</li> </ul>
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- If the S106 legal agreement has not been completed within eight weeks of the date of this resolution, then:
  - 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;
  - The Director of Place Shaping and Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

## 2 SUMMARY

The application site comprises four buildings located close to the south western corner of Soho Square. Permission is sought for the complete demolition and redevelopment of 65-66 Frith Street and redevelopment of 31-32 Soho Square behind a partially retained façade with extensions to 22-25 Dean Street and 10 Chapone Place, to provide a mixed- use office led scheme. The proposal includes a new access from Soho Square into Chapone Place in the centre of the site, which will provide a new pedestrian access between Soho Square and Dean Street.

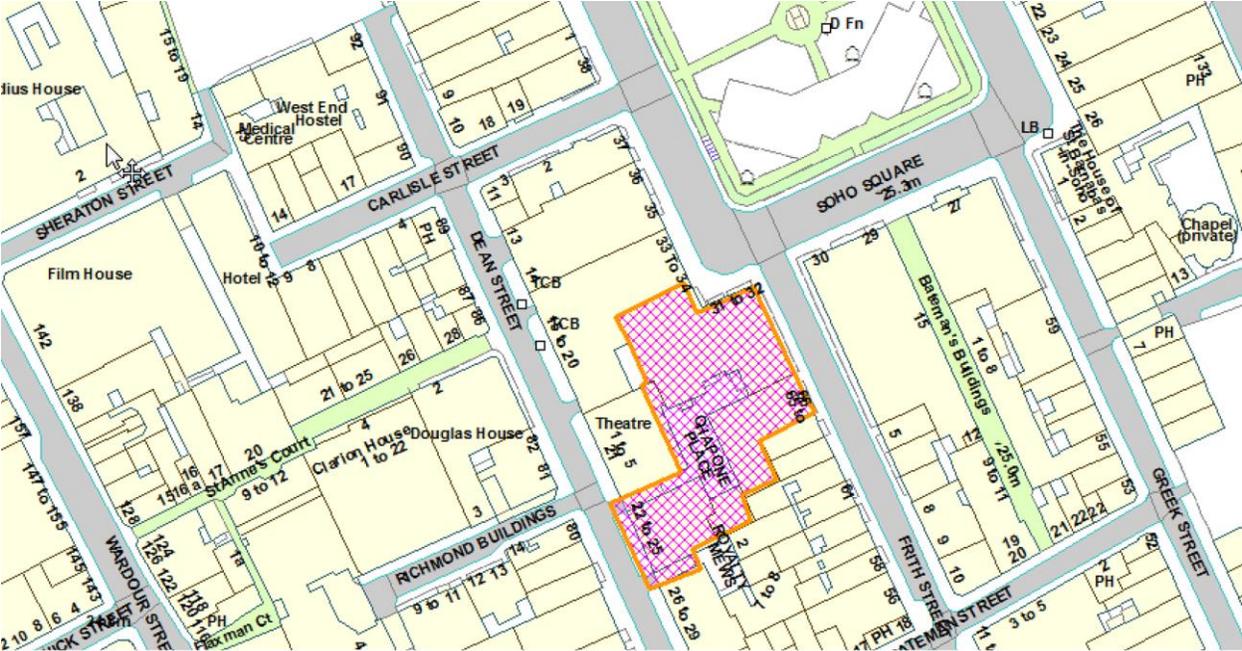
The key issues for consideration are:

- The acceptability of the scheme in townscape and design terms, particularly the partial demolition of 31-32 Soho Square and the impact of the alterations on the character and appearance of the Soho Conservation Area
- The land use implications
- The proposed works to Chapone Place including the impact on residential amenity.

Substantial objections have been received which are addressed in the main body of this report. The principle reason for objection is that 31-32 Soho Square should be retained as the building forms part of Soho's distinctive heritage and culture, due to its occupancy by 20<sup>th</sup> Century Fox and its role in the film industry and the importance of the building and its setting within Soho Square.

The lawful use of 31-32 Soho Square is however offices (Class B1) which will be replaced as part of the scheme. Permission could not reasonably be withheld for the development in an effort to prevent an office tenant vacating the site. Since the original submission significant revisions have been made to the scheme including retaining the majority of the façade of 31-32 Soho Square. It is considered that the development would result in some harm to the townscape, however this is less than substantial and is outweighed by the public benefits including improvements to Chapone Place which are part of a high quality design that would result in a commercial development appropriate to the Soho Conservation Area. Subject to a number of safeguarding conditions the application is considered acceptable in other respects

3 LOCATION PLAN



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4 PHOTOGRAPHS



65-66 Frith Street and 31-32 Soho Square looking north on Frith Street.



31-32 Soho Square looking south on Soho Square.

## 5 CONSULTATIONS

(Original Application which involved complete demolition of 31-32 Soho Square and redevelopment).

### SOHO SOCIETY

Objection on heritage, design, environmental and economic grounds

### HISTORIC ENGLAND (LISTED BUILDS/CON AREAS)

Do not wish to comment

### HIGHWAYS PLANNING MANAGER

No objection; welcome the new pedestrian link, and cycle parking, servicing is acceptable subject to a Servicing Management Plan.

### WASTE PROJECT OFFICER

Request further details to be secured by condition.

### ENVIRONMENTAL SCIENCES

Objection: Query the noise assessment for the commercial properties, Construction noise and vibration assessment should be provided, Query the air quality assessment, The termination point of the generator and kitchen extract system should be clearly marked on the plans.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 263

Total No. of replies:

No. of objections: 47

No. in support: 0

47 Objections received on some or all of the following grounds:

#### Land Use

Loss of an important part of film and cinema heritage of Soho.

#### Design:

31-32 Soho Square is a striking iconic piece of 1930's architecture with connections to Soho, replacement with a bland development should be resisted;

Harm to the Soho Conservation Area;

The existing buildings are in good condition and should be retained and refurbished;

Design is inappropriate for Soho Square and harmful to surrounding listed buildings;

Materials are out of keeping with the area;

Building is worthy of listing ;

Unacceptable height bulk and mass.

#### Amenity

Loss of daylight/ sunlight

Noise

Enclosure

Overlooking  
Smells  
Security

Other

The development would result in the loss of a recording studio an established creative industry in Soho.

A construction management statement should be submitted dealing with noise and vibration, including piling solutions and methods of demolition

Alterations to Chapone Place are ill thought out, would attract anti social behaviour and would not contribute to the area

Lengthy construction will have a negative impact on local residents and business

Adverse environmental impact associated with demolition

Noise nuisance in Chapone Place to residents

Increased security risk to residents at Townsend House 22-25 Dean Street from activity in Chapone Place

Relocation of the entrance door to flats at Townsend House 22-25 Dean Street from facing onto Dean Street to the side at the entrance to Chapone Place would increase the risk of crime.

No level access is provided.

Congregation of smokers in Chapone Place and adverse impact on Public Health.

Noise from restuarants/ retail unts/deliveries

Increased traffic

Gates to Chapone Place should be locked outside normal office hours

Lack of security to Chapone Place

Light pollution

(Revised scheme, including part retention of façade of 31-32 Soho Square, reduction in height of the redevelopment scheme by 1 floor, amended roof profile, detailed design changes )

SOHO SOCIETY

Objection on the following grounds:

The whole of 31-32 Soho Square should be retained;

31-32 Soho Square is of historical importance to the heritage and culture of Soho due to its occupancy by Twentieth Century Fox and its role n the film industry and the architectural merits of the building;.

Demolition of this unlisted building of merit in the Consevation Area should be resisted, Limited public benefits could be delivered without demolition;

Concern over the demolition and redevelopment of the existing building in relation to the environmental cost;

Noise nuisance from construction;

Detailed design is unacceptable, the existing, stone-faced, 'attic' storey at fourth floor level rebuilt and upwardly stretched is an inelegant solution leading to an overbearing bulky and uniform mansard roof;

Overdominance of the proposed mansard and its detailing;

Weight should be given to the emerging Soho Neighbourhood Plan which seeks to restrain large scale developments.

**ENVIRONMENTAL SCIENCES**

Generator flue should be relocated;

Air Quality Neutral Assessment is acceptable;

Construction impacts will be confirmed in a submitted SEMP as required to comply with the COCP;

Based on a noise impact assessment conditions are recommended to ensure that noise from the commercial premises are at an acceptable level

Recommend a condition to ensure suitable mitigation measures are employed during construction

Kitchen extract at 22-25 Dean Street should discharge at high level.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 263

Total No. of replies: 119

No. of objections: 119

No. in support: 0

119 objections on some or all of the following grounds;

**Land Use:**

Loss of part of Soho's cultural heritage

A key part of the British Film industry will be lost

No need for additional office space in Soho

The benefits of new office floorspace needs to be given appropriate weight in the current economic circumstances and the very significant change in demand arising from the Covid 19 crisis. Accordingly reduced weight should be given to benefits. Significant weight should be given to protection of the creative industries and specifically film.

Additional retail is not required

**Design**

Demolition of the iconic 20<sup>th</sup> Century Fox building should be resisted.

The replacement building is out of scale and jarring even with facadism.

The existing building should be retained and refurbished .

The new building would not fit in with surrounding listed buildings including 63-64 Frith Street.

The architectural significance of Soho Square should be protected.

Large windows at Soho Square and massing of the dormer are out of keeping with the area.

Retaining the façade of 31-32 Soho Square would transform the building into a pastiche.

The new building is too big for the Square and overwhelms the buildings around it.

**Amenity**

Noise nuisance resulting from increased activity in Chapone Place.

Relocation of residential entrance at 22-25 Dean Street from Dean Street to in Chapone Place is unacceptable

Loss of light

Loss of privacy

Other:

A further building project in Soho would add to inconvenience in the surrounding area. Major construction works immediately adjacent to a sound recording studio would result noise levels that would prevent the studio from being able to operate. Loss of the recording studio an arts and cultural use is contrary to City City Plan policy S1 and S22 ,UDP policy TACE 5 and London Plan policy 4.6. The proposed basement is contrary to City Plan policy CM28.1.

The building should be refurbished without the ecological cost of partial demolition and construction.

Air Quality assessment should include transport assessments

Noise assessments for the A1/A3 uses do not include LAmax levels

Conditions should be imposed controlling hours of use of terraces, servicing and delivery, hours of opening, no music to be played in the external seating areas, hours of access to the external seating areas, kitchen extraction.

Oppose the new archway entrance from Soho Square. The demise of the square should be retained and protected. The entrance will enable further anti-social behaviour

Adverse impact on traffic due to increased deliveries and noise pollution.

Potential increase in anti social behaviour in the evenings.

Noise Impact Assessment is deficient

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6 BACKGROUND INFORMATION

### 6.1 The Application Site

The site comprises 4 buildings within the Soho Conservation Area, situated on the south western corner of Soho Square with frontages onto Frith Street and Dean Street. Chapone Place in the centre of the site is a small cul-de-sac accessed from Dean Street. The buildings on the site are as follows:

- i) 31-32 Soho Square, which comprises basement, ground and 6 upper floors occupied by 20th Century Fox as offices (Class B1). At roof level a brick built plant enclosure and other roof level structures sit above a mansard storey below.
- ii) 65-66 Frith Street also comprises basement, ground and 6 upper floors. The 6<sup>th</sup> floor and plant room are set back significantly from the principal Frith Street elevation. A two storey extension at the rear fronts onto Chapone Place. The building is also in office use (Class B1).
- iii) 22-25 Dean Street, is a mixed use building comprising basement ground and 6 upper floors. The basement is in use as an acting studio (Class D1), a restaurant occupies the ground floor with offices (Class B1) on the first and 2<sup>nd</sup> floors and 12 residential flats on the on the 3<sup>rd</sup> to 6<sup>th</sup> floors. An arched vehicle passageway from Dean Street provides access into and out of Chapone Place, which is located between the Dean Street and Frith Street buildings.
- iv) 10 Chapone Place is a small 3 storey Mews building in use as offices (Class B1).

None of the buildings are listed. No 31-32 Soho Square is identified in the Soho Conservation Area audit as being an unlisted building of merit. The acclaimed botanist Sir Joseph Banks lived in former town house on the site.

The surrounding area is mixed-use character with a diverse range of commercial, retail, entertainment, cultural and residential uses. As well as the 12 flats on the upper floors of 22-25 Dean Street, there are residential dwellings in proximity to this site above the Soho Theatre (at 3rd –5th floor levels), on the upper floors of 63 Frith Street (to the south east of the application site) and at 2 Royalty Mews (to the south of the application site). The Soho Theatre at 21 Dean Street, which faces at its rear onto Chapone Place, immediately adjoins this application site to the west.

The height, massing and character of the buildings in the immediate vicinity of the site varies significantly between Dean Street and Frith Street, and Soho Square.

## 6.2 Recent Relevant History

- i) 31-32 Soho Square, none directly relevant
- iii) 65-66 Frith Street

Planning permission was granted on the 29th April 2016 for the following development: 'Erection of extensions at rear second and third floor levels and at main roof level to create a new sixth floor in connection with the use of part basement and ground and the first to new sixth floor levels as eleven residential units (Class C3). Use of part lower ground and ground floors as restaurant accommodation (Class A3) and installation of a full height extract duct. Creation of terraces and balconies at second, third, fourth, fifth and sixth floor levels. Installation of plant at rear third floor level with associated screening and at main roof level, photovoltaic cells and alterations to the shopfront, including a bridge over the existing lightwell ( RN 14/09094/FULL)'

- iv) 22- 25 Dean Street

The property has an extensive planning history. The existing building was originally constructed in 1965 further to the grant of planning permission for construction of a basement car park; ground floor shop or showroom use; first and second floor office use and residential accommodation at third, fourth and fifth floor levels.

An application for a new extension to the rear at 1st and 2nd floor levels to provide new office areas was granted planning permission in July 1988 ( RN 88/00606/FULL). A certificate of lawfulness for the existing use of the ground floor as a Class A3 restaurant was granted in May 1995 (RN 95/02240/CLEUD).

Planning permission was granted for alterations at sixth floor level to create a penthouse duplex in April 2002 (RN 01/09438/FULL).

Permission was then approved in August 2011 for use of the basement of Townsend House for an acting studio (RN 11/05694/FULL). The decision notice identifies the acting studio as falling within the D1 (Non-Residential Institutions) Use Class. Condition 5 of this planning permission specifically limits the approved use to acting studio purposes only.

- v) 10 Chapone Place

An application for the erection of a roof extension in connection with the provision of additional Class B1 (office) floorspace was permitted in November 2003 (RN 03/06557/FULL). This approved extension has not however been constructed.

## 7 THE PROPOSAL

The application involves part redevelopment and part extension of buildings to provide an office (Class B1) led, mixed use scheme including retail (Class A1), restaurant (Class A3) and Non-residential institution (Class D1) and or Assembly and Leisure (Class D2) uses. The existing and proposed floorspace figures are set out in the table below.

**Land Use Table**

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
<b>Office (Class B1)</b>	5740	7058	+1318
<b>Retail A1/Restaurant A3</b>	0	827	+827
<b>Residential (C3)</b>	644	640	-4
<b>Non residential institution (Class D1)/ Assembly and Leisure (Class D2)</b>	282	248	-34
<b>Retail (Class A1)</b>	0	85	+85
<b>Restaurant (Class A3)</b>	281	445	+164
<b>Substation</b>	0	60	+60
<b>Total</b>	6947	9360	+2413

The key element of the proposed scheme are:

- i ) the demolition and redevelopment of No's 31-32 Soho Square (behind a partially retained façade ) and 65-66 Frith Street to provide buildings of 2 basements ground and six upper floors for use primarily as offices ( Class B1). The proposed office accommodation has large floorplates but has the flexibility for smaller lettings depending on requirements;
- ii) rear 1st and 2<sup>nd</sup> floor extensions at 22-25 Dean Street and a 2<sup>nd</sup> floor roof extension to 10 Chapone Place providing further office floorspace suited to small and medium sized businesses;
- iii) new retail (Class A1) or restaurant (Class A3) floorspace at basement /ground floors of the new buildings at 31-32 Soho Square and 65-66 Frith Street opening onto Chapone Place in the centre of the site;
- iv)the creation of a new east -west pedestrian route through Chapone Place; linking Soho Square and Dean Street. The landscaping of Chapone Place an existing service yard. This is influenced by the former home of the pre-eminent botanist Sir Joseph Banks who lived in one of the former town houses on the site.

v) relocation of the acting studio from 22-25 Dean Street to the basement of 31-32 Soho Square, and the provision of Class D1 or D2 floorspace.

Further to consultation responses and negotiations with Officer's the application has been revised from the original submission. The scheme initially involved the complete demolition and redevelopment of No 31-32 Soho Square and the replacement building included seven upper floors. The amended application retains part of the existing façade of 31-32 Soho Square and the new building at 65-66 Frith Street and 31-32 Soho Square has been reduced by one upper storey. The roof profile has been significantly changed from a tiered approach to a slate clad mansard type roof. In addition to these amendments detailed design changes include introducing plot widths on Frith Street, retention of eight-over-eight sash windows within the retained façade, and the rebuilding of a portico on the Soho Square frontage.

## **8 DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### Offices (Class B1)

The site lies within the Core CAZ where City Policy S6 identifies as being an appropriate location for a range of commercial and cultural uses.

The proposed development will result in the provision of increased and improved new office accommodation. No's 65-66 Frith Street and 31-32 Soho Square are both office buildings that will be redeveloped. The new office reception/ entrance will be on the corner of Frith Street and Soho Square. The proposed office accommodation will be located at part basement and part ground to 6<sup>th</sup> floor levels of 65-66 Frith Street and 31-32 Soho Square, 1<sup>st</sup> and 2<sup>nd</sup> floors of 22-25 Dean Street and the 1<sup>st</sup> -3<sup>rd</sup> floors of 10 Chapone Place.

The proposed development will provide up to 7058 m<sup>2</sup> of office (Class B1) floorspace. New office floorspace is encouraged within the Core CAZ to enhance Westminster's strategic role in London's office sector, and support London's global competitiveness.

City Plan policy S20 states:

'The council will work to exceed the target of additional B1 office floorspace capacity for at least 58,000 new jobs (774,000 sq. m B1 office floorspace) between 2016/17 and 2036/37, an average of 2,900 new jobs per annum. The provision of increased commercial offices accords with the City Council's strategic objectives and policies. An office led scheme is considered to be appropriate to the site and this part of the West End. The scheme will contribute to the Core CAZ being a competitive business location. The increase in employment and jobs as part of the scheme is in accordance with City Plan and London Plan policies would be a benefit. The improved quality and increase in quantum of office floorspace is supported in land use terms.

31-32 Soho Square has had a longstanding occupation by Twentieth Century Fox as the tenant of the applicant who is the freeholder. The lease they have on the building expires in September 2021 and at the same time in March 2019 Twentieth Century Fox were acquired by Disney. Over recent times and presently Disney and employees are vacating the building in advance of the lease expiry and are not extending their lease. The building is currently in low occupation and the applicant advises that employees are being relocated to offices in Hammersmith.

Substantial objections have been received on the grounds that the redevelopment of the site would mean that an important historic association with the film British Film industry would be lost and that permission should be refused because a vital part of Soho's heritage and culture would be eroded. Whilst the concerns that an association with the film industry should be maintained on the site are fully understood, the lawful use of the building is offices ( Class B1). The scheme will reprovide flexible office accommodation. Given the circumstances permission could not reasonably be withheld on the basis that the existing office occupant will be vacating the site.

#### Mixed Use

Policy S1 is applicable for development within the Core CAZ, the Named Street, and Opportunity Areas, which includes net additional B1 office floorspace. Residential is required where the increase in office floorspace is more than 30 % of the existing building (for all uses). In this case the increase in offices of 1318 m2. This is an increase of 15.9 % in relation to the existing building. There is therefore no policy requirement to provide residential.

#### Retail (Class A1)

The scheme will provide two ground floor retail (Class A1) units within Chapone Place with the option of another larger basement and ground floor unit at the northern end of Chapone Place and part of the ground and basement of 65- 66 Frith Street also being used for retail purposes. The dual alternative use of the units fronting onto Chapone Place as either retail or restaurant could potentially result in the provision of 827 m2 of retail floorspace .

The site is within the Core CAZ and the West End Special Policy Area (WERSPA). City Plan policy S6 states the Core CAZ is an appropriate location for a range of commercial uses. The policy also states that retail floorspace will be encouraged throughout the area.

City Plan policy S7 seeks to support the West End Special Retail Policy Area through recognising the unique status and offer of the West End through improving retail space and accommodating for appropriate retail growth. City Plan Policy S21 states that new retail floorspace will be directed to the designated shopping centres. The retail element of the proposed development accords with national and strategic policies for town centre uses, and with Westminster's current and emerging policies.

A number of objections have been received on the basis that there is no demand for retail in the area, and retail use would be harmful to the character of the area. The provision of retail uses fronting onto Chapone Place could enliven an under-utilised part of Soho currently used as a back-of house service yard. Improvements to the Public Realm combined with the active frontage to Chapone Place and a new pedestrian route will transform this area. The land use objection to retail is not considered sustainable as the provision of retail accords with adopted City Plan Policies and the objectives for WESRPA.

Due to the potential impact of delivery and servicing, it is recommended that a condition is attached to ensure that the retail (Class A1) is not used as a food supermarket.

#### Restaurants (Class A3)

City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses including restaurants. The TACE policies are on a sliding scale whereby developments where TACE 8 is applicable would be generally permissible and where TACE 10 (gross floorspace exceeds 500 m2) is applicable only in exceptional circumstances. City Plan policy S24 requires proposals for

new entertainment uses to demonstrate that they are appropriate in terms of type and size of use, scale of activity, relationship to any concentrations of entertainment uses and the cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. The proposal states that new large- scale entertainment uses of over 500 m2 floorspace will not generally be appropriate within Westminster.

The policies aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of various parts of the City while acknowledging that they provide important services in the City and contribute to its role as an entertainment centre of national and international importance.

On the site at present there is an existing restaurant which occupies the ground floor of 22-25 Dean Street. The application seeks to provide additional space to this restaurant at basement level. As set out in the planning history permission was granted in 2016 for the use of part of the ground and basement floors of 65-66 Frith Street as a restaurant of 480 m2 with 146 covers. This space which has previously been permitted as restaurant floorspace is now proposed to be used as flexible retail ( Class A1) or restaurant (Class A3) floorspace.

The scheme involves the provision of a further flexible retail ( A1) restaurant (A3) unit located within the new building on the site of 31-32 Soho Square and 65-66 Frith Street at ground and basement levels fronting onto Chapone Place. In total the development could result in the provision of three separate restaurant units. The majority of the floorspace is at basement level. The units would all have active frontages onto Chapone Place.

Objections have been received from residents at Dean Street and Frith Street overlooking the site, that the the increased activity would result in significant noise nuisance to residential flats on the upper floors surrounding the yard. Their concerns are that the underused service yard provides relief for the residential flats from the busy street frontages of Dean Street and Frith Street. Objections are made on the grounds that the site lies within the heart of the West End Stress Area where entertainment uses should be restricted. The concerns are that mechanical plant and customer activity would result in noise nuisance, in addition the likelihood of noise nuisance increases because of the scope for external seating. Furthermore that Chapone Place could be a magnet for anti social behaviour.

The proposal would undoubtedly transform this part of the site. The applicant considers this to be a key benefit in which the combination of the landscaping works and active frontages would result in an attractive destination. The provision of service uses is acknowledged and the landscaping would undoubtedly result in significant physical improvements. The new pedestrian route through Chapone Place linking Soho Square and Dean Street is also welcomed.

The acceptability and success of the proposed changes to Chapone Place will ultimately be dependent upon how the space is managed. The proposal is that it would be gated on Dean Street and Soho Square, with public access on Monday to Saturday between 06.30 and 00.00 and Sunday 07.30 and 23.00. Whilst the concerns from surrounding residents regarding noise nuisance are understood, it is considered that they would only really be justified if the area was to be used either intensively late in the evening or for vertical drinking. If however the main focus of use of the space is during the day and early evening with limited external seating noise nuisance concerns are unlikely to materialise.

The operational details can be secured as part of Operational Management Plans. On the basis that the space is well managed it could be a significant benefit to the locality. It is recommended that all the uses fronting onto Chapone Place are required to adhere to Operational Management Plans which will be secured by condition.

Other more specific objections relating to noise breakout from within the commercial units or from mechanical plant are not considered sustainable. Acoustic reports has been provided and Environmental Health raise no objection subject to the imposition of a number of conditions which will control the operational activities. With relevant safeguarding conditions in place it is considered that the proposed restaurants would not have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality. The proposed restaurant uses are considered to be in accordance with UDP Policy TACE10 and City Plan Policy S24.

### Non-residential Institution (D1) Assembly and Lesisure (D2) uses.

The scheme seeks to use an area at 2<sup>nd</sup> basement level at 31-32 Soho Square and 65-66 Dean Street building for flexible occupation for D1 (Non residential Intitution) or Class D2 Asembly and Leisure purposes.

The basement of 22-25 Dean Street is currently occupied by Giles Foreman Centre for Acting. This acting studio took occupation of this space, further to permission being granted in 2011. The college provides private tuition and offers a number of courses. The applicant advises that they are currently in discussions with regards to their relocation on the site. The existing acting studio is a social and community facility. Loss of this use would be contrary to UDP policies SOC1 and SOC3. It is therefore recommended that the educational use is secured by condition. Other uses within Class D1 or D2 would only be considered acceptable in the future if it is demonstrated that there is no prospect of the space being used as an alternative social and community facility.

## **8.2 Townscape and Design**

### **Urban design and conservation issues**

The site lies in the Soho Conservation Area and includes buildings on Soho Square, Frith Street, Dean Street and Chapone Place. This is a sensitive site, in one of the most historic squares in the City of Westminster, and adjacent to a number of important listed buildings. These include: 36 and 37 Soho Square (West side), 29-31 Soho Square (South side), 58-64 Frith Street (West side), 5-7 Frith Street (East side).

It also lies within the Mayor's London Views Management Framework Protected Vista 2B.1, which is the view from Parliament Hill (oak tree) to the Palace of Westminster.

### **Century House, 31-32 Soho Square**

This is a neo-Georgian building designed by Gordon Jeeves in the inter war period. It has a long association with the Soho film industry having been occupied by Twentieth Century Fox since 1937, but they have now largely vacated the building. Until recently the building had a distinctive, circular, neon '20<sup>th</sup> Century Fox' sign at high level facing north onto Soho Square. This has now been removed.

Historic England recently considered a request to include the building on the statutory list, but decided that it was not of sufficient special architectural and historic interest to justify listing. The

Historic England report with respect to listing states:

Degree of architectural interest:

- the neo-Georgian design of the principal elevations, although fitting for its location on the corner of Soho Square, does not display sufficient architectural distinction or detailing to distinguish it from other similar office buildings of this date and style;
- the internal decoration, fixtures and fittings do not demonstrate particularly high levels of quality, rarity or survival.

Degree of historic interest:

- the association with the film industry in Soho, particularly with the internationally renowned Twentieth Century Fox Film Company, although longstanding, is not of sufficient interest in a national context to compensate for its degree of architectural interest as a relatively typical inter-war office development;
- the activities which occurred in Twentieth Century House, although essential to the co-ordination of the company's work, were principally more standardised commercial and administrative practices associated with the wider film industry which do not have the same level of historic interest demonstrated by those listed buildings associated with the film industry that better reflect specialist activities directly related to film making and production.

Degree of group value:

- the group association with several other listed buildings bordering Soho Square and its contribution to the conservation area it stands in is acknowledged but does not confer special interest.

Century House makes a positive contribution to the Soho Conservation Area, as stated in the City Council's Soho Conservation Area Audit. It is an undesignated heritage asset. The building relates to the architectural character of this side of Soho Square, which is characterised by Georgian and neo-Georgian buildings, including the adjoining 33-34 Soho Square. It also relates well to, and contributes positively to the settings of, the grade 2 listed building at 29-30 Soho Square. There is a strong presumption to retain Century House because of its contribution to these heritage assets.

### **65-66 Frith Street**

This is not an unlisted building of merit and it makes a neutral contribution to the conservation area. Its demolition and redevelopment is considered acceptable in principle, subject to an appropriate replacement building which respects the character and appearance of the conservation area and the settings of the listed buildings to the south.

### **Legislation and national policy**

The key legislative requirements in respect to designated heritage assets are as follows: Section 66 of the same Act 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."*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Chapters 12 and 16 of the NPPF require 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 clearly 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.

### **The proposed demolition and redevelopment**

#### **a. Demolition and facade retention**

There have been lengthy pre-application negotiations with respect to demolition and redevelopment of the existing buildings. Officers consistently advised the applicant that Century House should be retained because of its positive contribution to the character and appearance of the Soho Conservation Area and the settings of adjacent listed buildings. As a result of these negotiations, and taking into account local pressure for the retention of the buildings, the scheme no longer proposes total demolition and redevelopment. The proposals have also been reduced significantly in terms of height and bulk.

The current proposal is still for extensive demolition of Century House but with significant parts of the street facades retained. On Soho Square the ground to third floors of the existing facades would be retained. The fourth floor would be rebuilt, 600 mm higher than the existing. The increase in height would be made up between the cills of the fourth floor level windows and the existing string course above the third floor windows.

On Frith Street the five bays of the northern end of the Century House facade would be retained (to third floor level as in Soho Square) but the remaining three bays would be demolished. No. 65-66 Frith Street would also be demolished.

At ground floor level the existing windows would be replaced with larger, shopfront sized windows allowing views into the interior. The existing portico on Soho Square would be relocated very slightly to the west and its projection from the facade reduced. A stained glass window is proposed to be inserted into the portico.

#### **b. New build elements**

The aim of the redevelopment is to provide large office floor plates across the whole site, behind both the retained facades and new facades. The architects have sought to introduce greater variety in the Frith Street frontage by demolishing the southern part of the Century House facade and introducing a new, modern facade, between the retained facade of Century House and the new facade at no. 65-66. This facade would be four bays wide, five storeys high, and faced in a dark brick. The new facade at no.65-66 would be of similar design but five bays wide and faced in faience (glazed terracotta).

#### **c. Roofscape**

The existing roofscape of Century House comprises a traditional mansard-type roof (albeit with a shallower pitch than usual), with a sheer storey above, and roof top plant room. This would all

be demolished. Above the facades of the proposed building is a two storey steeply pitched roof, with projecting dormers at fifth floor level and recessed dormers at sixth floor level. On top is a large plant room, with pitched sides. The height of the proposed plant room is approximately 1 metre higher than the top of the existing plant room. The proposed roof is bulkier than the existing. The largest increase is at the southern end of the building (above No. 65-66). The proposed building is not tall enough to affect the London Views Management Framework Protected Vista 2B.1 - Parliament Hill to the Palace of Westminster.

d. The Chapone Place courtyard

In the south-west corner of Soho Square a new pedestrian entrance is proposed to allow access into Chapone Place, which links through to Dean Street. Chapone Place is an historic yard which is now unattractive and under used. The existing buildings on the south and east sides of Chapone Place would all be demolished, except for the building at no. 10. This would be retained and the windows replaced. A roof extension would be added at third floor level. The utilitarian rear facades of Century House (the east side of Chapone Place) would be replaced with modern facades. At 22-25 Dean Street, including the entrance to Chapone Place, new shopfronts would be installed.

Chapone Place would be lined with retail and café uses on the east and south side, including 10 Chapone Place and the rear of 22-25 Dean Street. The design of the space would take inspiration from the fact that Sir Joseph Banks, the 18<sup>th</sup> century botanist, lived in a house on the site. This is proposed as a planning benefit, which should be considered in the overall NPPF balance of harm and benefits of the proposals.

Consideration and consultation responses

A large number of objections have been received on urban design and conservation grounds. These are summarised and responded to below.

a. Demolition

There is significant local opposition to the proposed partial demolition of Century House. As stated above, Historic England considered whether or not to list the building and decided earlier this year not to add it to the statutory list. If the building had been listed it would have been protected externally and internally, and it is highly likely that the current proposals would have been considered unacceptable and recommended for refusal (because of the extent of demolition and alteration).

However, as Century House is not listed there is no protection for the internal features of the building, which could be removed without approval from the City Council as local planning authority. Nevertheless, planning permission is required for external alterations and demolition of the structure of the building.

The principle of demolishing an unlisted, twentieth century commercial building, such as Century House, behind its retained street facades, and creating new office space behind, is not contrary to the City Council's urban design and conservation policies. The City Council has approved a large number of such schemes over many years, where the street facades (which make a positive contribution to the conservation area) are retained and the floor structures replaced with new floors. In many cases the replacement of floor structures would not, in itself, have a harmful impact on the conservation area. Such schemes are normally considered acceptable provided the new building elements are appropriate and acceptable, and do not harm the character and appearance of the conservation area, or if the overall benefits of a

scheme outweigh any heritage harm.

Although the draft Soho Neighbourhood Plan currently carries little weight in considerations, it noted that it puts greater emphasis on retaining whole buildings and encouraging retrofitting. It states:

**Policy 22: Refurbishment and Retrofitting of Existing Buildings**

Major development must evaluate the potential of options to retrofit and improve the sustainability of existing buildings before considering redevelopment. Retrofitting measures to existing buildings which require planning permissions will normally be strongly supported. Where retrofitting involves adaptations to heritage assets, these may be supported where the impacts have been carefully considered and justified and adverse impacts minimised and which do not cause significant harm.

With respect to new office buildings it includes a presumption against large floorplates. It states:

**Policy 7: New Office Developments**

Office development proposals should be designed to provide flexibly sized workspaces and accommodate a wide variety of business occupiers and large floorplate office developments designed for single occupiers should normally be avoided due to their adverse effects upon the character and heritage of the Plan area.

In line with this approach the Soho Society and others are strongly opposed to the proposals and would like to see a retrofitting approach adopted, with the existing Century House retained and refurbished. While this is considered to be an acceptable alternative, the current proposals for partial demolition and redevelopment are considered, in principle, to be compliant with the City Council's policies and approach to such commercial buildings, for the reasons set out above.

There are also objections to the demolition of the southern part of the Frith Street facade of Century House. The building has a long, eight bay facade to Frith Street, which is at odds with the prevailing narrow plot width pattern of buildings in the street. It is considered that demolishing three bays of Century House and introducing a new, additional, facade is an acceptable design approach as it will break up the street frontage and increase architectural variety into the Frith Street streetscape.

**b. Design of new build elements**

It is considered that the new build elements of the scheme are generally acceptable in urban design and conservation terms. The new facades on Frith Street are of high quality modern design and are appropriate to their context in terms of their scale, proportions, detailed design and the use of materials. The same applies to the proposed rear facades on the east side of Chapone Place. The alterations to 10 Chapone Place and its roof extension are acceptable in principle. All details and materials should be reserved for approval by conditions.

Objections have been received with respect to the proposed alterations to the retained facades and the design of the new build parts, including :

- the design of the new roof.
- the proposed use of diamond-patterned natural slate.
- the 'stretched' Century House façade.

- the changes to the ground floor windows.
- the reduction in the depth of projection of the (existing) portico.

The roofscape of Century House with its mansard roof and sheer brick facade above is an unconventional arrangement. It is considered that the sheer top floor and plant room are not of architectural merit and they detract from the existing mansard roof below. Therefore, the principle of introducing a new roofscape is considered acceptable. Whilst two storey mansard roofs are not characteristic of the Soho Conservation Area, and would be resisted in many cases, there are a number of examples, such as the neo-Georgian buildings immediately to the north on the west side of Soho Square, as well as more recent examples in Wardour Street. The diamond patterned slate is unconventional and if planning permission is to be granted a condition could be imposed to secure a more traditional design.

It is considered that the proposed roof is acceptable in principle, although the increase in height and bulk does cause a small degree of harm (less than substantial) to the conservation area. This increase is visible in views from Soho Square (particularly from the north-west corner) and from the south in Frith Street.

The proposal to 'stretch' the top floor of the façade, inserting approximately 600 mm above the third floor string course, is necessary to accommodate the floor levels of the new building behind. It is considered that this is a relatively small change to the facade which would cause less than substantial harm to the appearance of the building and its contribution to the character and appearance of the conservation area.

The windows in the retained facade will all be small multi-pane sashes to match the existing. Details of these should be required by condition. The windows in the new roof are more modern in detail, although of traditional size and proportions. This is considered an acceptable design approach.

The loss of the existing windows at ground floor level is considered acceptable in principle as this will increase the transparency of the ground floor and enhance street level visual activity. The design of these new windows should be reserved by condition. The alterations to the existing portico are small and not considered harmful. The stained glass should be reserved for approval by condition.

#### c. Chapone Place

The proposed improvements to Chapone Place are, in principle, in accordance with the City Council's urban design and conservation policies and the draft Soho Neighbourhood Plan. The Neighbourhood Plan states:

##### Policy 1: Development Proposals in the Soho Conservation Area

Proposals for development which protect, respect and enhance the character of the Soho Conservation Area in terms of their size and scale will be supported. Public rear yards, courts, back streets and mews all contribute to the distinctive local character of Soho and should be protected and enhanced as part of development proposals.

##### Policy 28: Securing New Pedestrian Routes

Development that provides carefully considered public access through developments over previously private and inaccessible land to improve pedestrian connectivity and

convenience will normally be supported unless there are adverse impacts which cannot be mitigated.

The Soho Society consider that the proposed new building even with a partially retained façade does not deliver significant public benefits to justify its demolition. They consider that the improvements 'are a public benefit but this could be achieved without demolishing Century House which is of historic and cultural significance'.

It is considered that the new route and the reactivation of Chapone Place with new uses are public benefits in urban design and conservation terms. The works improve pedestrian movement patterns and create an attractive place for people to use. Introducing a new route from Soho Square could be considered to be eroding the historic integrity of the original layout of the Square, however, this is a relatively small and discrete pedestrian route which does not have a significant visual impact on the Square.

As the Soho Society suggest, it is possible that an alternative scheme which retained the existing building could also deliver improvements to Chapone Place. However, this application has to be judged on its own merits. The public benefits associated with the improvements to Chapone Place have to be weighed up against any harm to heritage assets.

#### Conclusion on urban design and conservation matters

This is a highly controversial scheme. The initial proposals involving the demolition of Century House were wholly unacceptable in heritage assets terms, because of the impact on the Soho Conservation Area and the settings of adjacent listed buildings. The revised proposals address many of the objections raised by officers to the original scheme, although they do not address the concerns of a large number of objectors.

It is considered that the revised scheme will still cause less than substantial harm to the character and appearance of the Soho Conservation Area but overall the scheme includes public benefits which will outweigh that harm. It is not considered harmful to the settings of adjacent listed buildings. While the scheme does not comply with some of the policies in the draft Soho Neighbourhood Plan, taken as a whole it is considered to comply with the City Council's urban design and conservation policies. It is considered to comply with the NPPF.

### **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.

#### Daylight and Sunlight

The applicant has submitted a Daylight and Sunlight Report by Avison Young which assesses the impact on the proposed development on daylight and sunlight levels at the following residential properties: 21 Dean Street, 2 Royalty Mews, 9 Royalty Mews, 63 Frith Street, Townsend House 22-25 Dean Street, 78 Dean Street, 79 Dean Street, 80 Dean Street and 81-

82 Dean Street.

### 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 sunlight, 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

The majority of the buildings tested comply with BRE guidelines in terms of both daylight and sunlight. In the case of 7 of the 9 properties tested there are no material breaches in excess of BRE guidelines. The two exceptions are 3 flats at 21 Dean Street and 2 flats at 63 Frith Street. In both cases breaches in BRE guidelines are to light levels to bedrooms. The BRE guidelines state that 'whilst bedrooms should be analysed they are 'less important'.

At 21 Dean Street windows facing the site relate to flats 3, 4, and 5 located on the top 3 floors of the building. An objection has been received from the occupant of Flat 4 that the 'daylight and sunlight report plays down the real negative impact that the proposals will have on daylight and sunlight enjoyed by adjoining residential properties'.

At Flat 3 which is located on the 3<sup>rd</sup> and 4<sup>th</sup> floors the main living room has sloped back windows which will continue to receive VSC levels in excess of 27 % in compliance with BRE guidelines. A 3<sup>rd</sup> floor bedroom window which is recessed with a balcony above would see a VSC of 6 % reduced to 1.5 %. Although this is a significant percentage reduction the low levels of light to the bedroom window can be attributed to the design of the building. The window is recessed below an overhang which cuts out light to the top of the window. There are also technical breaches in BRE guidelines to windows at 4<sup>th</sup> and 5<sup>th</sup> floor levels of the building which serve separate flats. The breaches occur because the loss in VSC levels exceeds 20%. However, in each case the retained VSC levels are close to 20% which is good for the location.

At 63 Frith Street the building comprises 3 flats on the 1st to 3rd floors. The impact of the development will be similar to the impact on 21 Dean Street described above. The main living rooms to the flats at 63 Frith Street face away from the application site and are not affected by the proposal. There are breaches in excess of BRE guidelines at two bedroom windows. The study indicates that there would be a 44% and 49% loss in VSC levels to first floor bedroom windows, with retained VSC levels of 11%. In terms of sunlight the windows face west where the sun is lower in the sky. Although the percentage loss of sunlight is high the retained levels of sunlight are 18% of annual probable sunlight hours. At flat 2 on the second floor one of two bedroom windows would experience a reduction in VSC levels from 11.87 % to 6.8 % a loss of 42%.

Although the development would not be fully compliant with BRE guidelines with regards to losses to light the impact is limited to rear bedroom windows at two properties. It is considered that the losses referred too would not materially adversely impact on the amenity of these flats. This aspect of the application is therefore considered to be acceptable.

Objections have been received from residents at both Dean Street and Frith Street that the development will result in overlooking and a loss of privacy. The redeveloped building at 31-32 Soho Square and 65-66 Frith Street is on the same rear building line as the existing buildings and the window arrangement at the rear is similar to the existing position. This does not create any new overlooking or privacy issues.

Permission is sought for new terraces at 5<sup>th</sup> and 3<sup>rd</sup> floor levels at the rebuilt 65-66 Frith Street. The proposed terrace at 5<sup>th</sup> floor level presents no overlooking issues. The proposed 3<sup>rd</sup> floor roof terrace is close to the rear of No's 63 and 64 Frith Street. It is recommended that the terrace is screened to prevent overlooking. Details of screening will be secured by condition. It is also recommended that the roof area is only used as a terrace during normal office hours and not beyond 7pm to ensure that there is no noise nuisance.

The proposed extensions rear 1<sup>st</sup> and 2<sup>nd</sup> floor extension to No 22-25 Dean Street and 3<sup>rd</sup> floor extension to No 10 Chapone Place raise no privacy issues.

#### **8.4 Transportation/Parking**

The application is accompanied by a Transport Statement and Delivery and Servicing Plan by TTP Consulting. This details the proposed parking, servicing and waste management arrangements in connection with the development.

##### *Servicing*

The proposal relies largely on on street servicing, albeit that it is possible for a transit- sized vehicle to enter and leave Chapone Place in forward gear from dean Street. This is not in line with policy Trans 20 and City Plan policy S42 which seeks that servicing should be undertaken off street. It is however largely the same as the existing situation which has the same constraints on the size of the vehicle that can get into Chapone Place. The Highways Planning Manager comments that it is estimated that there is likely to be a slight uplift in the number of vehicles visiting the site. However a Servicing Management Plan is offered which is aimed at better managing arrivals of all vehicles. With a Servicing Management Plan in place this aspect of the application is considered to be acceptable.

### *Car Parking*

It is welcomed that the development will have no car parking

### *Pedestrian Link*

Chapone Place is not public highway and will remain in private ownership once the development is complete. The creation of a new pedestrian link between Soho Square and Dean Street is welcomed.

### *Cycle Parking*

The proposal is that 118 cycle parking spaces would be provided across basement levels 1 and 2. This is in line with London Plan standards.

## **8.5 Economic Considerations**

The economic benefits derived from the provision of this mixed use commercial scheme which would deliver an additional 2413 m<sup>2</sup> of commercial floorspace within the Central Activities Zone, are welcomed. This accords with the strategic aim to provide sustainable economic growth.

## **8.6 Access**

At 22-25 Dean Street the scheme involves relocation of an entrance to existing residential on the 3<sup>rd</sup> to 6<sup>th</sup> floors from its location on Dean Street to within the alleyway leading into Chapone Place. This would increase the size of the restaurant frontage on Dean Street. Objections have been received from residents in the building that the proposed change to the position of their entrance would increase the risk crime. The objection is considered sustainable and it would be preferable if the residential entrance is retained in its present location. It is recommended that this is dealt with by way of an amending condition.

Access to the new office building will be relocated from Soho Square further east to the junction of Soho Square and Frith Street. The change to the point of access is acceptable.

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

### Plant

Plant is proposed at sub-basement, basement and at main roof level. Subject to the imposition of suitable conditions including securing the submission of a supplementary acoustic report to demonstrate that the operation of plant is capable of complying with the relevant criterion within UDP Policy ENV 7, this aspect of the application is acceptable.

### Refuse /Recycling

Waste storage is provided at sub basement level at 31-32 Frith Street and basement level of 22-25 Dean Street. The scheme will provide refuse storage capacity for two days. Collections on Soho Square/ Dean Street are daily. The Waste Project Officer has requested details of temporary waste holding areas and access routes to waste stores from the uses which will be secured by condition.

### Sustainability

The London Plan states that developments should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be lean: use less energy
2. Be clean: supply energy efficiently
3. Be green: use renewable energy

London Plan Policy 5.1 and 5.2 expects an overall reduction in carbon dioxide emissions by 60% by 2025, and it is expected that under guidance from the GLA, London boroughs will take measures to meet this target. Policy 5.2 requires development to follow an energy hierarchy and seek to reduce carbon dioxide emissions, with a current target for non-domestic Development to minimise emissions by 35% against Part L of the Building Regulations 2013.

The applicant has submitted two energy strategies in support of the application. One relates to the proposed new building on the site of 31-32 Soho Square and 65-66 Frith Street. The other relates to the proposed refurbishment and extension of 22-25 Dean Street and 10 Chapone Place. These energy strategies use the new carbon factors (SAP 10) that were released in July 2018 and apply from January 2019 onwards this is in line with the most recent Energy Assessment guidance (October 2018) published by the Greater London Authority (GLA).

These reports assess the impact of using passive and low energy design technologies to reduce baseline energy demand and carbon dioxide emissions followed by the application of low and zero carbon technologies. It sets out how the principles of the above referenced energy hierarchy in London Plan Policy 5.2 has been incorporated into the proposals.

#### Summary – New Building (31-32 Soho Square and 65-66 Frith Street)

The results of the analysis undertaken indicate that the proposed energy strategy for the new building would result in an overall improvement of 25.4% over the standards set out in Part L of the 2013 Building Regulations. This is below the 35% target as set out in the London Plan but is considered to be the maximum that is reasonably achievable based on a review of all potential options.

The annual shortfall of carbon emission reductions in comparison to this policy target is estimated in the report to be 8.88 tonnes of CO<sub>2</sub>. The applicant proposes to make a payment in lieu in relation to this on the basis of £95 per tonne shortfall for a 30 year period. Applying this methodology to the scheme results in an off-set payment of £25,270. This calculation methodology accords with the GLA's October 2018 Guidance in relation to Carbon Offset Funds

#### Summary – Refurbished/ Extended Buildings (22-25 Dean Street and 10 Chapone Place)

The proposals for the refurbishment and extension of 22-25 Dean Street and 10 Chapone Place will minimise Carbon Dioxide emissions in accordance with the Energy Hierarchy and comply with Building Regulations 2010 Approved Document L2B (AD L2B).

The proposed energy strategy incorporates passive and active design measures, resulting in an area weighted reduction of Carbon Dioxide emissions of 58.73% over the baseline carbon emissions across these two buildings.

City Plan Policy S40 considers renewable energy and states that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the Council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

The proposed scheme includes the provision of air source heat pumps. This will provide heating and cooling in all parts of the development. This is expected to contribute an additional 14.95% carbon emissions savings for the new building on the site of 31-32 Soho Square and 65-66 Frith Street and an additional 14% carbon emissions savings for the refurbishment/ extension of 22-25 Dean Street and 10 Chapone Place. Whilst this is below the 20% target as set out in City Plan policy S40, this is considered to be the maximum that is reasonably achievable.

It is considered that the Proposed Development achieves a high level of environmental and economic sustainability and carbon reduction and therefore accords with the Development Plan.

### Basement

The application involves the excavation of an additional basement level beneath the site, which is dealt with under City Plan Policy CM28.1. As required by this policy, the applicant has provided a structural method statement setting out the construction methodology. Any report by a member of the relevant professional institution carries a duty of care, which should be sufficient to demonstrate that the matter has been properly considered at this early stage. The purpose of such a report at the planning application stage is to demonstrate that a subterranean development can be constructed on the particular site having regard to the site, existing structural conditions and geology. It does not prescribe the engineering techniques that must be used during construction, which may need to be altered once the excavation has occurred. The structural integrity of the development during the construction is not controlled through the planning system but through Building Regulations and the Party Wall Act.

The City Council is not approving this report or conditioning that the works shall necessarily be carried out in accordance with the report. Its purpose is to show, with the integral professional duty of care, that there is no reasonable impediment foreseeable at this stage to the scheme satisfying the Building Regulations in due course.

### Flood Risk

Policy S30 (Flood Risk) of the City Plan states that all development proposals should take flood risk into account and new development should reduce the risk of flooding. A Flood Risk Assessment submitted in support of the application by Waterman identifies the application site as falling within Flood Zone 1 as indicated on the Environment Agency's Flood Map. The site is therefore considered by the Environment Agency to have a low probability of flooding from rivers or the sea.

The risk of flooding from groundwater and artificial sources has also been assessed in the Flood Risk Assessment and found to be low.

### Employment and skills

The City Council published an interim guidance note in May 2019 on the interpretation of policy S19. Policy S19 contains scope for financial contributions collected through Section 106 agreements to be used to secure the aims of the policy. Financial contributions will be used to support the Westminster Employment Service by:

-Helping residents access a wide range of opportunities in a range of employment sectors. For example, retail, hospitality, facilities management connecting to the end use of a development.

-Supports developers to deliver their agreed targets through a service with a proven track record. In the past 2 years the Westminster Employment Service has delivered over 1500 jobs for Westminster residents.

-The note sets out how contributions will be calculated according to the type of development proposed. The applicant has agreed to make contributions in accordance with the guidance note. Based on the increase in floorspace the scheme will generate a financial contribution of £77,589.54 which will be secured as part of the S106 agreement.

## **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, 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 Society considers that weight should be given to the emerging Soho Neighbourhood Plan which aims to resist large scale developments. Consultation on the Regulation 16 (Submission) Draft Soho Plan closed on 10 July 2020. Following this consultation the proposed plan and representations are due to be submitted to an Independent Examiner later this year for examination. The examiner will determine whether the Plan meets a number of statutory tests and if it can be adopted as part of Westminster's Development Plan. At this stage the plan carries no weight in decision-making.

## **8.10 London Plan**

This application raises no strategic issues.

## **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.

The NPPF is clear that planning decisions should be made on assessment of the proposed resulting development rather than the processes such as construction which is subject to environmental health controls.

This is set out in Para 183 of the NPPF as follows. 'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities'.

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.

### 8.12 Planning Obligations

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

- Carbon offset payment of £ 24,890 (index linked) to be paid on commencement of development.
- All highway works immediately surrounding the site required for the development to occur, including changes works to Chapone Place and associated work (legal, administrative and physical) to be agreed prior to commencement of development and highway works to be completed prior to occupation of any of the new floorspace.
- A financial contribution towards employment, training and skills of £77,589 (index linked) payable on commencement of development.
- Costs of monitoring the S106 agreement.

The estimated Westminster CIL payment is : £482,600.

The estimated Mayoral CIL payment is £193,040.

### 8.13 Environmental Impact Assessment

The application is of insufficient scale to require an Environmental Impact Assessment.

### 8.14 Other Issues

#### Construction impact

A number of objections have been received on the grounds that construction works and construction traffic will result in significant noise nuisance and would be harmful to the locality. This will be particularly severe given that the development follows a number of a substantial building projects including Crossrail which have resulted in prolonged disturbance within Soho.

A detailed objection has been received on behalf of Soho Square Studios a sound recording studio located at part ground and basement floors of 33 Soho Square. The objection refers to the studio being in operation since 2007 and that the studio is a highly valued location for audio dialogue recording. The business cannot operate if external noise and vibration sources cannot be almost wholly excluded. The objection refers to advice received from a sound and vibration specialist who has advised that given the nature of the development, sound and vibration emanating from the project would make it practically impossible for the studios to continue to trade. The conclusion reached is that permitting the scheme will be highly likely to result in the permanent closure of Soho Square studios.

The objection refers to the fact that studios are an arts and cultural use that are protected by City Plan S22, UDP policy TACE 5 and London Plan policy 4.6. In considering the application and weighing up the merits of the application very significant weight should be given to the

protection of the creative industries. The proposal would harm Soho Square Studios and thus the creative industries and the cultural heritage of Soho. Furthermore that reduced weight should be given to the benefits of the delivery of office space in the light of a very significant change in demand arising from the Covid 19 crisis.

The recording studio is not within the demise of the application and the application does not propose the loss of this use. The application cannot be assessed against the policies referred to above. A recording studio is recognised as being a noise sensitive use and accordingly adequate mitigations measures should be in place to minimise any impact of construction noise. Permission could not however reasonably be withheld due to the impact of construction. The NPPF is clear that planning decisions should be made on assessment of the proposed resulting development rather than the processes such as construction which is subject to environmental health controls.

This is set out in Para 183 of the NPPF as follows. 'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities'

Prior to June 2016, Construction Management Plans would have been secured by planning condition, however, this is now covered by the Code of Construction Practice (COCP) and the Environmental Inspectorate. The COCP categorise developments into three levels, this scheme is a Level 1 development. Level 1 development will require the submission of a Site Environmental Management Plan (SEMP), but after consent is granted. Enforcement of the SEMP will be undertaken by the Environmental Inspectorate.

A condition is proposed which requires the applicant to sign up to the Council's 'Code of Construction Practice' (COCP) to ensure that the construction process is carefully managed. As part of this process, Environmental Health Officers will liaise with both the applicant and neighbouring occupiers during the construction process to ensure that neighbours' concerns are addressed. Regular site visits will be undertaken to monitor construction operations and ensure compliance.

The applicant is committed to carrying out the development in accordance with the City Council's Code of Construction Practice and in accordance with the Council's requirements they have completed appendix A in the submission regarding the future requirements regarding the submission and approval of bespoke construction management plans at a point when a contractor is in place. They advise further that a qualified and experienced acoustician has been appointed who would advise through the construction process. Key potential elements of the approach are identified as being :

Future planning between contractor and neighbours and adherence to agreed hours for 'noisy' works and early notification of significant works to allow businesses to plan operations;

- Early and quick severing of structural connections;
- Erection of screens across sensitive areas of the exposed wall to protect internal rooms against airborne noise. This may require scaffolding and sheets of ply/sterling board or proprietary constructions screens, such as Echo Barrier;

- Planning site access to minimise HGV arrivals/departures outside sensitive buildings;
- Monitoring of noise/vibration (to ensure compliance with established and published limits);
- Community involvement including regular progress meetings and a dedicated line for emergency contact.

In addition to the condition which requires the applicant to sign up to the Council's 'Code of Construction Practice' (COCP) a further condition is recommended which will require specific measures as part of the environmental management plan to control and mitigation of construction noise and vibration as experienced by the recording studio at 33 Soho Square.

#### Air Quality

Objections has been received due to the principle of redeveloping the site and the increase servicing and the associated impacts on air quality. The Air Quality assessment submitted with the application considers the impact of potential dust generation during the construction period, the suitability of the site for the proposed uses and the potential impact of traffic and energy-related emissions associated with the proposed development once operational. The Air Quality assessment concludes that the development is air quality neutral in terms of its on-going operational impact. The mitigation of dust etc during demolition and construction will be managed through compliance with the City Council's Code of Construction Practice.

#### Environmental cost of refurbishment rather demolition.

The Soho Society have objected that an assessment has not been made comparing the environmental cost of a refurbishment scheme against the cost of demolition. Furthermore that the applicant hasn't adequately demonstrated that there is no demand for use the existing buildings on Frith Street and Soho Square. Whilst these points are noted there is no policy requirement for an assessment of the existing buildings energy performance to be made against the proposed scheme. Furthermore the applicant has not advanced the argument that there is no prospect of the existing buildings being occupied and this is not required in the assessment of the scheme.

(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: MIKE WALTON BY EMAIL AT [mwalton@westminster.gov.uk](mailto:mwalton@westminster.gov.uk)

## KEY DRAWINGS

### 6.01 | Proposed Plans

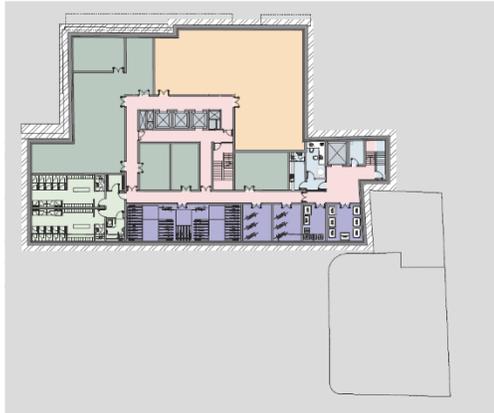


Fig 1 | Proposed Basement Two

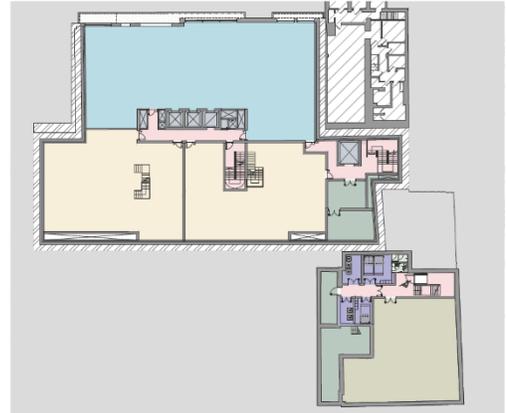


Fig 2 | Proposed Basement One

KEY	
<span style="color: blue;">●</span> Office B1	<span style="color: purple;">●</span> Ground Floor Office Entrance - B1
<span style="color: green;">●</span> Store/plant B1	<span style="color: orange;">●</span> D1/D2
<span style="color: pink;">●</span> Circulation B1	<span style="color: lightgreen;">●</span> Shared Common Parts
<span style="color: lightblue;">●</span> WC/ Shower's B1	<span style="color: blue;">●</span> Bike/ Refuse Store
<span style="color: yellow;">●</span> A1/A3 Unit	<span style="color: lightblue;">●</span> Building Manager's Facilities
<span style="color: olive;">●</span> A1	<span style="border: 1px solid black; border-radius: 50%; padding: 2px;"> </span> No Proposed Works
<span style="color: grey;">●</span> A3	

0 5 20m

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### 6.01 | Proposed Plans



Fig 1 | Proposed Ground Floor

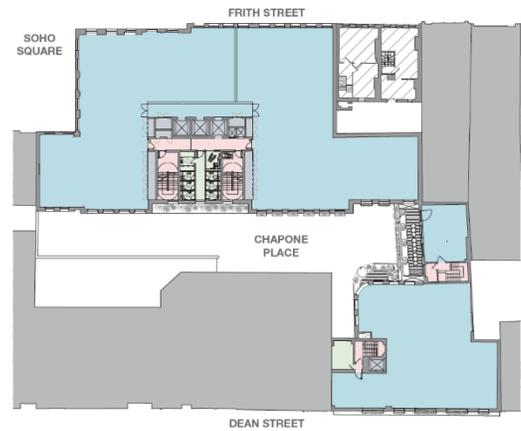


Fig 2 | Proposed First Floor

KEY	
<span style="color: blue;">●</span> Office B1	<span style="color: purple;">●</span> Ground Floor Office Entrance - B1
<span style="color: green;">●</span> Store/plant B1	<span style="color: orange;">●</span> D1/D2
<span style="color: pink;">●</span> Circulation B1	<span style="color: lightgreen;">●</span> Shared Common Parts
<span style="color: lightblue;">●</span> WC/ Shower's B1	<span style="color: blue;">●</span> Bike/ Refuse Store
<span style="color: yellow;">●</span> A1/A3 Unit	<span style="color: lightblue;">●</span> Building Manager's Facilities
<span style="color: olive;">●</span> A1	<span style="border: 1px solid black; border-radius: 50%; padding: 2px;"> </span> No Proposed Works
<span style="color: grey;">●</span> A3	

0 5 20m

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6.03 | Proposed Section



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Fig 1 | Proposed Frith Street Elevation



Fig 2 | Proposed Soho Square Elevation

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Chapone Place



Item No.
<b>1</b>