

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 27 <sup>th</sup> October 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	90-104 Berwick Street, London, W1F 0QB		
Proposal	Details pursuant to condition 23 of planning permission dated 4 October 2016 (RN:15/06792/FULL) for partial demolition and rebuilding of existing podium levels with additional part single and part two storey extensions; front extension of part of the west elevation to Hopkins Street; replacement facades and new shopfronts; all in association with continued use of parts of the basement and ground floor on Berwick Street for shops (Class A1), financial and professional services (Class A2) and food and drink (Class A3) and new retail unit at northern end of Hopkins Street, use of remainder of podium (as extended) for hotel (Class C1) and residential (Class C3) purposes together with associated roof terraces (including for use by existing Kemp House residents); green roofs, landscaping, car and cycle parking, servicing, plant and ancillary works, namely the submission of a Service Management Strategy.		
Agent	Gerald Eve		
On behalf of	Berwick Street Securities LLP		
Registered Number	20/04276/ADFULL	Date amended/ completed	8 July 2020
Date Application Received	8 July 2020		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

## 1. RECOMMENDATION

Grant approval of details.

## 2. SUMMARY

90-104 Berwick Street comprises a podium block with a residential tower element (Kemp House). Planning permission was originally granted on the 20 February 2015 for the following development:

'Partial demolition and rebuilding of existing podium levels with additional part single and part two storey extensions; front extension of part of the west elevation to Hopkins Street; replacement facades and new shopfronts; all in association with continued use of parts of the basement and ground floor on Berwick Street for shops (Class A1), financial and professional services (Class A2)

and food and drink (Class A3) and new retail unit at northern end of Hopkins Street, use of remainder of podium (as extended) for hotel (Class C1) and residential (Class C3) purposes (maximum of 16 units) together with associated roof terraces (including for use by existing Kemp House residents); green roofs, landscaping, car and cycle parking, servicing, plant and ancillary works.'

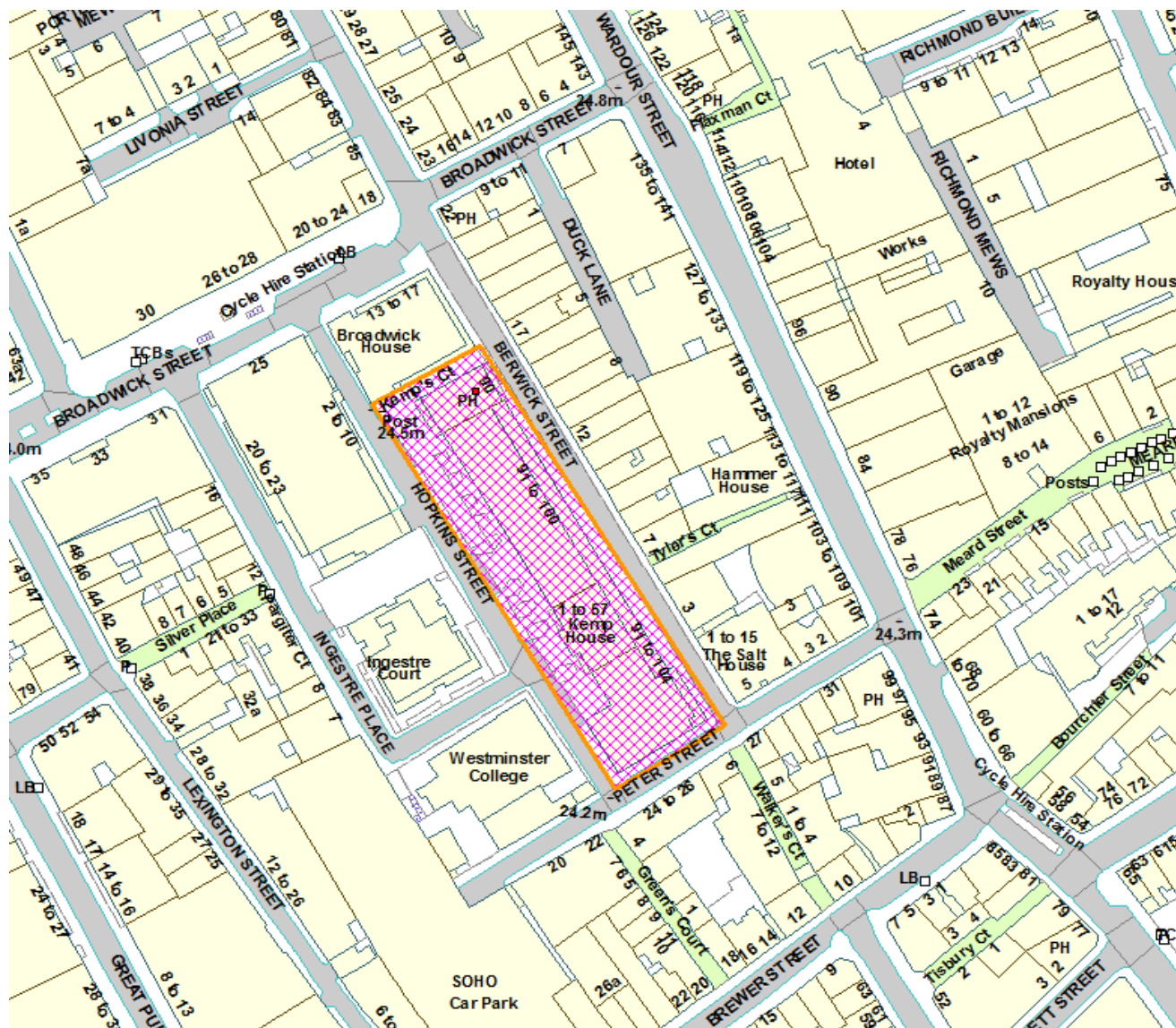
This permission has subsequently been amended a number of times, including on the 4 October 2016 when consent was granted to vary conditions on the approval to allow for minor material changes to the approved scheme. Permission is now sought to discharge Condition 23 of the planning permission from October 2016. This condition required that prior to the occupation of the development a detailed servicing management strategy will be submitted for the City Council's approval.

The key issues for consideration are:

- The acceptability of the submitted plan to minimise noise and disturbance to nearby residents.
- The acceptability of the submitted plan to minimise disruption to the local highways network.

Whilst an objection has been received from the Kemp House Residents' Association the proposed plan is considered acceptable and the application is recommended for approval.

## 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Berwick Street elevation (looking south):





Hopkins Street elevation (looking north):



## 5. CONSULTATIONS

### SOHO SOCIETY

Any response to be reported verbally.

### HIGHWAYS PLANNING

No objection.

### KEMP HOUSE RESIDENTS ASSOCIATION

Objection on the following grounds:

- Concern relating to a reduction in resident's parking provision.
- Ability of servicing vehicles to utilise the lay-by and potential obstruction of access to Kemp House bin store.
- Consider smaller vehicles should be used to service the hotel.
- Information provided is not up-to-date and doesn't fully consider the local circumstances of the application site.
- Servicing Plan may result in pavements and streets being blocked to the detriment of pedestrians and traffic movements.
- Concern over the level of monitoring both by site management and the City Council.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 59

Total No. of replies: 2

No. of objections: 0

No. in support: 2

Letters of support received on the following grounds:

Letter from Soho Estates who consider the proposals an improvement on the previous servicing arrangements.

Letter from the Co-Operative detailing the measures taken to minimise noise and traffic disruption.

### PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

90-104 Berwick Street is an unlisted building situated in the Core Central Activities Zone and the Soho Conservation Area. The site (of which the City Council is the freeholder) comprises a podium block with a residential tower element above (Kemp House). Construction works are on-going to implement a 2015 planning consent for the creation of new retail, restaurant, residential and hotel functions in the podium section of the building.

### 6.2 Recent Relevant History

18/08284/ADFULL - Submission of details pursuant to Condition 23 of planning

permission dated 4 October 2016 (RN: 15/06792/FULL), namely the submission of a Service Management Strategy.

However, the application was withdrawn on the 24<sup>th</sup> August 2018 due to the requirement for further revisions and clarifications of the Servicing Management Strategy.

15/06792/FULL - Variation of Conditions 1 and 30 of planning permission dated 20 February 2015 (RN: 13/12007) for the partial demolition and rebuilding of existing podium levels with additional part single and part two storey extensions; front extension of part of the west elevation to Hopkins Street; replacement facades and new shopfronts; all in association with continued use of parts of the basement and ground floor on Berwick Street for shops (Class A1), financial and professional services (Class A2) and food and drink (Class A3) and new retail unit at northern end of Hopkins Street, use of remainder of podium (as extended) for hotel (Class C1) and residential (Class C3) purposes (maximum of 16 units) together with associated roof terraces (including for use by existing Kemp House residents); green roofs, landscaping, car and cycle parking, servicing, plant and ancillary works - NAMELY, to amend the approved drawings so as to allow the provision of an additional 17 hotel bedrooms (providing a hotel of 110 hotel bedrooms) and to expand the food and drink offer to hotel guests on a 24 hour basis rather than just serving breakfasts.

Application Permitted

4 October 2016

## 7. THE PROPOSAL

The current application seeks to discharge Condition 23 on the permission dated 20 February 2015. The condition stipulates the following:

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

A Service Management Strategy has been submitted for consideration.

## 8. DETAILED CONSIDERATIONS

The approved development included the provision of an off-street servicing bay at the rear of the Duck and Rice public house (PH) at the northern end of the development site, accessed off Hopkins Street, and another on-street servicing bay further down Hopkins Street. The development includes an internal servicing corridor at basement level which allows direct access to the retail units from the servicing bay behind the Duck and Rice PH, encouraging the occupiers to utilise this bay as opposed to other on-street loading/unloading bays in the vicinity. There were several existing small on-street servicing bays which were removed as part of the proposal. Large vehicles associated with the Co-op supermarket at the southern end of the site were unable to use these spaces and instead serviced from Berwick Street/Peter Street to the south of the site, which often resulted in traffic congestion. A transport assessment was submitted as part of the original application which concluded that future servicing requirements of the

proposed development would be broadly similar to those of the site before the development.

The original planning application gave rise to a number of objections, including ones from the Kemp House residents, on a number of grounds including parking/servicing issues. The committee report asked members to consider whether 'the potential improvements to Hopkins Street by providing an enlivened frontage would outweigh the reduction in the provision of street level parking and servicing spaces'. This was considered to be the case by members and the application was thus approved, subject to the submission of the service management strategy (SMS) detailing how the proposed servicing areas would be utilised. The reason for the imposition of the condition was in order to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties.

## 8.1 Transportation and Amenity

The submitted SMS details how the servicing of the development will be managed to minimise noise and disturbance to residential occupiers in the vicinity and to ensure the servicing minimises highways disruption. The SMS has been amended since the previously withdrawn application and has also been amended during the course of this application.

The SMS states that the off-street service bay to the rear of the Duck and Rice can be used by vehicles up to 7.0m long and 7.5 tons in weight, that use of this loading bay will be monitored and controlled by on-site staff and there will be a management system in place to prevent unauthorised use of the bay. Access to this private servicing bay will only be allowed between 07:00 and 20:00 to ensure deliveries are not taking place at hours which could disturb residents.

The on-street Hopkins Street loading bay/lay-by is open to any delivery vehicle and not assigned to the development specifically, as it is public highway. The original S106 agreement for the development included a number of public realm improvements around the site, including in Hopkins Street, which are due to take place shortly as the development nears completion. These improvements include the creation of this lay-by and the SMS proposes that this lay-by is extended slightly in length. This has been discussed and deemed acceptable with the City Council. As the lay-by is part of the public highway its use and duration of stay are determined by the City Council. The SMS envisages this will be available to any of the commercial or residential users in the building for loading / unloading purposes.

There are also two loading bays to the north of the development on Broadwick Street which can be utilised and to which larger vehicles over 7.0m would be directed.

The Co-Operative supermarket will be re-occupying the retail unit on the corner of Berwick Street and Peter Street, as was the case prior to the development works. The Co-Operative have agreed to a bespoke servicing plan for this unit, given that previously large delivery vehicles were causing major problems with regard to parking and traffic congestion in the area. It is envisaged that in future they will use the on-street loading bay on Hopkins Street. The Co-Operative have agreed to use delivery vehicles measuring 5.98m, with all deliveries taking place between 07:00 and 20:00 daily. The



Co-Op has also committed to using delivery cages with rubber wheels to minimise noise.

The SMS also details that post-occupation surveys will be carried out by the applicant to ensure that the objectives of the SMS are being achieved and to identify any issues and resolve them with the various parties. The survey is to be carried out 2 months after occupation and then at 1, 3 and 5 years post occupation. The results would be fed back to users and occupiers as well as Kemp House residents and any required improvements identified and carried out.

### Objection

A detailed objection has been received to the application from the Kemp House Resident's Association (KHRA), and these objections are considered below.

The KHRA is concerned about the provision of a parking space to the rear of the Duck and Rice public house (within part of the off-street servicing area) which was designated for use by the residential units as part of the original planning permission, but this space is still being provided. They are also concerned about the lack of provision of two parking bays for Kemp House residents within the nearby Ingestre Court, which was allegedly offered at the time of the original planning application. However, this is a private matter between the KHRA and the applicant or the council, and has nothing to do with the SMS.

Concern is also expressed with regard the use of the servicing bay on Hopkins Street and the built form and street conditions, making it difficult for vehicles to navigate safely. This lay-by was agreed by the planning committee as part of the original permission, though it is true that Hopkins Street is very narrow. There are difficult junctions that will need to be navigated by delivery vehicles, but this is why the Co-Op have agreed to the use of bespoke smaller delivery vehicles and why the lay-by on Hopkins Street will be extended in length. A letter in support of the application has been received from the Co-Op Group explaining that they have purchased these smaller delivery vehicles specifically to service this site; they have also committed to; 'several other bespoke measures including delivery times, short cage drags using cages with rubber wheels and dampeners for deliveries to minimise any disturbance'. The SMS has been reviewed by the Highways Planning Officer and deemed acceptable in this regard.

The KHRA has expressed concern that the layby on Hopkins Street is in front of the bin store and access to the bin store may be obstructed if a vehicle is parked in the layby. Whilst these concerns are noted, the layby outside the bin store was approved in this location on the original planning permission. It is not considered that access to the bin store will be so obstructed to make it unusable. The layby is also likely to be used by refuse vehicles needing easy access to the bin store.

The KHRA is also concerned about larger vehicles of 8.4m in length servicing the hotel and blocking Hopkins Street. The SMS states all regular deliveries to the site will be done in vehicles 7.0m or less, with only exceptional deliveries possibly undertaken in larger vehicles, but these would be directed to the existing larger loading bays on Broadwick Street. Whilst it would not be possible to prevent larger vehicles using the lay-by in Hopkins Street, in practice it is not really feasible for such vehicles to access Hopkins Street because of the physical constraints. Commercial operators will be encouraged to use the off-street servicing bay, which controlled by the applicant, who

will make it clear that access is only allowed for vehicles below 7.0m.

The KHRA also states that they consider out of date information has been used in the submitted SMS. This seems to be a reference to the inclusion of data from the original planning consent which is used to assess the previous servicing requirements to the building occupiers to inform the potential servicing requirements of future occupiers. However, there have been no changes to the scheme that would change the servicing requirements for the development (irrespective of any possible changes to traffic movements in the vicinity) and it is not necessary to re-consider the number of deliveries. The submitted SMS is considered to adequately address the proposed management of the servicing for the development.

Concern is also expressed around the issue of enforcement of the controls detailed in the SMS. The use of the off-street bay is monitored by on-site building management; the Hopkins Street and Broadwick Street bays would be used in accordance with any highways restrictions and are thus subject to parking enforcement by Westminster City Council or the police. Non-compliance with the SMS could also be subject to planning enforcement.

The KHRA is also concerned about monitoring of the effectiveness of the strategy, especially the commitment to producing post occupation surveys at regular intervals and resolving any issues with occupiers, delivery firms and the residents. This is shown as part of the SMS and will be monitored by Council officers and the applicant is encouraged to continue engaging with residents on these matters.

The Highways Planning Manager has reviewed the submitted Service Management Strategy and the objection from the KHRA. He has welcomed the positive changes made to the SMS since the previously withdrawn submission and confirmed that in his opinion the SMS is acceptable and sufficient to enable discharge of the condition.

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

The KHRA have also commented on potential future traffic restrictions in the area, however these are not guaranteed and the SMS can only consider the existing traffic arrangements.

A letter in support of the application has been received from Soho Estates who are large landowners in the area, including the recently completed development to the south of Kemp House at Walker's Court. They consider the SMS 'well thought through and will serve as a huge improvement to deliveries around the immediate neighbourhood'. These comments are noted.

## **8.3 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. The Examination in Public took place between 28 September and 2

October and 12 October and 16 October. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will generally continue to attract very limited weight at this present time prior to the publication of the Inspector's report."

#### **8.4 Neighbourhood Plans**

Not applicable.

#### **8.5 London Plan**

This application raises no strategic issues.

#### **8.6 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

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

#### **8.7 Planning Obligations**

Planning obligations are not relevant in the determination of this application.

#### **8.8 Environmental Impact Assessment**

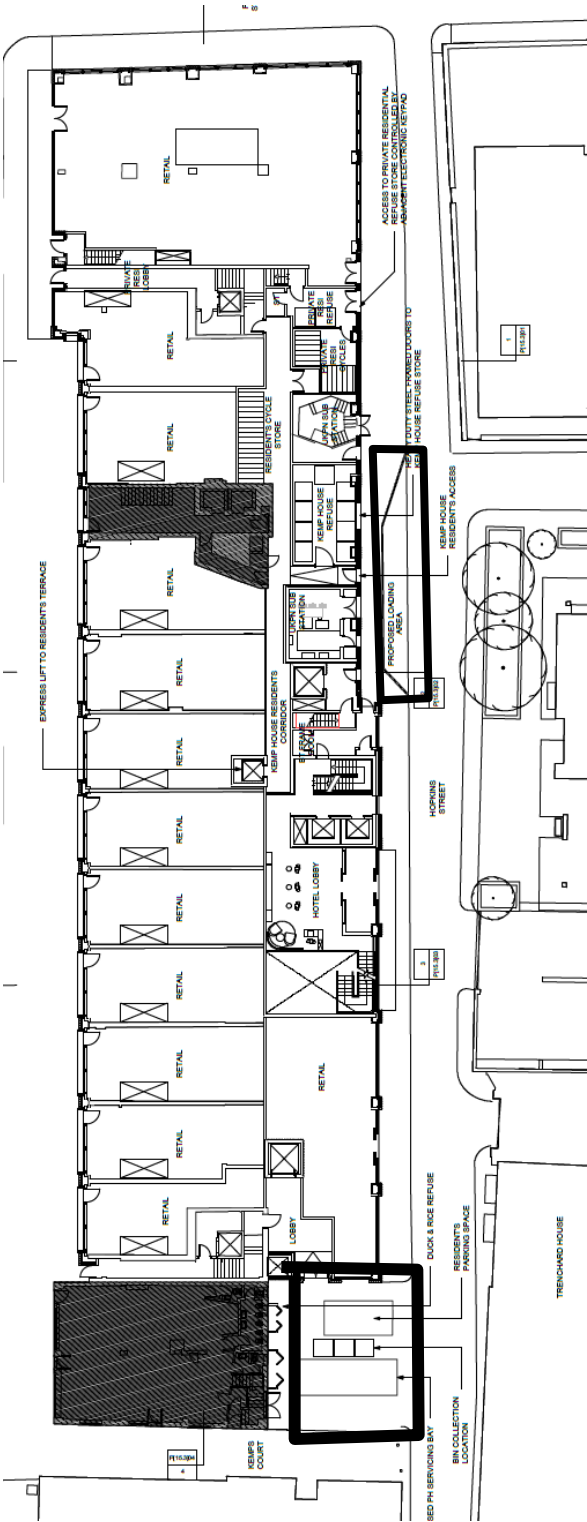
Not relevant to this approval of details application.

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

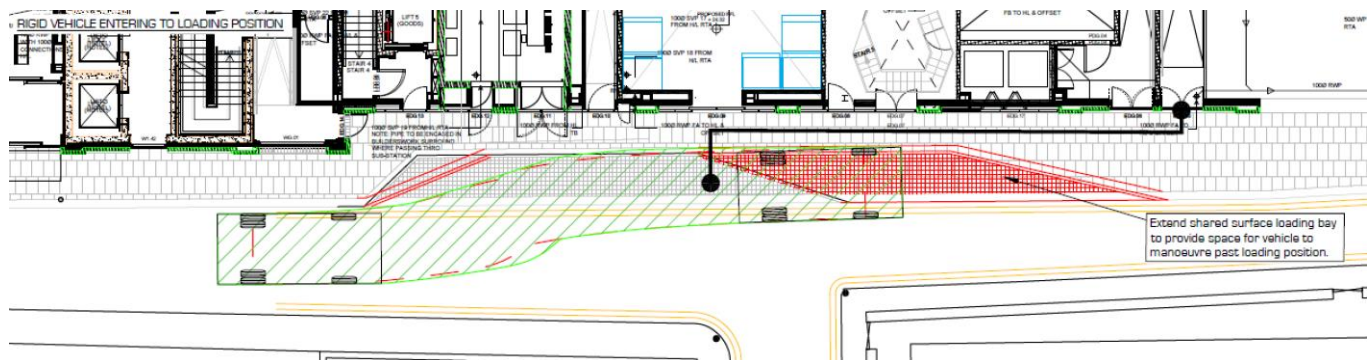
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

9. KEY DRAWINGS

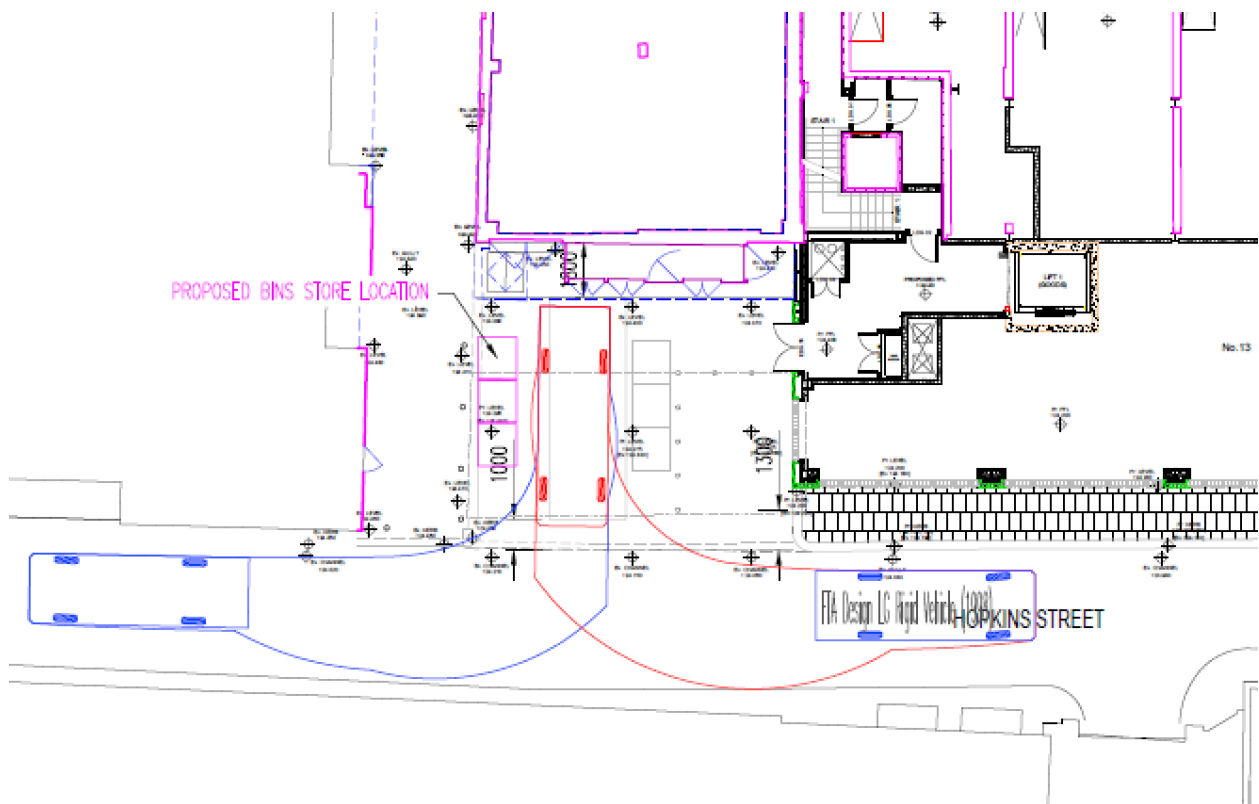
Areas designated for servicing on the original planning permission (15/06792/FULL):



Extended loading bay to be provided on Hopkins Street:



Swept path analysis for loading bay to rear of Duck and Rice:





**DRAFT DECISION LETTER**

**Address:** 90-104 Berwick Street, London, W1F 0QB

**Proposal:** Details pursuant to condition 23 of planning permission dated 4 October 2016 (RN: 15/06792/FULL), namely the submission of a Service Management Strategy

**Reference:** 20/04276/ADFULL

**Plan Nos:** Berwick Street - Service Management Strategy (SMS) October 2020

**Case Officer:** Matthew Giles

**Direct Tel. No.** 07866040155

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

- 1 This permission fully meets condition 23 of the planning permission dated 4 October 2016 (RN: 15/06792/FULL).

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.