

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 21 December 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Marylebone High Street	
Subject of Report	Development Site At, 87 - 125 Cleveland Street, London		
Proposal	Variation of condition 1 on planning permission dated 13th May 2021 (RN 19/09996/FULL) which varied condition 1, and removal of conditions 20, 26 and 27 of planning permission dated 10 November 2015 (RN: 14/11837/FULL) for the: Demolition of existing building and redevelopment to provide a building of three blocks (Block A comprising ground and nine upper floors, Block B ground and three upper floors and Block C ground and three upper floors) with basement and smaller sub-basement below and each separated by landscaped areas. For a mix of up to 105 residential units, provision of a mix of retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), office (Class B1), non-residential institution (Class D1) and assembly and leisure (Class D2) floorspace and associated landscaping, and provision of 46 residential parking spaces and associated plant space across sub-basement, basement and ground floor levels (amended description of development pursuant to NMA's 20/2/2020 RN 19/10073/NMA) NAMELY to allow i) the installation of additional plant at roof level on Block B and ii) amalgamation of retail units in connection with the use of ground floor units 3B, 5A, 5B, 6 and basement floor of unit 6 as commercial offices. <u>Application is made under S73 of the Act</u>		
Agent	Dp9		
On behalf of	Soho Data Holding Limited		
Registered Number	21/05616/FULL	Date amended/ completed	31 August 2021
Date Application Received	13 August 2021		
Historic Building Grade	Unlisted		
Conservation Area			

1. RECOMMENDATION

1. Subject to the views of the Mayor of London, grant conditional permission subject to the completion of deed of variation to a legal agreement to secure the following:

- i) The provision of 15 on site affordable housing units;
- ii) Provision of car club membership for residents of the building for 25 years.

2. If the s106 agreement has not been completed within eight weeks of the committee resolution, then:

a) The Director of Place Shaping and Town Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Place Shaping and Town Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not;

b) The Director of Place Shaping and Town Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an undertaking within the appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Director of Place Shaping and Town Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers

2. SUMMARY

The site is a recently completed redevelopment comprising commercial retail units at ground and basement levels and residential flats in a block of 9 upper floors and 2 x blocks of 3 upper floors.

Permission is sought to vary a condition on consent granted on the 13th May 2021 to permit the use of four retail units at the northern end of the development to be used as commercial offices and enable the provision of additional plant at roof level of to the middle block.

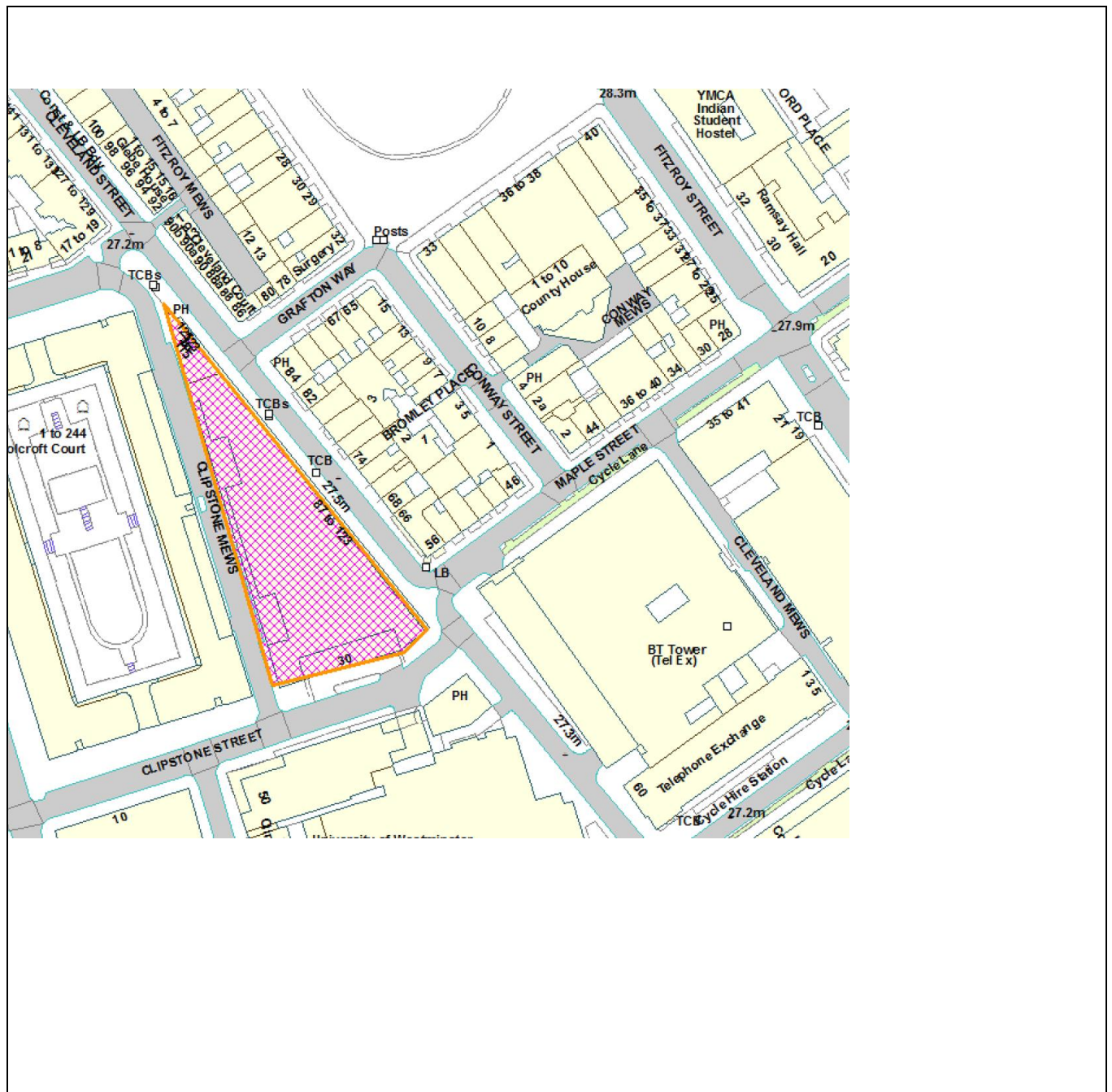
The key issues for consideration are:

- The land use implications ;
- The acceptability of the roof top plant in terms of residential amenity and design.

With regards to land use the application has been submitted on behalf of Ted Baker a retailer who wish to occupy all the ground and basement commercial units as their headquarter offices. The site lies within the Central Activities Zone where office development is encouraged, Cleveland Street is however also a local centre and the policy presumption that developments should provide local facilities. Whilst the proposal would not strictly comply with this policy, the provision of a headquarter office for a fashion label would accord with the character of Fitzrovia with its historic and continued link to the fashion industry. Granting permission would enable the immediate occupation of all the units and associated economic benefits. In the circumstances the proposal is considered to be acceptable in land use terms it is recommended that permission is made personal to the Ted Baker company.

The proposed additional roof level plant is located adjacent to already approved and installed plant. The provision of additional plant within an approved enclosure and adjacent to existing equipment below the parapet levels of the building would be fairly innocuous in design terms. Subject to appropriate conditions controlling noise operational levels from the plant it is also considered acceptable in terms of residential amenity.

3. LOCATION PLAN



4. PHOTOGRAPHS





5. CONSULTATIONS

GREATER LONDON AUTHORITY

Any response to be reported verbally

ENVIRONMENTAL SERVICES

No objection subject to appropriate conditions

HIGHWAYS PLANNING TEAM

No objection, advise that cycle parking for the increase in office floorspace should be compliant with London Plan standards and secured by condition.

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 269

Total No. of replies: 4

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

Amenity

Noise and odour nuisance from the proposed plant

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The site is a triangular island block bounded by Cleveland Street to the east, Clipstone Mews to the west, Carburton Street to the north and Clipstone Street to the south. The site is occupied by a newly constructed new building comprising basement, ground and nine upper floors at the southern (Clipstone Street) end of the site and 2 x blocks of ground and three upper floors at the central and northern end of the site. The building which was constructed pursuant to permission granted initially on 10 November 2015. The development comprises 9 retail units on the lower floors and 105 flats on the upper floors. 15 flats in the block at the northern end of the site are affordable housing units.

The commercial units have been provided to shell and core but haven't been internally fitted out and are unoccupied, the affordable housing units are occupied.

The site is not located within a conservation area but Cleveland Street Conservation Area is directly to the north. The boundary with the London Borough of Camden runs parallel to the application site along Cleveland Street and the Fitzroy Square Conservation Area is located

immediately within Camden's borough boundary. The site is located within the Central Activities Zone, and within the Cleveland Street local district centre.

Cleveland Street itself is characterised by a mix retail, café and restaurant uses on the ground floor with predominantly residential uses on the upper floors. To the south east of the site is the BT Tower, to the south is the Tower Tavern, and a large University of Westminster building. Directly to the west, and spanning the length of the application site, is Holcroft Court, a large six storey residential block, with a public car park located below

6.2 Recent Relevant History

i) On 10 November 2015 permission was granted for the following development:
Demolition of existing building and redevelopment to provide a building of three blocks separated by landscaped areas (Block A - comprising ground and nine upper floors, Block B - ground and three upper floors and Block C - ground and three upper floors, each with basement and sub-basement) to provide up to 105 residential units, a petrol filling station, a mix of retail (Class A1)/ restaurant (Class A3)/ drinking establishment (Class A4)/ office (Class B1)/ non-residential institution (Class D1) and assembly and leisure (Class D2) floorspace, and 46 residential parking spaces with associated plant space across sub-basement, basement and ground floor levels. (RN: 14/11837/FULL).

The permission was subject to a legal agreement which secured the following.

- i) Provision of 15 on-site affordable housing intermediate rent units in perpetuity.
- ii) A financial contribution of £4,629,000 towards the Council's affordable housing fund.
- iii) Compliance with the City Council's Code of Construction Practice and submission of a CEMP (Construction Environmental Management Plan) to an annual cap of £30,000.
- iv) A £30,000 financial contribution towards social/community provision
- v) Costs of highways works around the site to facilitate the development (including paving, dropped kerbs, raised crossing etc).
- vi) Provision of car club membership for residents of the building for 25 years.
- vii) Replacement of trees on Cleveland Street.
- viii) A financial contribution of £123,930 towards carbon off-setting.

ii) Since the initial redevelopment scheme was granted there has been considerable history. A number of Non-Material Amendments (NMA's) have been agreed, including removal of and changing the wording of some conditions. A number of conditions have been discharged or partially discharged. Also, the obligations secured as part of the S106 legal agreement have been complied with.

The permission granted on 10 November 2015 (RN 14/11837/FULL) has been subject to the following Non-Material amendments:

On 20th April 2018 – NMA approved for minor changes to the unit mix, changes to the window detail, entrance and balustrade and balcony details RN 18/02503/NMA

On 15th June 2018- NMA approved to amend the wording of conditions 3 (Design Details) and 32 (Environmental Sustainability Features) RN18/02953/NMA

On 5th September 2018- NMA approved to amend the wording of Condition 23 relating to the replacement Pillar Apple trees RN 18/06761/NMA

On 26 September 2019- NMA approved to amend the car parking layout and allow the allocation of car parking spaces and associated Deed of Variation to the S106 Agreement RN 19/01077/NMA and

On 30 September 2019 -NMA approved to replace the petrol filling pumps within the petrol filling station forecourt with two electric charging points and the removal of petrol tanks and reconfiguration of retail units 3A and 6 at basement level RN 19/05496/NMA

iii) On 13th May 2021 permission was granted (s73 application) to vary conditions on the original permission dated 10 November 2015 to enable:

i)Removal of the 2x electric charging points from the development and infilling the forecourt with a retail unit. This included the removal of conditions 20, 26, and 27 on the permission dated 10 November 2015. These conditions related to the detailed design of the entrance/exit of the station forecourt, the hours of opening/ use of the charging points and hours of deliveries.

ii)Amendments to the existing mix of ground floor and basement commercial uses and the amalgamation and subdivision of other units to create greater flexibility for future occupants of the units (RN 19/09996/FULL).

7. THE PROPOSAL

This application is made under Section 73 Act, seeking to vary condition 1 on planning permission dated 13th May 2021 (RN 19/09996/FULL). The proposal seeks to add additional plant at roof level of the central block and the amalgamation of retail units in connection with the use of ground floor units 3B, 5A, 5B, 6 and basement floor unit 6 as commercial offices.

There are nine retail units at ground floor level within the development. Five of the units have floorspace at basement level. The most recent permission granted on 13 May 2021 allows flexibility in how the five units at the southern end of the building are used as either retail, offices, medical or health uses or gymnasium/leisure uses. Three units at the centre of the development are permitted as retail units, the unit at the southern end of the site is permitted for use as retail, restaurant, or as a bar.

The application has been submitted on behalf of Ted Baker who wish to occupy the whole of the commercial floorspace (all nine retail units) as their headquarter offices.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Changes to the Uses Classes Order which came into effect in September 2020 combined a number of town centre uses into a single use class, Class E Commercial Business Service. The uses contained within the new Class E include, retail shops, restaurants, financial and professional services, offices, medical uses, gyms and other indoor sport uses, creches and nurseries. It is not now development to move between the respective uses. Regard should be had to the Government's objective in introducing Use Class E to provide additional flexibility in allowing changes of use within a range of uses without the need to seek an express grant of planning permission. However, this does not override the requirement to assess the proposal against the relevant policies in the development plan.

A condition on the permission for redevelopment of the site granted in 2015 and subsequently amended earlier this year in May 2021 requires the development to be carried out in accordance with the approved drawings. The physical works have been completed however the commercial units on the basement and ground floors all remain unoccupied. The units permitted for retail purposes (previously within Class A1) cannot be used for other uses within Class E of the Use Classes Order (as amended September 2020) prior to being occupied for retail purposes in the first instance. This application would enable the three units permitted as retail (units 3B, 5A, and 5B) and single unit (unit 6) permitted as either retail, restaurant, or a bar to be used as offices (Class E).

Loss of potential retail/restaurant/bar

The site lies within the Central Activities Zone and the Cleveland Street District Centre.

London Plan policy E9 states that a successful, competitive, and diverse retail sector which promotes sustainable access to goods and services for all Londoners should be supported in line with the wider objectives of the Plan, particularly for town centres.

City Plan policy 14 is applicable. The policy supports the intensification of the CAZ to provide additional floorspace for main town centre uses in principle, subject to impact on townscape and heritage. The general aim being to enhance and diversify high streets as places to shop, work and spend leisure time. Uses that provide active frontages and serve visiting members of the public will be required at the ground floor throughout the town centre hierarchy. All development within the town centre hierarchy will be of a scale, type and format that reflects and enhances the role and function of the centre within which it is proposed.

The policy recognises that Major, District and Local Centres will provide a mix of commercial, and community uses to meet residents' day to day shopping needs, provide local employment opportunities, and support opportunities for community interaction.

Cleveland Street is a small local centre close to the Great Portland Street District centre within Fitzrovia. The aim of the policy is to ensure that local centres maintain a healthy mix of uses that includes a range of convenience shops for local residents supplemented by complementary uses that enhance the centres' vitality and viability.

Proposed Use by Ted Baker

As already stated, the use of the units at the northern end of the development as commercial offices is permitted by the earlier consents. Extending the commercial office use into the four retail units at the northern end of would be contrary to the aims of City Plan policy 14 as it would not result in the provision of a ground floor service or local convenience facility.

The applicant argues that there are significant benefits to the scheme which constitute exceptional circumstances and warrant a departure from the adopted policy. In summary these are:

- Use of the site as the headquarter offices by a fashion retailer accords with the historic character of this part of Fitzrovia;
- There has been no interest from retailers and permission would ensure that all the retail

- units to be occupied with no short term vacancy;
- A significant number of jobs the additional footfall would be created which would benefit the local centre maintaining the vitality and viability of existing shops and restaurants;
- Ted Baker is well placed to maintain high quality rotating window displays which would provide an active frontage and visual interest;
- Ted Baker has a strong track record of community interaction and the nature of the use would result in opportunities for public access to events.

The points made by the applicant are all acknowledge and understood. In order to categorically confirm that there is no realistic prospect of the units being used as local convenience shops marketing information would need to be submitted and independently assessed. Whilst no marketing information has been submitted to support the applicants' case the challenges that the retail sector faces particularly from on-line shopping are well known. Allowing permission as proposed would result in the significant benefit of ensuring that all the units are occupied which would deliver economic benefits to the local centre. It is considered that there is merit to the case advanced by the applicant and that use of the building by Ted Baker would enhance the local centre.

8.2 Townscape and Design

Legislation

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *"In considering whether to grant listed building consent for any works the local planning authority or 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 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."*

Whilst there is no statutory duty to take account of the effect on the setting of a conservation area, Policy 39 of the Westminster City Plan 2019-2040(April 2021) requires development to conserve features that contribute positively to the settings of conservation areas and take opportunities taken to enhance their settings, wherever possible.

Furthermore 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 scheme seeks to add additional mechanical plant to a plant area on the roof of the central block. Proposed air conditioning units are to be located within a screened enclosure and will

have no impact on the appearance of the building. Twin fan extract units are also to be sited amongst approved plant. This is below the height of the parapet and would only be visible from the upper floors of tower. No other external works are proposed. The proposal is considered to be acceptable in design and heritage asset terms.

As such, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan; and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.”

8.3 Residential Amenity

As stated above the proposed additional plant will be located below the parapet height of the building. This would have no material impact on the daylight or sunlight or result in any increased sense of enclosure to any surrounding buildings.

8.4 Transportation/Parking

Trip Generation

The highways planning manager advises that the additional office use does not raise any concerns with regards to trip generation, and that a travel plan for the proposed use is not considered necessary.

Cycle Parking

The proposed office use has a much higher requirement for cycle parking than retail (1 space per 75m² of office compared to 1 space per 175m² for retail). The total commercial floorspace within the development is 3,483 m² which would generate a policy requirement to provide 46 cycle parking spaces. Cycle parking is provided at basement level for both the residential flats and the commercial accommodation. A condition is recommended to require details of cycle parking to be approved prior to the commercial floorspace being occupied.

8.5 Economic Considerations

The applicant advises that Ted Baker will employ circa 300 staff at the site. The economic benefits associated with the scheme are welcomed.

8.6 Access

No changes are proposed to the access arrangements to the development as built.

8.7 Other UDP/Westminster Policy Considerations

Noise

Plant is proposed at roof level of the central block. The plant comprises air conditioning units to be located within an acoustic enclosure (set in from the Cleveland Street frontage) and fan extract units located on the roof adjacent to plant approved and installed (set in on the Clipstone Mews frontage) .

City Plan Policy 33 (C) is applicable the policy seeks to ensure that developments prevent adverse effects of noise and vibration.

Four individual objections have been received from residents at Holcroft Court that on the basis that the operation of the plant could result in noise nuisance. One of the objections also refers to nuisance from odours. Concerns are raised that the acoustic report submitted in support of the application refers to noise levels during the daytime only (07.00 to 23.00 hours).

An acoustic report has been submitted in support of the application. The noise level calculations in the report do assume daytime use only. Environmental Services have assessed the acoustic report submitted and raise no objection subject to the imposition of appropriate conditions.

They recommend that the standard conditions governing noise levels from plant are imposed. They comment that the acoustic report demonstrates that the additional plant can meet the daytime design criteria (40dBA) provided that the 4 condenser units are sited within an acoustic enclosure and the extract fans are fitted with appropriate attenuators. Furthermore, as at this stage of the design development the exact equipment is not fixed it is recommended that permission is subject to a condition which requires a supplementary acoustic report to be approved to demonstrate compliance with the required noise criteria. They also advise that if night time use is proposed then supplementary information must also be provided, this would include additional mitigation measures to demonstrate that the night time criterion of 34dBA can be achieved at the nearest noise sensitive dwelling / receptor.

In accordance with the advice from Environmental Services in addition to the standard noise conditions relating to noise from plant, a condition is also recommended which restricts the operation of the additional plant to between 07.00 and 23.00 hours daily and a further condition which requires the submission of a supplementary acoustic report to demonstrate compliance with the noise criteria. Subject to these conditions this aspect of the application is considered acceptable.

Odour

The extract ducts are for building ventilation / air circulation only and are at least 20m from the nearest sensitive receptor and would not result in any odour issues.

Refuse /Recycling

Policy S37 of the City Plan seeks to ensure appropriate facilities for the storage of separate waste streams which are safe and convenient to access for deposit and collection, with sufficient capacity for current and projected future use. No change is proposed to the refuse facilities located in the basement.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts

of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

The Fitzrovia West Neighbourhood Plan was adopted on 8 October 2021 and is part of the statutory Development Plan for Westminster. This application needs to be assessed against policies in this neighbourhood Plan. The application accords with the policy objective to achieve a vibrant business community.

8.10 London Plan

The application is referable to the Mayor of London. The stage 1 response will be verbally reported to Committee. If Committee resolve to grant permission, this application needs to be reported back to the Mayor, and the Mayor has 14 days to direct approval or refusal.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 unless stated otherwise.

8.12 Planning Obligations

As set out in the history section of this report the redevelopment scheme permitted on 10 November 2015 was subject to a legal agreement which secured the following.

- i) Provision of 15 on-site affordable housing intermediate rent units in perpetuity.
 - ii) A financial contribution of £4,629,000 towards the Council's affordable housing fund.
 - iii) Compliance with the City Council's Code of Construction Practice and submission of a CEMP (Construction Environmental Management Plan) to an annual cap of £30,000.
 - iv) A £30,000 financial contribution towards social/community provision
 - v) Costs of highways works around the site to facilitate the development (including paving, dropped kerbs, raised crossing etc).
 - vi) Provision of car club membership for residents of the building for 25 years.
 - vii) Replacement of trees on Cleveland Street.
 - viii) A financial contribution of £123,930 towards carbon off-setting.
- RN: 14/11837/FULL

The subsequent permission to vary conditions on the above permission granted on 13th May 2021 under s73 of the Act was subject to a deed of variation to the legal agreement.
RN 19/09996/FULL.

The obligations in the S106 agreement have been discharged. The current S73 application is subject to a deed of variation to the legal agreement which will secure the ongoing obligations which are:

- i) Provision of 15 on-site affordable housing intermediate rent units in perpetuity

- ii) Provision of car club membership for residents of the building for 25 years.

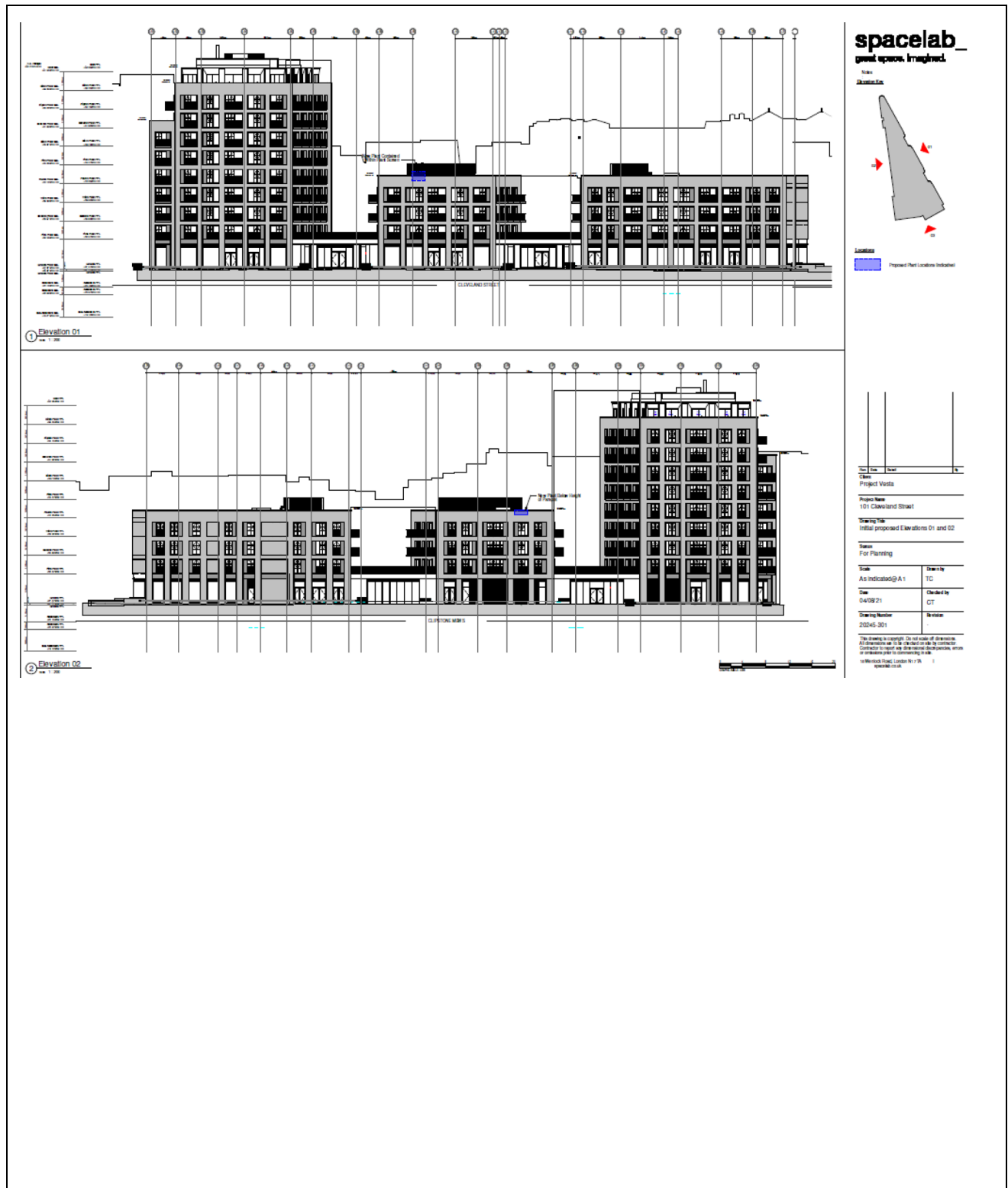
8.13 Environmental Impact Assessment

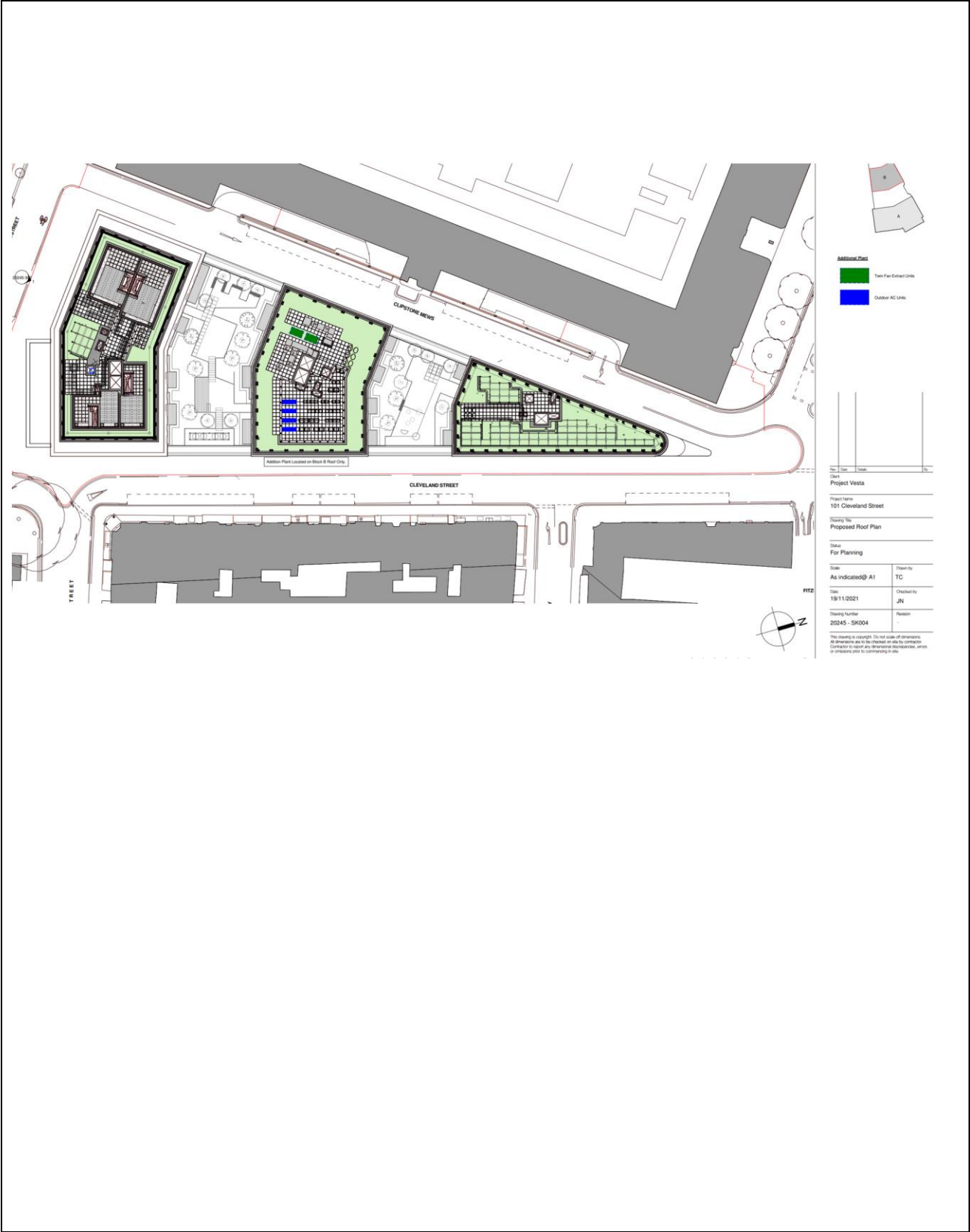
Not applicable

(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

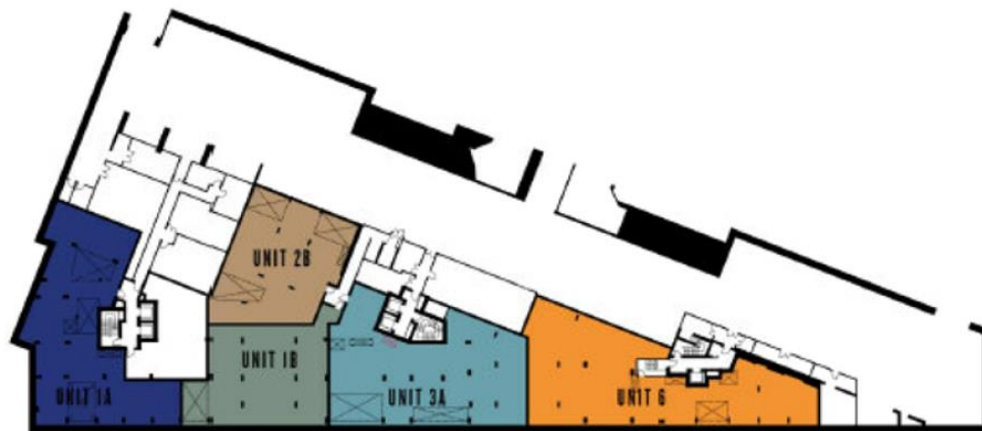
9. KEY DRAWINGS







Current ground floor unit demise



Current basement unit demise

DRAFT DECISION LETTER

Address: Development Site At, 87 - 125 Cleveland Street, London,

Proposal: Variation of condition 1 on planning permission dated 13th May 2021 (RN 19/09996/FULL) which varied condition 1, and removal of conditions 20, 26 and 27 of planning permission dated 10 November 2015 (RN: 14/11837/FULL) for the: Demolition of existing building and redevelopment to provide a building of three blocks (Block A comprising ground and nine upper floors, Block B ground and three upper floors and Block C ground and three upper floors) with basement and smaller sub-basement below and each separated by landscaped areas. For a mix of up to 105 residential units, provision of a mix of retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), office (Class B1), non-residential institution (Class D1) and assembly and leisure (Class D2) floorspace and associated landscaping, and provision of 46 residential parking spaces and associated plant space across sub-basement, basement and ground floor levels (amended description of development pursuant to NMA's 20/2/2020 RN 19/10073/NMA) **NAMELY** to allow i) the installation of additional plant at roof level on Block B and ii) amalgamation of retail units in connection with the use of ground floor units 3B, 5A, 5B, 6 and basement floor of unit 6 as commercial offices. Application is made under Section 73 of the Act

Plan Nos: Plan Nos: Approved 10 November 2014 (RN 14/11837/FULL) A2494 198/P6; 199/P27; 200/P29; 201/P18; 202/P17; 204/P16; 207/P17; 208/P10; 209/P10; 210/P10; 300/P3; 301/P3; 302/P3; 303/P3; 304/P3; 400/P7; 401/P7; 402/P5; SK150223/P1; SK150409B/P1; DPA-69740-01/A.

Application Plan Nos: Approved 13 May 2021 (RN 19/09996/FULL) Plan Nos: A2494 198C-P2P3 ;199F-P4; 200F-P6; 201C-P4; 202C-P6P4 ; 203C-P2; 204CP2; 205C-P2; 206C-P2; 207C-P2; 208C-P2; 209C-P2; 210C-P2; 300F-P3; 301F-P3; 302F-P3; 303FP3; 304F-P3; 400F-P3; 401F-P3; 402F-P3; SK150223/P1; SK150409B/P1; DPA-69740-01/B; 7100E-P5; 7101F-P2;

Application 21/05616/FULL A2494 198C-P2P3 ;199F-P4; 200F-P6; SK-001; SK-003; 201C-P4; 202C-P6P4 ; 203C-P2; 204CP2 204H P01 ; 205C-P2; 206C-P2; 207C-P2; 208C-P2; 209C-P2; 210C-P2 210H P01 ; 300F-P3; 301F-P3; 302F-P3; 303FP3 300H P01; 301H P01; 302H P02; 303H P01; 304F-P3; 400F-P3; 401F-P3; 402F-P3; 20245/301; 20245/302; SK150223/P1; SK150409B/P1; DPA-69740-01/B DPA-69740-01/C ; 7100E-P5; 7101F-P2;

Case Officer: Mike Walton

Direct Tel. No. 07866039922

Recommended Conditions:

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the

City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

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

- 2 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the roof terrace.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 3 You must not put structures such as canopies, fences, loggias, trellises or satellite or radio antennae on the balcony.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 4 You must apply to us for approval of a scheme of public art. You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details. You must maintain the approved public art and keep it on this site. You must not move or remove it. Alternatively, you must deliver the scheme of public art approved by the City Council on 18/01/2021 ref: 21/00187/ADFULL.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26AE)

- 5 Except for basement excavation work, you must carry out any building work which can be heard at the boundary of the site only:
 - * between 08.00 and 18.00 Monday to Friday;
 - * between 08.00 and 13.00 on Saturday; and
 - * not at all on Sundays, bank holidays and public holidays.

You must carry out basement excavation work only:

- * between 08.00 and 18.00 Monday to Friday; and
- * not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours.

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 6 Customers shall not be permitted within the restaurant and/or bar premises outside of the following hours: 07.00 to 0000 midnight Sunday to Thursday, bank holidays and public holidays and 07.00 to 00.30 the next day on Friday and Saturdays.

Reason:

To protect the environment of residents and the area generally as set out in Policies 7, 27 and 33 of the City Plan 2019 - 2040 (April 2021). (R22CD)

- 7 You must apply to us for approval of detailed drawings of the appearance and location of the ventilation systems for the restaurant units. You must then carry out the work according to the approved details prior to the first use of the restaurant and thereafter the ventilation system shall be retained and maintained for as long as the restaurant unit is in place.

Reason:

The use of the restaurant unit without any kitchen ventilation would cause harm to occupiers of neighbouring properties from cooking smells. This is as set out in policy 33 the City Plan 2019 - 2040 (April 2021)

- 8 You must apply to us for approval of an Operational Management Plan for the bar and/or restaurant use. This shall include details of the capacity for the unit and arrangements to show how you will prevent customers who are leaving the restaurant/bar from causing nuisance for people in the area, including people who live in nearby buildings. You must not open the restaurant or bar to customers until we have approved what you have sent us. Thereafter you must manage the restaurant or bar in accordance with the approved plan.

Reason:

To protect the environment of residents and the area generally as set out in Policies 7, 27 and 33 of the City Plan 2019 - 2040 (April 2021). (R22CD)

- 9 You must apply to us for approval of an Operational Management Plan for the medical and health service and/or gymnasium/ leisure uses. This shall include details of the capacity and opening hours for each unit and measures to prevent the uses causing disturbance to neighbouring occupiers. You must not open the units until we have approved what you have sent us. Thereafter you must manage the units in accordance with the approved plan.

Reason:

To protect the environment of residents and the area generally as set out in Policies 7, 27 and 33 of the City Plan 2019 - 2040 (April 2021). (R22CD)

- 10 You must provide the waste store shown on drawings A2494 199F/P4 and A2494 200F/P6, before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the properties. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 11 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 unless otherwise agreed in writing by the local planning authority.

Alternatively you must operate the site in compliance with the servicing management strategy approved by the City Council on 18/02/2021 ref: 21/00990/ADFULL.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 12 Full details of cycle parking shall be provided prior to occupation of the commercial floorspace at basement and ground floors. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 13 You must apply to us for approval of detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 6 months of completing the development (or within any other time limit we agree to in writing). If you remove any trees or find that they are dying, severely damaged or diseased within 6 months of planting them, you must replace them with trees of a similar size and species.

Alternatively you must within six months of completion of the development deliver the landscaping in accordance with details approved by the City Council on 22/06/2021 ref: 21/01533/ADFULL.

Reason:

To improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R30AD)

- 14 The three bedroom residential units shown on the approved drawings must be provided and thereafter shall be permanently retained as accommodation which (in addition to the living space) provides three separate rooms capable of being occupied as bedrooms

Reason:

To protect family accommodation as set out in Policy 8 of the City Plan 2019 - 2040 (April

2021). (R07DD)

- 15 Full details of the 'children's play facility' in the southern courtyard shall be submitted to the City Council and approved before occupation of the residential part of this development. You must then carry out work according to these details which should be permanently retained on site.

Alternatively, you must deliver the scheme of children's play space approved by the City Council on 25/03/2021 ref: 21/01534/ADFULL.

Reason:

To provide adequate childrens play facilities for people using the development in accordance with Policy 34 of the City Plan 2019 - 2040 (April 2021).

- 16 You must provide the following bio-diversity/sustainability features before you start to use the relevant part of the development, as set out in your application. i) Green roof ii) PV panels iii) CHP You must not remove any of these features.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 17 You must apply to us for approval of detailed drawings and a bio-diversity management plan in relation to the green roofs to include construction method, layout, species and maintenance regime.

You must not commence works on the relevant part of the development until we have approved what you have sent us. You must carry out this work according to the approved details and thereafter retain and maintain in accordance with the approved management plan.

Alternatively you must deliver the scheme in compliance with the bio-diversity management plan approved by the City Council on 19/05/2021 ref: 21/02831/ADFULL.

Reason:

To increase the biodiversity of the environment, as set out Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43FC)

- 18 You must apply to us for approval of an independent review of the environmental sustainability features (environmentally friendly features) of the development before you start any work on the development. In the case of an assessment using Building Research Establishment methods (BREEAM and Code for Sustainable Homes), this review must show that you have achieved an 'excellent' rating and Level 4 of the Code for Sustainable Homes. If you use another method, you must achieve an equally high standard. You must provide all the environmental sustainability features referred to in the review before you start to use the building. You must then not remove any of these features.

Alternatively you must provide all the environmental sustainability features approved by the City

Council on 23/08/2019 ref 19/06571/ADFULL before you start to use the building. You must then not remove any of these features.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 19 Prior to the installation of the combined heat and power (CHP) plant, a scheme of the plant including the flues shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be installed and permanently retained thereafter.

Alternatively you must provide the CHP scheme approved by the City Council on 23/09/2021 ref 21/03837/ADFULL before you start to use the building. You must then not remove this feature.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 20 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 21 1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

Emergency energy generation plant is generally noisy, so in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby. (R50AC)

- 22 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 23 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 24 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your

submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 25 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 24 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Alternatively you must deliver the plant in accordance with the details approved by the City Council on 13/07/2021 ref 21/03838/ADFULL.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AD)

- 26 Prior to the occupation of any units in restaurant use (Class A3) you must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the restaurant use until we have approved what you have sent us and you have carried out the work according to the approved details.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 27 The office and ancillary uses at ground floor and basement shown on the approved Ground Floor Plan (SK-001, dated 30.07.2021) and approved Basement Plan (SK-003, dated 30.07.2021) shall only enure for the benefit of and be carried out by No Ordinary Designer Label Limited ("NODL") and its sub lessees. For the avoidance of doubt the ground floor and basement shall not following the cessation of use of these parts of the Property by NODL and its sub lessees be used otherwise than in accordance with the uses shown on the Basement Floor Plan and Ground floor Plan approved pursuant to condition 1 of Planning Permission reference 19/09996/FULL.

Reason:

The office and ancillary uses of the property proposed by No Ordinary Designer Label Limited would secure a range of uses that are suited to a Local Centre site and are likely to attract an element of public access and active frontages in line with the expectations of Policy 14 of the City Plan 2019-40.

28. The outdoor air conditioning units and twin fan extract units on the roof of block B hereby approved as shown on roof plan numbered 20245- SK004 shall only be used between the hours of 07.00 and 23.00 daily

Reason

So that the noise environment of people in noise sensitive receptors is protected in accordance with Policy 33 of the City Plan 2019-40.

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please contact Environmental Sciences by email to environmentalsciences2@westminster.gov.uk if you have any queries about your obligations under the Control of Pollution Act 1974 or the Environmental Protection Act 1990.
- 3 You must get planning permission for any tanks, equipment, lift motor rooms, railings or other additions to the property. (I21AA)

- 4 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to 15 on site affordable housing units, and car club provision. (I55AA)