

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 22 June 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Marylebone High Street	
Subject of Report	Dev Site At 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street And 30, Gloucester Place, London		
Proposal	Variation of conditions 1, 31 and 35 of planning permission dated 4 March 2020 (RN 19/06767/FULL) (amended by 20/05397/NMA) which permitted the following development : Demolition of the existing buildings at 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street and redevelopment to create a mixed use scheme providing commercial uses and up to 51 residential units within a new ground plus nine storey building (and an enclosed plant area) on Baker Street; a new stepped ground plus four to ground plus six storey building on George Street; refurbishment, extension and the change of use of the first floor from office to residential at 30 Gloucester Place; creation of a single storey basement level linking the Baker Street and George Street buildings to provide car and cycle parking, refuse and servicing; creation of a new central, publicly accessible courtyard; removal of 5 trees and replacement trees across the site, a new publicly accessible route at ground level connecting Baker Street and Gloucester Place; associated plant, landscaping, replacement pavements in part and other associated works <b>NAMELY</b> , to allow alterations including alterations at ground floor level and at 10 <sup>th</sup> floor roof level including a new roof top room, roof terrace and alterations to plant enclosure at 19-35 Baker Street, new risers at 3 <sup>rd</sup> floor to roof level at 30 Gloucester Place, introduction of increased flexibility to the commercial units across the ground floor and to remove the existing tree situated directly to the front of the newly approved entrance and replace it with a new tree to the south-west corner of Gloucester Place.		
Agent	Gerald Eve		
On behalf of	Portman Investments (Baker Street) Limited		
Registered Number	20/06914/FULL	Date amended/ completed	30 October 2020
Date Application Received	30 October 2020		
Historic Building Grade	30 Gloucester Place - Grade II listed. Other Buildings Unlisted		
Conservation Area	Portman Estate		

## 1. RECOMMENDATION

1 Grant conditional permission subject to a deed of variation to a S106 legal agreement to secure:

- i) provision of 10 affordable housing units at 30 Gloucester Place, (including securing rent levels) to be made ready for occupation prior to the occupation of the market housing on George Street (building D)
- ii) a financial contribution of £10 million towards the City Council's affordable housing fund (index linked and payable on commencement of development)
- iii) a viability review mechanism
- v) costs relating to highways works around the site to facilitate the development
- v) provision of unallocated residential parking
- vi) lifetime car club membership (25 years) for each residential unit payable on first occupation
- vii) a lift management and maintenance plan
- viii) a financial contribution to the carbon offsetting fund carbon offsetting fund of £76,665 for the residential part of the development prior to commencement of development
- ix) the applicant pays the City Council's reasonable costs of making and consulting on an Order pursuant to Section 247 of the Town and Country Planning Act (1990) (as amended) to 'stop-up' an area of public highway.
- x) Crossrail payment of £2,696,155 (index linked) to be paid on commencement of development
- xi) a financial contribution towards the cost of off-street tree planting on George Street, Gloucester Place and Blandford Street.
- xii) an employment and training strategy
- xiii) monitoring costs

2.If the deed of variation to the legal agreement has not been completed within six weeks of the date 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 agreement 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

3. The Committee authorises the making of a draft order pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of the highway required to enable the development to take place.

## 2. SUMMARY

Permission has previously been granted for the redevelopment of the majority of this site to provide an office led mixed use scheme. This application is submitted under Section 73 of the Act and seeks to vary conditions on permission granted on 4 March 2020 (RN 19/06767/FULL) as amended on 13 October 2020 (RN 20/05397/NMA). This scheme proposes changes at ground floor and 10<sup>th</sup> floor roof levels to an office building on Baker Street at the eastern end of the site and changes to the rear façade of 30 Gloucester Place. In addition to these physical works the application also seeks to widen the potential use of ground floor retail units from permitted retail and restaurant uses, to a range of uses within Class E and F1 (Use Classes Order as amended September 2020) and the removal of a tree from George Street and planting a replacement tree on Gloucester Place/Blandford Street.

The key issues for consideration are:

The impact in land use terms;

The acceptability of the scheme in townscape and design terms;

The impact on residential amenity

In terms of land use, use of the retail units flexibly for either the previously permitted retail Class E) and restaurant (Class E) uses, indoor sport recreation and fitness use (Class E), and for the display of art (Class F1) are all considered acceptable subject to appropriate conditions. However, use of the ground floor retail units as offices (Class E), medical or health services (Class E), creche day nursery or day centre (Class E), or for education and training purposes (Class F1), would be contrary to adopted policy in the City Plan and these uses are considered unacceptable.

The most significant works proposed are at roof level to the Baker Street building. These works increase the bulk of the roofscape, especially at 10<sup>th</sup> floor level. Officers previously advised that the height and bulk of the Baker Street building causes harm to the setting of the adjacent conservation area and listed buildings. The level of harm is increased slightly but it remains less than substantial harm which is outweighed by public benefits that would be delivered.

The proposed relocation of the tree is considered acceptable.

Accordingly, subject to the completion of the deed of variation to the legal agreement conditional permission is recommended.

### 3. PHOTOGRAPHS



Building C from Baker Street



Building C from commercial car park



Building D from George Street



Building B from Blandford Street



Building A from Gloucester Place



Building A from commercial car park



Building C from Baker Street



Building C from Baker Street



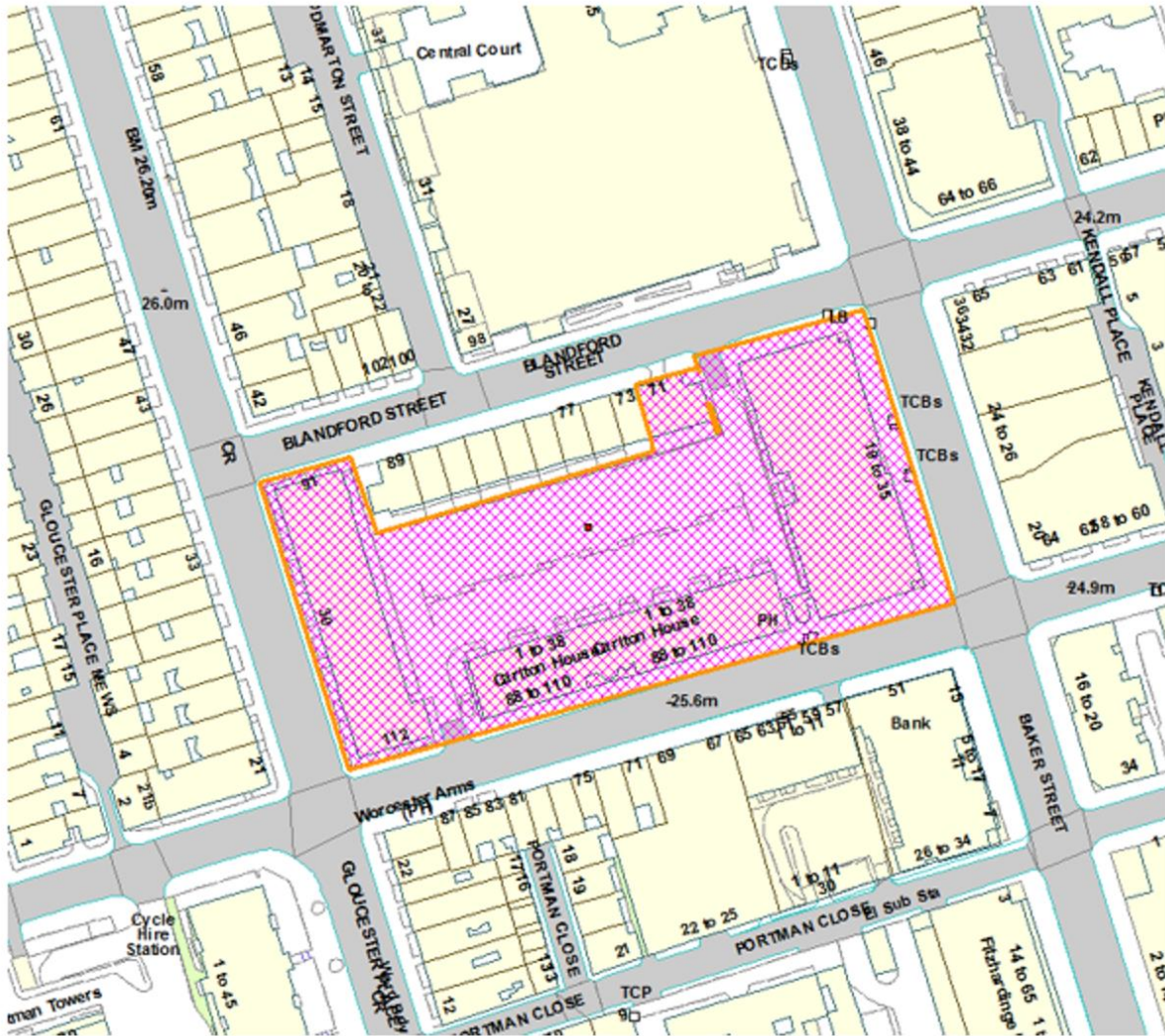
Buildings C and D from Grosvenor Street



Buildings C and D from Grosvenor Street



#### 4. LOCATION PLAN



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## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY

Comment that the application raises no new strategic issues and can be determined without further reference to the GLA.

### MARYLEBONE ASSOCIATION

Any response to be reported verbally

### ARBORICULTURAL SECTION

No objection to removal of a tree subject to a condition to secure an adequate replacement

### ENVIRONMENTAL HEALTH

No objection, subject to appropriate conditions

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 488

Total No. of replies: 3

1 Neutral comment

No. of objections: 2 received on some or all of the following grounds

#### Land Use

Proposed flexible uses is contrary to Members original resolution in 2017 which restricted ground floor uses to retail and restaurant;

The approval of kitchen ventilation ducts as part of the S96A approval has increased the potential for restaurants;

The proposed reception café' and 10<sup>th</sup> floor room should be included in the A1/A3 uses;

Restrictive conditions need to be imposed to ensure the 10<sup>th</sup> floor café'/ bar is ancillary to the offices only, the hours of use should be limited to 7.00am to 9.00pm on Monday to Friday;

#### Design

Unacceptable increase in bulk at 10<sup>th</sup> floor level, demonstrated by verified views;

Extracts ducts to the rear of 30 Gloucester Place are unnecessary and unsightly;

#### Amenity

Loss of daylight/sunlight/ to residential properties and gardens;

All existing residents outdoor amenity space should be protected;

Tenant amenities could be accommodated within the floorplate of the approved development;

Noise nuisance and overlooking from terraces;

#### Other Issues

Increased security risk to Blandford Street houses;

The entrance into the courtyard from Blandford Street will be used by rough sleepers;

Green roof provision is inadequate;

### Procedure

Changes to retail and restaurant uses and the provision of 8<sup>th</sup> and 9<sup>th</sup> floor terraces approved on 13 October 2020 (RN 20/05397/NMA) under S96a as Non Material Amendments to permission granted on 4 March 2020 (RN 19/06767/FULL) should be included in the current S73 Application submitted on 30 October 2020. The NMA alterations should not have been permitted under powers delegated to Officers without consultation.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The site covers a large street block flanked by Baker Street to the east, Gloucester Place to the west, George Street to the south and Blandford Street to the north. The site comprises four buildings in office (Class B1) retail (Class A) and residential (Class C3) uses.

The eastern portion of the site is occupied by a seven storey building, with roof top plant (19-35 Baker Street building C). The southern side of the site contains a part four, part five storey building (88-110 George Street building D). The length of the western boundary is occupied by a four storey building (30 Gloucester Place building A). The northern end of the site is partially occupied by a four storey building (69-71 Blandford Street building B). The northern part of the street block is also partially bounded by private residential properties (No's 73-89 Blandford Street) which are outside the application site. The centre of the site is open and in use as a surface level commercial car park.

The existing mixes of uses are as follows:

- i) 30 Gloucester Place (Building A) ground and 1<sup>st</sup> floors are office use (Class B1), 2<sup>nd</sup> and 3<sup>rd</sup> floors are residential (Class C3);
- ii) 69-71 Blandford Street (Building B) is a restaurant (Class A3) at basement, ground and first floor levels with two one-bedroom residential (Class C3) units above on second and third floor levels;
- iii) 19-35 Baker Street (Building C) comprises retail uses at ground floor level (Class A1) with offices (Class B1) above;
- iv) 88-110 George Street (Building D) comprises a mix of commercial uses at ground floor level including a bar (Class A4) and estate agents (Class A2) with offices (Class B1) at 1<sup>st</sup> and 4<sup>th</sup> floors and 38 residential flats (Class C3) at 2<sup>nd</sup> and 3<sup>rd</sup> floor levels.

The central surface level car park provides 96 car parking spaces, bicycle parking, servicing and refuse storage. The car park is accessed from George Street and Blandford Street.

The site lies within the Central Activities Zone (CAZ) as designated within the City Plan (adopted April 2021). No 30 Gloucester Place is Grade II listed and is within the Portman

Estate Conservation Area. The remainder of the site is not within a Conservation Area. The wider context contains a variety of building styles, uses and heights.

## 6.2 Recent Relevant History

i) On 27 March 2019 permission was granted for a scheme which permitted redevelopment of the majority of the site (RN 16/11376/FULL). The scheme involved the demolition of the northern (69-71 Blandford Street building B), eastern (19-35 Baker Street building C) and southern (88-110 George Street building D) parts of the site and redevelopment to provide two new buildings fronting onto Baker Street and George Street.

An associated application for listed building consent was also approved on 27 March 2019, under application reference RN 16/11377/LBC

The permitted scheme is an office led development which would provide circa 28,012 m<sup>2</sup> offices GIA, but also included up to 51 residential dwellings with 41 market housing units on George Street and intermediate affordable housing on the 1<sup>st</sup> floor of 30 Gloucester Place. The scheme also included restaurant and retail uses on the Baker Street and George Street frontages and a retail courtyard within the centre of the site. The retail courtyard is to be accessed via new pedestrian routes east west from Baker Street to Gloucester Place and north south between Blandford Street and George Street.

The approved new buildings C and D are linked by a new basement with access from Blandford Street and George Street providing car and cycle parking, refuse, and delivery access to each building. The building on Baker Street (building C) is 11 storeys high. The 8<sup>th</sup> to 10<sup>th</sup> floors are set back. The building as initially approved was designed with disengaged stone and precast elevations with large double height openings and recessed corners. The roof profile of the plant room is chamfered. The ground floor would provide retail (Class A) units with offices (Class B1) on the upper floors.

The new building on George Street (building D) steps up from 5 storeys at the west to 7 storeys to the east. The facades are brick with a regular pattern of windows. As with the Baker Street building the ground floor will be retail (Class A) units with up to 41 market housing units (Class C3) on the upper floors. The new retail (Class A) units extended further into the existing car park to the rear at ground floor level than existing. Single storey retail (Class A1) units were permitted on the northern side of the site to create a new retail/ leisure courtyard. The retail units include perimeter planting, landscaping and an arbour crossing.

At 30 Gloucester Place (building A) new openings were approved in the façade at ground floor level to provide a new route through the centre of the street block. Listed building consent was granted for these works and the internal alterations proposed in connection with the conversion the 1<sup>st</sup> floor from offices (Class B1) to 10 affordable housing units (RN 16/11377/LBC).

The permission was subject to a S106 legal agreement which secured a number of benefits including a financial contribution to the carbon offsetting fund of £84,780 for the non-residential and £145,800 for the residential prior to commencement of development.

ii) On 4 March 2020 a minor material amendment to planning permission 16/11376/FULL was granted under Section 73 of the Act. This scheme permitted revisions to facade design of 19-35



Baker Street (building C); and revisions to the energy strategy to omit the gas-fired boilers and replace with all electric air source heat pumps across building C. RN 19/06767/FULL

iii) On 13 October 2020 an application under Section 96A of the Act permitted non-material amendments to permission dated 4 March 2020 RN 19/06767/FULL. This permitted the following:

Amendments to planning permission dated 4th March 2020 (RN 19/06767/FULL) which permitted variations to conditions 1 and 24 of planning permission dated 27 March 2019 (RN: 16/11376/FULL) : **Namely** to amend the description of development to read as follows: Variation of conditions 1 and 24 of planning permission dated 27 March 2019 (RN: 16/11376/FULL) for the: Demolition of the existing buildings at 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street and redevelopment to create a mixed use scheme providing commercial uses and up to 51 residential units within a new ground plus nine storey building (and an enclosed plant area) on Baker Street; a new stepped ground plus four to ground plus six storey building on George Street; refurbishment, extension and the change of use of the first floor from office to residential at 30 Gloucester Place; creation of a single storey basement level linking the Baker Street and George Street buildings to provide car and cycle parking, refuse and servicing; creation of a new central, publicly accessible courtyard; removal of 5 trees and replacement trees across the site, a new publicly accessible route at ground level connecting Baker Street and Gloucester Place; associated plant, landscaping, replacement pavements in part and other associated works.(Linked application 16/11377/LBC) AND; amendments including internal reconfigurations to 30 Gloucester Place and changes to approved plant layout, amendments to the ground floor retail shopfronts on the 19-35 Baker Street building; internal reconfigurations to 88-110 George Street resulting in a re-distribution of the residential mix, a change to the residential entrances, amendments to rooftop plant and green roofs, replacement of glazed windows with blind windows on the north, east and west elevations, and amendments to courtyard landscaping and green roofs of courtyard buildings. (RN 20/05397/NMA)

iv) On 5 November 2020 listed building consent was granted for the following works to Gloucester Place.

Internal reconfigurations at basement, ground, first, second, third and roof level, including the reduction of the basement footprint, demolition of the lift machine room, demolition and relocation of the waste chute and lift, re-configuration of the office internal stair core, creation of an office lobby area, improvements to the retail arcade layout, re-configuration of the residential corridor and units at first floor. Externally consent is sought for the removal of the existing BMU, introduction of a new MEP louvre, demolition of the railings on top of the lightwell, proposed MEP risers, insertion of a new brick screen at roof level to match the existing, windows to be refurbished to match the existing, new proposed windows to parts of the north and south elevation at first floor as a result of the internal reconfigurations and associated works. RN 20/05302/LBC

v) The permission dated 27 March 2019 (RN 16/11376/FULL) ref point 1 above, and the subsequent permission dated 4 March 2020 (RN 19/11376/FULL) as amended on 13 October 2020 (RN 20/05397/MNA) ref points 2 and 3 above were subject to a condition (No 35) controlling the quantum of retail and restaurant floorspace within the approved development.

Condition No 35 on these decision notices states:

A minimum of 1,168 m<sup>2</sup> retail (Class A1) floorspace and a maximum of 2,724 m<sup>2</sup> restaurant (Class A3) floorspace shall be provided as part of the development. Units numbered 6 and 11 - 17 shall be used for retail Class A1 purposes only. The use of the remaining retail Class A uses shall be agreed as part of an approved retail strategy prior to occupation of the development.

On reviewing the applications, it is apparent that there was an error in the drafting of this condition as it didn't reflect the intentions of the Planning Committee meeting of 14 November 2017. The intention of the Committee was that use of the retail units should be a 50: 50 split between retail and restaurant uses, and that units numbered 6 and 11-17 should be used for retail purposes only.

The total floorspace of the retail units comprised 3892 m<sup>2</sup>. Condition No 35 should have prescribed that the maximum restaurant floorspace should not have exceeded 1946 m<sup>2</sup> (50 % of the retail units floorspace).

To rectify the position a deed of variation to the legal agreement was completed on 29 April 2021. This stipulates that notwithstanding condition 35 on the permissions (dated 27 March 2019 and 4 March 2020 amended on 13 October 2020) not to provide more than 1946 m<sup>2</sup> restaurant floorspace as part of the development; and that units numbered 6 and 11-17 shall be used for retail purposes only.

## 7. THE PROPOSAL

Permission is sought for minor-material amendments to permission granted on 4 March 2020 (RN 19/06767/FULL) as subsequently amended on 13 October 2020 via a Section 96A application (20/05397/NMA). The details of these applications are set out above in Section 4.2 (relevant history) of this report.

The proposed minor material amendments involve the variation of conditions 1, 31 and 35 of planning permission dated 4 March 2020 (RN 19/06767/FULL) (amended by 20/05397/NMA). The application is submitted pursuant to the Section 73 of the Town and Country Planning Act.

There are three elements to the application:

- Physical alterations to the new building permitted at 19-35 Baker Street and 30 Gloucester Place (condition 1)
- Increased flexibility in the use of ground floor retail units on Baker Street, George Street and within the courtyard to broaden the range of potential uses from retail and restaurant to include other commercial uses within Class E and Class F1 of the Use Classes Order (as amended September 2020) (condition 35)
- Removal of a tree at George Street with a replacement tree to be planted on Blandford Street (condition 31)

### *i) Alterations*

Amendments are proposed to the 10<sup>th</sup> floor plant room of the Baker Street building. The set back of the plant enclosure is reduced and a new roof top room and terrace fronting onto the southern side of the building are provided. New planting is proposed to the perimeter of an 8<sup>th</sup> floor roof terrace.

At ground floor level the office reception is to be reconfigured and enlarged, including the provision of an ancillary café' on the corner of Baker Street and George Street. Alterations to the core include changes to the building fronting onto the courtyard. It is also proposed to remove glazed doors in the pedestrian link between Baker Street and the retail courtyard.

At 30 Gloucester Place external risers are proposed on the rear east elevation between third floor and roof level. (variation of condition 1)

*ii) Increased flexibility to the use of ground floor retail units.*

The approved development includes ground floor retail units fronting onto Baker St, George Street and within the central courtyard, to be used for either retail or restaurant purposes (ref history section). Permission is sought to increase the flexibility how the approved ground floor commercial units are to be used by introducing the following potential uses: Offices (Class E), medical or health services (Class E), creche day nursery or day centre (Class E), indoor sport recreation and fitness use (Class E), education and training (Class F1), display of art (Class F1) as well as the permitted retail (Class E) and restaurant (Class E) uses (variation of condition 35).

*iii) Relocation of a tree*

The S96A approved Non- Material Amendment (13 October 2020 RN 20/05397/NMA) permitted an amendment to the residential entrances on George Street changing two entrances to a single central entrance. This application seeks to remove an existing tree situated outside the entrance on George Street and plant a replacement tree at the western end of Blandford Street close to the junction with Gloucester Place (variation of condition 31).

## 8. DETAILED CONSIDERATIONS

This application does not require the principle of the development to be re-assessed. The scope of a section 73 application requires a Local Planning Authority (LPA) to consider the conditions subject to which permission should be granted. The conditions application must be assessed in accordance with the development plan and other material considerations. The starting point is the development plan, and then it is for the LPA to determine if material considerations justify a different outcome. The extant permission which will expire in March 2022 is a material consideration. The applicant has set out a development programme in which demolition works would commence in October 2021. Implementation of the development is not completely dependent upon the works proposed under this application. In the circumstances the extant permission carries great weight in the decision making process.

### 8.1 Land Use

Land Use	Existing (GIA sq. m)	Approved March 2019 (GIA sq. m)	Approved March 2020	NMA October 2020	Proposed S73 Application
Office (Class B1)	10,674	27,925	28,395	28,307	28,492
Residential (Class C3)	4,182	8,772	8,731	8,946	8,948
Retail (All Class A uses)	4,047	3,892	3,836	3,702	3,583
Flexible Class E/ Class F uses	0	0	0	0	3,583
<b>TOTAL</b>	<b>18,930</b>	<b>40,589</b>	<b>40,963</b>	<b>40,955</b>	<b>41,022</b>

### Offices

The approved development and subsequent s73 scheme is for an office led development. As the proposed variation to condition 1 will result in the reconfiguration of and slight increase in office floorspace. The office provision is assessed against current City Plan policies.

The site is located within the Central Activities Zone (CAZ) as designated by the City Plan 2019-2040 (adopted April 2021). Policy 1 and 13 of the adopted City Plan (April 2021) are relevant. Policy 1 (Westminster's spatial strategy) states that Westminster will continue to grow, thrive and inspire at the heart of London as a World City. Policy 13 (supporting economic growth) states that new and improved office floorspace will be supported to provide capacity for at least 63,000 new jobs over the Plan period. Additional office floorspace is supported in principle in parts of the Central Activities Zone (CAZ) with a commercial or mixed-use character. The site is mixed use in character. Baker Street is a major commercial thoroughfare comprising shop units at ground floor level with predominantly offices above. In addition to this the site contains shop

units on George Street with further offices in part of 30 Gloucester Place at the western end of the site. The site remains appropriate for an office led scheme when assessed against current City Plan policies (April 2021)

As is set out in the land use table above the current proposal would result in the provision of 28,492 m<sup>2</sup> of office floorspace which is an increase of 185 m<sup>2</sup> in comparison with the permitted scheme. The increase in floorspace is largely as a result of proposed amendments at 10<sup>th</sup> floor level to the Baker Street building. Overall the current scheme would result in a 0.16% increase in the total floorspace across the site (in comparison with the NMA approval October 2020).

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. It is clear that regard should be had to the objective in introducing Use Class E which is to provide additional flexibility in terms of allowing changes of use within a range of uses without the need to seek an express grant of planning permission. The provision of a significant quantum of commercial offices accords with the City Council's strategic objectives and policies. The significant increase in employment and jobs as part of the scheme is in accordance with City Plan and London Plan policies would be a substantial benefit. It is therefore recommended that permission is subject to a condition which restricts the office floorspace to offices only and no other purpose within Class E of the Use Classes Order to ensure that the scheme delivers the stated planning benefit.

### Mixed Use

The adopted City Plan City Plan 2019-2040 no longer has a policy requiring the provision of residential to offset increases commercial office floorspace. The conditions which are sought to be varied have no bearing on the quantum of housing delivered by the scheme. This element of the scheme remains as previously approved.

### Residential

The current development plan (Policy 9 of the adopted City Plan 2019-2040) requires a higher percentage of affordable housing and changes the methodology for calculating the affordable housing requirement. However, as is the case with regards to the mixed-use policy, the conditions which are sought to be varied do not relate to the residential element of the scheme. Both the market and affordable housing that will be delivered remain unaltered by this application. Consideration of the residential provision is not therefore revisited.

As stated above, the extant permission is a material consideration which carries great weight and it would be unreasonable to revisit the mixed use and residential elements, despite changes to policy, as those aspects remain unaltered by the current application.

### Retail Units and the Courtyard Development

#### Background

The ground floor retail as initially approved had the potential for 17 units fronting onto Baker Street, George Street and within the central courtyard. The approved development allowed flexibility in the distribution of retail (formerly Class A1) and restaurant (formerly Class A3) uses within the scheme. The intention being that the units numbered 6 and 11-17 directly to the rear of residential houses on Blandford Street would be used for retail purposes only with flexibility in

how the remaining units would be used for either retail or restaurant purposes.

As set out in point 5) of the history section of this report a condition on both the initial permission granted in 2019 and the subsequent s73 permission (as amended) in 2020 should have stipulated that there would be a 50: 50 split between retail and restaurant uses, in addition to which the units numbered 6 and 11-17 should be used for retail purposes only. The deed of variation to a legal agreement completed on 29 April 2021 rectifies this position. This prescribes that notwithstanding condition No 35 on the permissions the maximum restaurant floorspace should not exceed 1946 m<sup>2</sup> (50 % of the retail total retail floorspace of 3892 m<sup>2</sup>) and that retail units numbered 6 and 11-17 shall be used for retail purposes only.

Due to reconfiguration of the cores of both the new office building fronting onto Baker Street and the residential building fronting onto George Street the total number of individual retail units has increased from 17 to 20 units. The reconfiguration relates to four units on George Street and one within the courtyard, and comprises the following changes:

- Unit 3 located on George Street at the junction with Baker Street has been deleted to form an enlarged office reception with an ancillary café,
- Units 8, 9, and 10 located on George Street initially comprised large through units with access from George Street and within the central courtyard. Due to a change in the access core to the residential building on George Street, these units are to be subdivided into 3 smaller units fronting onto George Street and 3 units fronting onto the courtyard.
- Reconfiguration of the core of the office building fronting onto Baker Street results in the provision of an additional retail unit in an area which was previously permitted as office floorspace.

The total floorspace of the retail units is now slightly reduced to 3583 m<sup>2</sup>

#### Proposed Alternative flexible Use of the retail units

In the light of the change to the Use Classes Order discussed this application seeks to broaden the flexibility as to how the retail units could be used to include uses within Class E; Commercial Business Service and Class F1; learning and non- residential institutions. The applicant advises that this increased flexibility will secure the vitality and viability of the units whilst also maintaining active frontages, diversifying the high street offer and allowing for uses which promote health and well-being.

In addition to the already permitted retail (Class E) and restaurant (Class E) uses, permission is now sought for use of the retail units for the following uses: Offices (Class E); Medical or Health services (Class E), Creche Day Nursery or Day Centre (Class E), Indoor Sport Recreation and Fitness use (Class E), Education and Training (Class F1) and Display of Art (Class F1).

An objection has been received on the grounds that the proposed increased flexible use of the units is contrary to the previous decision by Members of the Committee, which categorically restricted the ground floor uses to retail (formerly Class A1) and restaurant (formerly A3) uses only. However, the previous applications only sought use of the retail units for either retail or restaurant purposes. The restrictive condition imposed on the earlier permissions does not fetter consideration of the alternative commercial uses for which permission is now sought. Assessment of each of the proposed uses is discussed in turn.



i) Retail (Class E)

*Loss of retail*

The application needs to be assessed against City Plan policy 14 (Town centre, high streets and the CAZ). The policy aims to enhance existing town centres and high streets and requires uses that provide an active frontage and serve visiting members of the public to be provided at ground floor level throughout the town centre hierarchy.

The Baker Street and George Street frontages of the site which are designated as being in a CAZ retail cluster (Baker Street South). The new City Plan no longer gives retail the same policy protection as the City Plan (2016). Loss of retail on Baker Street and George Street would now be acceptable provided that the replacement uses meet the policy criteria of serving visiting members of the public and providing an active frontage.

The earlier permissions have not been implemented and the courtyard units have not been provided. Permission could not be withheld on the basis that potential retail could be lost.

*Proposed retail*

Retail would provide a service to visiting members of the public and have an active frontage. The provision of retail across the development on both the street frontages and within the courtyard accords with policy 14 of the new City Plan (2019-2040).

ii) Restaurant (Class E)

City Plan Policy 16 relates to food drink and entertainment uses. The policy requires food and drink and entertainment uses to be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre.

In considering the previous applications against City Plan (adopted 2016) policy and UDP policy Members of the Planning Committee resolved that not more than 50 % of the retail units should be used for restaurant purposes and that the units closest to the Blandford Street houses should not be used for restaurant purposes.

An objection has been received that a proposed ground floor café' part of the office reception area and a proposed 10<sup>th</sup> floor café'/bar should both be considered as part of the overall entertainment floorspace. Neither the ground floor café which is physically linked to the office reception or the 10<sup>th</sup> floor room are independent from the offices. They form part of the same planning unit as the offices. A draft Operational Management Plan (OMP) has been submitted with respect to the use of the proposed 10<sup>th</sup> floor room. This states that the roof top room and terrace will be for the benefit of the office occupiers & their visitors within the office building, The building will have security personnel at reception and consequently access to all floors, including the roof will be controlled. A condition is recommended which that the 10<sup>th</sup> floor bar is operated in accordance with an approved OMP. This will ensure that the 10<sup>th</sup> floor bar room is used in connection with and ancillary to the office accommodation. A condition is also recommended which will ensure that the ground floor café' is not subdivided from the office reception area. Subject to these conditions both of these areas are considered to be ancillary to the offices and are correctly not be included in the overall restaurant/ entertainment floorspace within the development.

The applicant's intention remains that up to 50% of the total retail units could be used as restaurants with the notable proviso that units 6, and 11-17 directly to the rear of the Blandford Street houses are excluded for restaurant use. The total floorspace in the development is 3583 m<sup>2</sup>. It is recommended that a condition would limit the restaurant floorspace to 1791.5 m<sup>2</sup> (50% of the total floorspace of the retail units) and preclude units 6, and 11-17 from being used for restaurant purposes. On this basis the restaurant provision is considered acceptable.

iii) Offices (Class E)

The use of the shop units on Baker Street, George Street and within the courtyard as offices needs to be assessed against City Plan 2019-2040 policy 13 (supporting economic growth) and 14 (town centre high streets and the CAZ).

As already stated Baker Street and George Street are designated as a retail cluster under City Plan 2019-2040 policy 14. As such the policy requires ground floor uses to have an active frontage and provide a service to visiting members of the public. The use of the shop units as offices would not meet either of the criteria.

The scheme does seek to provide an enlarged office reception with an ancillary café in one of the shop units (No 3) at the junction of Baker Street and George Street. The aim to provide a generous entrance to a large office building is understood. Whilst this does not strictly accord with policy, given that the café' element would provide a service use and that the re-arrangement of the office entrance and core will result in the provision of an additional shop unit (No 5) within the courtyard, in the circumstances this aspect of the application is considered to be acceptable.

iv) Medical or health services (Class E).

Whilst use of the shop units for medical or health service purposes would provide a service use such uses do not have window displays and therefore do not have an active frontage. Use for these purposes would therefore be contrary to the aim of City Plan policy 14 discussed above.

v) indoor sport recreation and fitness use (Class E), display of art (Class F1).

These uses would be compliant with the policy discussed, subject to a condition requiring the units to maintain a window display.

vi) Education and training (Class F1)/ Creche day nursery or day centre (Class E).

Use of the shop units within the development for either education and training purposes or creche /day nursery or day centre would not comply with policy 14 of the City Plan (2019-2040) as again these uses wouldn't provide a service to visiting members of the public or have active frontages.

Operational details of retail units

As at this stage in the development programme use of the retail units is speculative with no specific operators identified. To ensure that both the previously permitted retail and restaurant uses would neither be harmful to the character of the area or residential amenity the previous permission included conditions requiring approval of management plans for each of the individual retail units and a courtyard management plan prior to occupation. It is recommended that this permission also includes these conditions. Compliance with approved OMP's would safeguard resident's amenities and minimise any environmental impact.

It is clear that regard should be had to the objective in introducing Use Class E which is to provide additional flexibility in terms of allowing changes of use within a range of uses without the need to seek an express grant of planning permission, however, the City Plan policy 14 aims (as set out above) outweigh that objective in relation to offices, medical or health services, education and training, creche day nursery or day centre uses for the reasons outlined above. It is therefore justified to attach conditions restricting those uses.

## **8.2 Townscape and Design**

### **Relevant heritage legislation**

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

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

While there is no statutory duty to take account of the effect on the setting of a conservation area, Policy 39 of the City Plan 2019-2040 states that development should conserve and, where possible, enhance the settings of heritage assets.

Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their settings. 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.

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

#### **A. The site**

The site comprises most of the street block defined by Baker Street, Blandford Street, George Street and Gloucester Place. It lies outside the Portman Estate Conservation Area, except for the buildings on Gloucester Place. The Portman Estate Conservation Area also lies immediately to the south and east of the site.

The existing buildings within the site are:

#### **a. Gloucester Place (referred to as Building A in the planning application)**

This is a grade 2 listed building, listed in 1970 but rebuilt as an office block in 1972-73, as a facsimile rebuild of c.1790 Portman Estate terraced houses. It is listed for 'group

value' only. It forms an important part of the townscape of Gloucester Place, reflecting the appearance of the original Georgian house which dominate. Its interior is modern and not of special architectural and historic interest.

**b. Blandford Street (Building B)**

This forms the eastern end of the four storey terrace of post-war town houses. The majority of the houses (nos. 73-89) lie outside the site.

**c. Baker Street (Building C)**

This is a 1960's building with a strong horizontal emphasis, of limited architectural merit. It is the largest building on the site, comprising seven floors above street level, with a recessed plant room at roof level. The facade is approximately 26 metres above street level; the top of the roof plant is at 31 metres. On plan it is quite narrow, with a floor plate depth (above ground floor level) of around 18 metres.

**d. George Street (Building D)**

This is another post-war building, with a strong horizontal emphasis, but significantly lower than the Baker Street building. It is four storeys high, with a recessed top floor, which was added 10 years ago. The main parapet height is about 15 m above street level; the top of the building is about 20 m above street level.

**B. Context – Building heights**

The surrounding context is dominated by four to five storey buildings (mainly Georgian) towards the west end of the site, and taller buildings, up to seven and eight storeys, to the east on Baker Street. Further east, beyond Baker Street, the context is again four to five storey buildings. These domestic scale buildings typify the character and appearance of the Portman Estate Conservation Area.

There are listed Georgian terraced houses adjacent on the south side of George Street (nos. 71-87). These are four storeys high with mansard roofs. Gloucester Place is characterised by listed Georgian houses of four or five storeys. The south side of Blandford Street comprises four storey post-war town houses.

Looking north and south along Baker Street there appears to be a reasonably consistent parapet line, especially on the west side. North of the site (Building C) on Baker Street no.55 has facades seven storey high. Its height and bulk are similar to those of the existing Building C. No. 55 was refurbished and extended 10 years ago. The 1960's building opposite, Accurist House (no. 38-44), on the east side, has facades five storeys high, with a recessed floor above.

Directly opposite the site, on the east side of Baker Street, is a modern office development in a Georgian style (nos. 20-30). The street facades are 4 and 5 storeys high with a mansard roof. At the north end of this block are two late eighteenth century Georgian houses, listed grade 2.

South of the site the buildings are only slightly higher than those to the north. The building on the west side (no. 7-15) is recent, built in 2011. It is seven storeys high, with a recessed top floor. The massing of this new building was designed to relate closely to its neighbours, including Building C. Opposite this on the east side of the street is an undistinguished eight storey block (nos. 16-20) dating from the 1960's.

**C. The Proposals**

The current proposals raise the same urban design and conservation issues as the approved planning permission scheme and the subsequently approved s73 scheme. The main changes to the scheme affect the roof and ground floor of the Baker Street building (C) and it is these that need to be assessed. The other urban design and conservation aspects of the scheme are unchanged and the assessment of these elements remains as set out in previous committee reports. In terms of the new City Plan policies it is considered that these aspects are compliant with the new urban design and conservation policies 38, 39 and 40.

**a. Baker Street (Building C) – Ground Floor**

The proposed changes at ground floor level in the current application include the alteration of the pedestrian entrance so that the entrance and exit are splayed on plan, increasing their width. The two sets of sliding doors which closed off the east-west passageway in the approved scheme will be replaced by a single pair of security gates, set in the centre of the plan of the building. These works are uncontentious in urban design terms and will enhance the pedestrian environment.

**b. Baker Street (Building C) – Massing**

When the original application was considered on 16 May 2017 the committee was concerned about the massing of Building C and deferred the application to allow the applicant to reconsider the height of the Baker Street building, either by its redesign or reduction in height:

In response, the applicant made some relatively small changes to the design of the upper floors but the massing remained largely unchanged. The revised application was considered by the committee on 14 November 2017. Officers advised committee that the changes to the scheme related primarily to the design of the upper parts of the office building, with some amendments to the facades. These changes were summarised as follows:

- A reduction in the total height of the building by 1 metre (from 71.45 to 70.45).
- The lowering of the top of the street facade by 3.38 metres (from 62.30 m to 58.82 m).
- Changes to the base of the building, by joining the ground floor and first floor levels within a two storey frame (rather than the ground floor being framed on its own, and the first and second floors being framed together).
- A small change in section, with the top two floors coming slightly further towards the street facades.

Overall the height and bulk (massing) of the office building had not changed significantly in terms of its visual impact on street views and it remained harmful to the settings of the adjacent Portman Estate Conservation Area and adjacent listed buildings. However, officers considered that the harm to the adjacent heritage assets, caused by the height and bulk of the building, was outweighed by the planning benefits of the proposals. The committee agreed with this assessment and planning permission was granted.

In the current proposals the plant floor (10<sup>th</sup> floor) is enlarged from the previously approved scheme. The approved area measured approximately 24 m by 38.5 m and the proposed is approximately 28.5 m by 43 m. This is an increase in area of approximately 300 m<sup>2</sup> and it means that the facades at this level come closer to the street facades by approximately 2.3 m. For example, on Baker Street the set back at this level from the street facade is reduced from 11 m to 9 m approximately. The total height of the building is very similar to that approved but the massing is greater than both the original, deferred scheme and the revised, approved scheme.

The design of the set back floors at roof level remains similar to the approved, except for the southern end of the 10<sup>th</sup> floor which features a new room enclosed by glazing, and giving access onto a small roof terrace, enclosed by a glass balustrade. The approved green roof which is lost to create the terrace will be replaced by planting boxes at 8<sup>th</sup> floor level. The proposed revised design of the 10<sup>th</sup> floor is considered acceptable and it will not cause any harm to heritage assets.

The increase in massing does have some impact on local street level views. A comprehensive package of local views of the proposals has been submitted and these indicate that the visual impact of the proposed roofscape is slightly greater than that of the approved scheme. It is considered that this results in a small increase in harm to the settings of heritage assets and this harm needs to be weighed against the planning benefits of the scheme.

At 30 Gloucester Place the application involves the erection of two risers on the rear east elevation. An objection has been made on the grounds that they are unnecessary and unsightly. Routing services through the existing structure is not possible. The risers will be located on the inside facades of existing recesses at 3<sup>rd</sup> floor level. Their location is not considered to be unduly prominent.

#### D. Conclusion – Urban design and conservation issues

It is concluded that the proposal remains a high quality development which, with the exception of the height and bulk of Building C, complies with the City Council's urban design and conservation policies as set out in policies 38, 39 and 40 of the City Plan 2019-2040. It is considered that the proposed amendments to the massing of Building C cause only a small degree of additional harm to heritage assets compared to the approved scheme. However, it is considered that this harm is still outweighed by the proposed public benefits (ref section 8.13 of this report).

### 8.3 Residential Amenity (Daylight/ Sunlight/ Sense of Enclosure/ Privacy)

City Plan Policy 7A, seeks to protect and where appropriate enhance amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

#### Daylight and Sunlight

Recommended standards for daylight and sunlight in residential accommodation are set out in the Building Research Establishment (BRE) publication 'Site layout planning for daylight and sunlight' (2011).

A daylight and sunlight report was submitted in respect to the development approved original in March 2019 which assessed the following properties : 36 Baker Street, 32-34 Baker Street, 18 Baker Street, 55 George Street, 67-69 George Street, 71-87 George Street, 24 Gloucester Place, 30 Gloucester Place, 73-89 Blandford Street, and 98 Blandford Street.

When the daylight and sunlight impact was assessed with regards to the approved development (March 2019) the report to Committee concluded that although the scheme would result in a significant number of breaches to BRE guidelines the impact on any of the surrounding properties tested was not considered to be great enough that any losses to daylight and sunlight



would result in a material and substantial loss of amenity. Furthermore, that any loss of amenity was not considered to be significant enough to outweigh the wider benefits of the scheme.

The S73 scheme approved in March 2020 (ref RN 19/06767/FULL) did not involve any amendments to the envelope of the originally approved development and the daylight and sunlight reports were not consequently updated. Consideration of this aspect of the application remained unchanged between the approval granted in March 2019 and the S73 permission granted in March 2020.

As already stated one of the principle amendments proposed as part of the current application are changes to the roof of the Baker Street building. The envelope of the George Street, courtyard buildings and 30 Gloucester Place will remain unaltered. Whilst the current scheme would not increase the height of the Baker Street building, the scheme does involve the provision of a 10<sup>th</sup> floor roof top room at the southern end of the building and a reduction to the set back of the plant area. These alterations will increase to the bulk and mass of the building.

A new daylight and sunlight report has been submitted in support of the application which again assesses the Vertical Sky Component (VSC), No Skyline (NSL) and Annual Probable Sunlight Hours (APSH) to all relevant windows in each of the properties listed above. The report provides data which sets out the impact of the current scheme in relation to the existing position, and also makes a direct comparison with the approved development. A key assessment is whether the current S73 proposal will have a noticeable greater effect than the originally approved development.

The daylight and sunlight report makes a direct comparison between the approved development and current proposal illustrating where BRE guidelines would be met and the extent of all breaches.

#### Daylight

With regard to daylight, Vertical Sky Component (VSC) is the most commonly used method for calculating daylight levels and is a measure of the amount of sky visible from the centre point of a window on its outside face. This method does not need to rely on internal calculations, which means it is not necessary to gain access to the affected properties. If the VSC achieves 27% or more, then the BRE advises that the windows will have the potential to provide good levels of daylight. If, however, the light received by an affected window, with the new development in place, is both less than 27% and would be reduced by 20% or more as a result of the proposed development, then the loss would be noticeable.

The daylight report shows that the current S73 application would result in very minor changes to VSC levels to the surrounding residential properties tested. Of the 27 individual properties assessed the VSC data shows that only 1 window at No 81 Blandford Street which previously complied with BRE guidelines would now be breached. The window in question is a 3<sup>rd</sup> floor bedroom which would have experienced a loss of 19% in VSC levels (below the 20% figure which the BRE guidelines state may be noticeable). This window will now experience a loss of 20.19% which breaches the guidelines. However, overall the impact of the current S73 proposal will have an almost identical impact on VCS levels as the originally approved development.

The table below shows the VSC levels as existing, approved (March 2019) and currently proposed (S73 application) in respect to No 73 Blandford Street. This is a house at the eastern

end of Blandford Street which will be the closest to the Baker Street building. The table illustrates that the impact of the current S73 proposal will have an almost identical impact on VCS levels as the originally approved development.

73 Blandford Street	Room Use	Window Existing VSC	VSC Approved Scheme	Loss	%loss	Proposed S73 scheme	Loss	%loss
	LD	26.12	13.94	<b>12.18</b>	46.63	13.73	<b>12.39</b>	47.43
	LD	10.67	0.54	<b>10.13</b>	94.94	0.52	<b>10.15</b>	95.13
	LD	2.93	0.62	<b>2.31</b>	78.84	0.52	<b>2.41</b>	82.25
	Bedroom	30.86	18.11	<b>12.75</b>	41.32	18.11	<b>12.75</b>	41.32
	Bedroom	30.60	16.63	<b>13.97</b>	45.65	16.62	<b>13.98</b>	45.69
	Bedroom	32.73	20.05	<b>12.68</b>	38.74	20.05	<b>12.68</b>	45.69
	Bedroom	3.27	0.58	<b>2.69</b>	82.26	0.57	<b>2.70</b>	2.57
	Livingroom	8.99	3.21	<b>5.78</b>	64.29	3.21	<b>5.78</b>	64.29
	Livingroom	28.32	14.96	<b>13.36</b>	47.18	14.97	<b>13.35</b>	47.14

### No Sky line

The 'No Sky Line' (NSL) assessment measures the daylight distribution within a room, calculating the area of working plane inside the room that has a view of the sky. In order to comply with BRE guidelines losses should be less than 20%. The NSL assessment in the report indicates that there is no change between the approved development and the current S73 proposal in respect to the number of rooms which would meet the BRE criteria.

### Sunlight

With regards to sunlight there will be no change to the rate of compliance between the approved and current scheme.

An objection has been received from residents at Blandford Street houses that the losses in daylight and sunlight. The daylight and sunlight report demonstrates that the changes between the approved and current scheme would be negligible. This aspect of the application is considered to be acceptable.

### Sense of Enclosure

Enlargement of the plant room and provision of a 10<sup>th</sup> floor roof top room would result in a small increase in the mass of the building. Given that the 10<sup>th</sup> floor of the office building is significantly higher than any of nearby residential properties and the distance separation this would have no material impact in terms of the sense of enclosure that would be experienced at any of the surrounding properties.

### Overlooking/ Privacy

This application includes the provision of a 10<sup>th</sup> floor level roof terrace accessed from the new roof top room at the southern end of the Baker Street building. The terrace will provide amenity space for the office tenants and their guests. An Operational Management Plan (OMP) has been submitted setting out how the use of the terrace would be managed. A Noise Impact Assessment undertaken by Arup was submitted in support of the application.

An objection has been received that use of the 10<sup>th</sup> floor terrace would result in a loss of amenity to residents by virtue of overlooking and noise nuisance. Given the location of the proposed terrace including the height its use as outdoor amenity space would not result in direct overlooking into any residential properties including the houses on Blandford Street which form part of the street block.

### Noise

The OMP states that the proposed 10<sup>th</sup> floor room would operate as a café' and bar for the office workers. The proposed operational hours are 07.00 – 22.00 Monday to Friday. An alcohol licence will be sought. The building management will control the operation with 24 hour security and full CCTV coverage. Access will be via the security at ground floor level with no access to the public.

The capacity of both the 10<sup>th</sup> floor room and the terrace will be limited to 160 people. The combined capacity will be limited to 290 people (not 320) in accordance with means of escape and fire safety regulations. The intention is that the room may be used for conferencing as well as more lively social events.

A noise report submitted in support of the application adopts a policy criteria assessing potential noise from the 10<sup>th</sup> floor room and terrace like that used for controlling noise from plant machinery. Namely as ambient noise levels are above WHO guidelines levels from activity associated with the roof top room and terrace needs to be at least 10db below existing background noise levels at surrounding receptors. The applicant advises that no amplified music will be played on the terrace. Any noise will be created by conversation only. The roof top room has been designed to provide a weighted sound reduction. There are three openable doors which will allow access onto the terrace.

Environmental Services have assessed the report and advise they have no objections but raise certain reservations. They advise that the assessment indicates that noise levels emanating from the use of the terrace operating at a full capacity with conversations from 160 persons talking simultaneously shows that the noise levels would meet the criteria. When other noise sources are taken into account such as noise from amplified music within the 10<sup>th</sup> floor room and plant the maximum number of persons talking simultaneously on the 10<sup>th</sup> floor would be reduced to 30 to remain within the noise criteria. Furthermore, it is acknowledged that the potential noise from the permitted 8<sup>th</sup> and 9<sup>th</sup> floor terraces is not included in the noise report.

It is recommended that use of the 10<sup>th</sup> floor terrace is subject to a condition which requires the terrace to be operated in accordance with an approved OMP. The OMP should preclude any music or amplified sound being played on the terrace, and also should prevent its use when amplified music is played within the roof top room. A revised acoustic report should be submitted which includes predicted noise levels from the 8<sup>th</sup> and 9<sup>th</sup> floor terraces. This will then form the basis to establish the capacity of the 10<sup>th</sup> floor terrace. It is recommended that the terminal hour is 9pm rather than 10pm currently proposed and that the terrace is not used at

weekends. Subject to these operational restrictions the proposed 10<sup>th</sup> floor terrace is considered to be acceptable.

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

This application involves no changes to the permitted car parking cycle parking, and works to the highway. Policy 27 of the adopted City Plan City Plan 2019-2040 states that parking standards in the new London Plan (March 2021) will apply to all developments. No changes are proposed to the car parking provision within the development. The conditions which are sought to be varied have no bearing on the car parking and cycle parking that will be provided. This aspect of the scheme remains as previously approved.

With the exception of servicing implications which are discussed below the variation of the conditions as proposed will have very limited implications on transportation/parking arrangements.

##### Servicing

Policy 29 of the City plan (adopted April 2021) relates to freight and servicing. The policy supports consolidated facilities for freight, servicing and deliveries in new developments. Servicing, collection and delivery needs should be fully met within a development site and applicants will produce Delivery and Servicing Plans which encourage provision for low-emission, consolidation and last mile delivery modes.

No physical changes are proposed to the approved servicing arrangements. The development includes a servicing bay in off Blandford Street which would accommodate the majority of servicing. There would also be limited on-street servicing on George Street. The service yard includes three bays which are large enough to accommodate 8m vehicles.

It is recognised that the proposed flexible alternative uses of the retail units discussed above in section 8.1 (Land Use) of this report would have potentially varying servicing requirements. The approved scheme is subject to a condition which requires the development to operate in accordance with a Servicing Management Plan (SMP). This will include a restriction on the size of delivery vehicles, a restriction on the number of deliveries that are received from the street and maximising the number that are received from the delivery bay, and management of arrivals to the delivery bay so that not too many vehicles arrive at the same time.

Use of the retail units for the alternative uses sought would be unlikely to generate additional servicing requirements over and above the permitted retail and restaurant uses. If the quantum of retail and restaurant floorspace in the development is reduced servicing demands are likely to be reduced. Notwithstanding this it is recommended that a condition requiring all uses as part of the development to operate in accordance with an approved SMP is carried forward onto this decision. On this basis this aspect of the acceptable is acceptable.

##### Other Highways Issues

Use of the retail units as a creche, or an infant/primary school could have implications on the road network with regard to parents dropping off and picking up young children. As already stated in this report these uses are contrary to City Plan policy 14. A condition is recommended

which prevents use of the retail units as either a creche or for education purposes. Had these uses been considered acceptable in land use policy terms a transport statement (TS) would be required to demonstrate that a creche and educational use would have no adverse impact on the highway. A condition would have been recommended requiring these uses to operate in accordance with an approved TS.

### **8.5 Economic Considerations**

Economic considerations remain largely as previously reported. The additional flexibility as to how the retail units will be used will increase the prospects of the units operating as a commercial success. However, the current S73 application does not alter that the scheme will be an office led development.

The economic benefits of the scheme are substantial. Baker Street is a major commercial street within the West End. An Economic Statement has been submitted in support of the original application. This concluded that there would be significant economic benefits including an estimated provision of between 1,585 and 2,060 jobs directly on site, just under 90% (between 1,585 and 2,060) would be office based employment.

The economic benefits remain a significant public benefit of the scheme.

### **8.6 Access**

The scheme involves the removal of glazed doors in the pedestrian link between Baker Street and the retail courtyard. The aim to encourage use of the courtyard through improvements to the access and promoting a better pedestrian throughfare is understood and accords with City Plan and London Plan policies

An objection has been received on the grounds that security to the rear of the Blandford Street properties will be compromised. The objection refers to security gates from the access into the courtyard from Blandford Street being removed. The scheme does not involve the omission of a security gate in this location. Security gates will be installed set in from the Baker Street entrance which will be open in the day but secured at night. There will be 24 hour surveillance from the Baker Street reception. The access arrangements are considered to be acceptable.

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

An objection has been received on the grounds that Non- Material Amendments (NMA) approved on 13 October 2020 by an application made under Section 96A of the Act should have been included under the current S73 application. In particular that the introduction of new terraces at 8<sup>th</sup> and 9<sup>th</sup> floors shouldn't have been determined under delegated powers without consultation with residents.

The terraces at 8<sup>th</sup> and 9<sup>th</sup> floor levels were part of the original application granted permission in March 2019 and did not form part of the Non -Material Alterations approved in October 2020. This included the following alterations:

- An amendment to the description of development;
- 30 Gloucester Place (Building A)

Internal alterations and re-configuration of rooftop plant;

- 19-35 Baker Street (Building C)

Amendments to shopfronts. This includes incorporation of ventilation louvres reducing the glass panel sizes through a lowering of the fascia;

- George Street Building (Building D)

Changing the approved two separate entrances to a single entrance which involves alterations to the residential cores. The number of residential units remained as initially permitted (41) but the mix of units was altered. The number of one-bedroom units would decrease from 18 to 14, to provide three additional two-bedroom units (increase from 14 to 17) and a new four-bedroom unit;

The layout of the retail units at ground floor level fronting onto George Street and onto the courtyard was amended. Two kitchen extract ducts were permitted running internally through repositioned cores and discharging in new locations at roof level.

- Retail Courtyard

The proposals seek to make amendments to the hard and soft landscaping. The central fixed planted arbour is to be removed. A new green wall was permitted facing the route from George Street;

The alterations both individually and cumulatively were considered to constitute non- material alterations to the S73 permission granted on 4 March 2020. This decision is considered to be sound.

### Sustainability

City Plan policy 38 requires developments to respond to the likely risks and consequences of climate change. The policy requires the possibility of sensitively refurbishing or retrofitting buildings to be considered prior to demolition and proposals for substantial demolition and reconstruction should be fully justified on the basis of whole-life carbon impact, resource and energy use, when compared to the existing building.

As already stated with regards to other policies the extant permission is a significant material consideration which carries great weight. The conditions which are sought to be varied would have no impact on demolition works already permitted. The principle of demolition and redevelopment of part of the site is not therefore revisited.

Policy 36 of the adopted City Plan 2019-2040 is relevant. This requires that all development to reduce on-site energy demand and maximise the use of low carbon energy sources and for major development to be net zero carbon, following the London Plans' energy hierarchy (Lean, Clean, Green, Offset). The policy states that where it is clearly demonstrated that it is not financially or technically viable to achieve zero-carbon on-site, any shortfall in carbon reduction targets should be addressed via off-site measures or through the provision of a carbon offset payment secured by legal agreement

The application is accompanied by an Energy Statement. This assesses the amendments proposed and concludes that the scheme will not change the carbon emissions savings from the approved development, which remains at 37% beyond part L of the building regs 2013. A



carbon offset payment of £76,665 was previously secured as part of the legal agreement. The deed of variation to the agreement will again secure this contribution.

## **8.8 Westminster City Plan**

The City Plan 2019 - 2040 was adopted at Full Council on 21 April 2021. 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**

Not applicable

## **8.10 London Plan**

The application is referable to the Mayor of London. In response to consultation the GLA advise that given the scale and nature of the proposals, the amendments do not give rise to any new strategic planning issues. They advise that the application can be determined without further reference to the GLA.

## **8.11 National Policy/Guidance Considerations**

The City Plan 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.

The applicant has agreed to the pre-commencement conditions in the draft decision notice namely an archaeological investigation condition (No 6), the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development (No 21) and protection of trees (No 29).

## **8.12 Planning Obligations**

The original permission (dated 27 March 2019) application was subject to a S106 legal agreement. The Section 73 approval (dated 4 March 2020) required a deed of variation to ensure that all the planning obligations remain binding on the amended development. A further deed of variation is required in respect to this permission to again secure the obligations as listed in the recommendation.

## **8.12 Environmental Impact Assessment**

The scheme is of insufficient size and impact to require assessment under the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015.

### 8.13 Other Issues

#### Relocation of a tree

The S96A approved Non- Material Amendment (4 March 2020 RN 19/06767/FULL) permitted an amendment to the residential entrance on George Street creating a single entrance. This application seeks to remove an existing tree situated outside the entrance on George Street and plant a replacement tree at the western end of Blandford Street close to the junction with Gloucester Place (variation of condition 31).

The Council's Arboricultural Officer advises that whilst the removal of the established tree on George Street is regrettable, it is a young specimen and the benefits that it provides could be replaced relatively quickly by the provision of a replacement tree. As such no objection is raised subject to the provision of a suitable replacement tree. The wording of condition 31 on the draft decision notice requires the prior agreement of the Council of the position, size and species of replacement trees.

#### Green living roofs

An objection has been received that green living roof provision across the development is inadequate. The approved scheme included a green biodiverse roof at 10<sup>th</sup> floor level between the plant screen and the parapet. The proposed terrace at the southern end of the 10<sup>th</sup> floor will reduce the extent of the living roof at this level. To compensate for this loss a biodiverse roof is proposed to the roof of the new 10th floor room with planting around the perimeter of the 8<sup>th</sup> floor terrace. Overall, there will be no loss of green living roof. A condition (No 24) on the approved development secured 1447 m<sup>2</sup> of green living roof across the development as a whole. This permission will be subject to the same condition.

A further condition requires a bio-diversity management plan in relation construction method, layout, species and maintenance regime of the green roofs to be approved and implemented and maintained in accordance with the approved management plan. The green living roof provision remains acceptable in accordance with policy 34 (Green Infrastructure) of the adopted City Plan (2021-2040).

#### Assessment of Public Benefits against Heritage Harm

As set out within Section 8.2 of this report, the approved development was considered to cause less than substantial harm to heritage assets and the position has not changed in respect to this application.

Para. 196 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the 'public benefits' of the proposal, including optimising its optimum viable use. 'Public benefits' could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a

private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

When undertaking this weighing exercise, the Committee must fulfil its statutory duties within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as set out within Section 8.2.1 of this report) and give great weight to the conservation of heritage assets, irrespective of the degree of harm. Any harm needs to be clearly and convincingly justified.

The following benefits were secured as part of the approved development and remain public benefits that will be delivered by the scheme.

#### Housing and Affordable Housing

The provision of a net addition of 41 market housing units and 10 affordable housing units plus a financial contribution of £10 million towards the City Council's affordable housing fund.

#### Heritage Benefits

The replacement of the existing 1960's buildings on Baker Street and George Street with high quality buildings.

#### Economic

The provision of greater quality and quantum of office floorspace accommodation in this highly accessible location and new retail units represents a public benefit by contributing to the job and growth targets set out within City Plan Policies 1 and 13. The applicant estimates that the development would support an estimated provision of between 1,585 and 2,060 jobs

These public benefits are considered to outweigh the less than substantial heritage harm, in compliance with NPPF Para. 196. The delivery of these public benefits is secured by legal agreement.

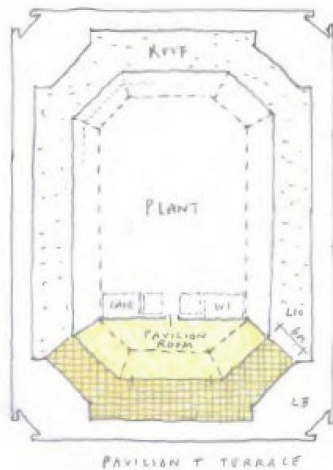
### **8.14 Conclusion**

Since the original redevelopment scheme was permitted in 2019 and amendments were approved in 2020 there has been a material change in circumstances as the adopted City Plan (April 2021) and London Plan (March 2021) now form the development plan. This application is for minor material amendments to an approved development seeking a variation to conditions. The impact of varying these conditions has been assessed against the development plan. This application does not extend the life of the previous permission which remains extant. The extant scheme is a material consideration of significant weight and justifies where the development breaches development plan policies. Accordingly, the application is recommended for approval.

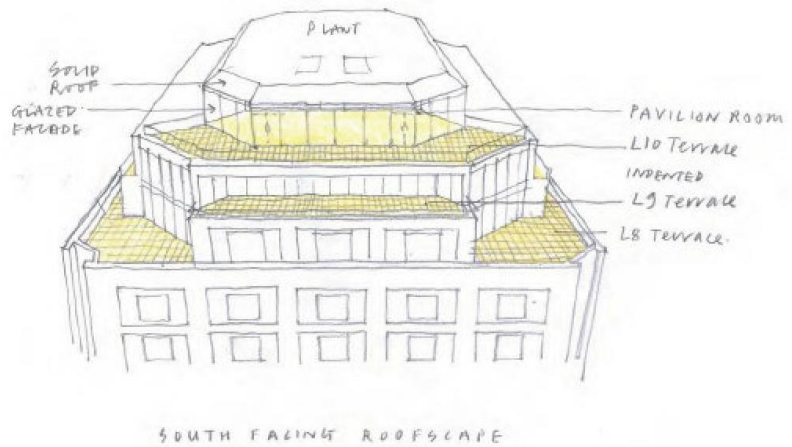
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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)

## 9. KEY DRAWINGS



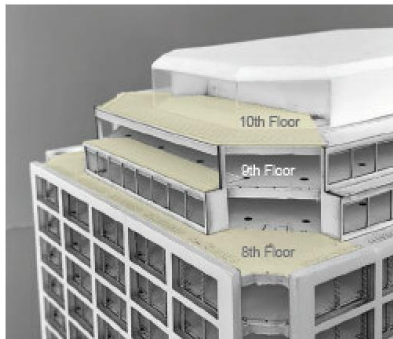
Sketch plan of the 10th floor terrace



Sketch view of the 10th floor terrace



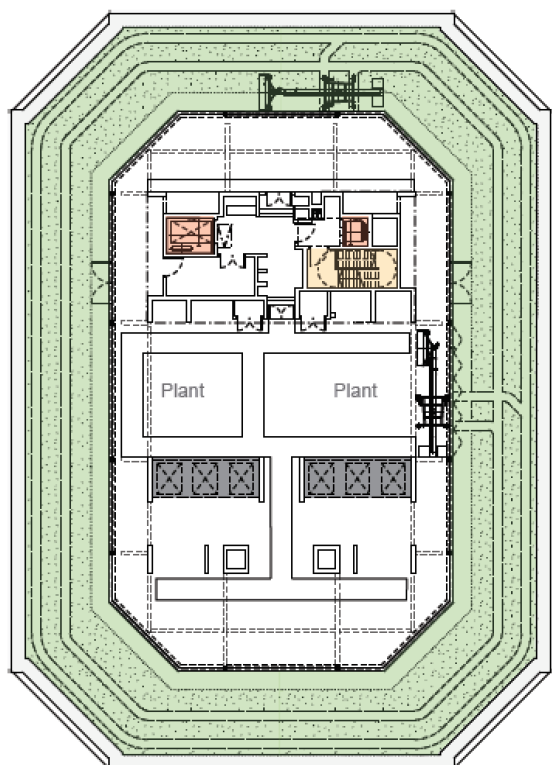
View of the model showing the proposed 10th floor south facing roof terrace shaded in yellow on the right.



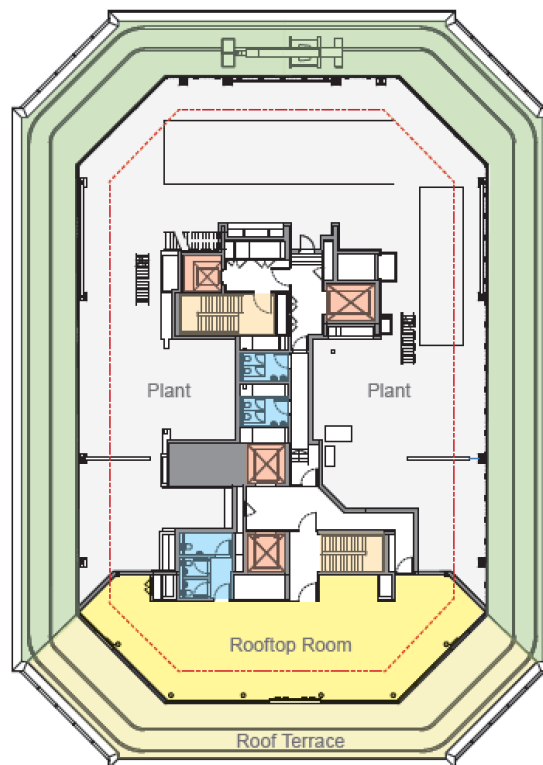
View of the model showing the proposed 10th floor roof terrace with the consented 8th and 9th floor terraces.



View of the model showing south elevation with the proposed rooftop room at 10th floor level.



Consented Roof Plan



Proposed Roof Plan

#### 4.0 Office Building Roof Room

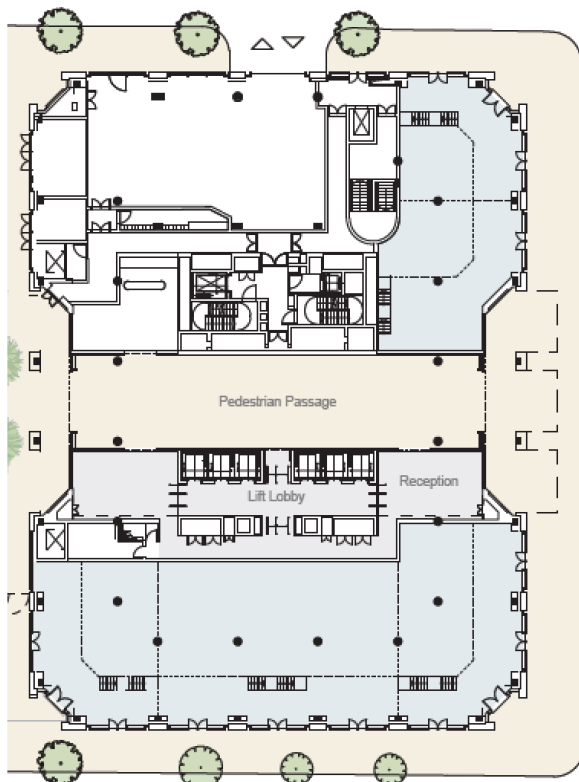


Consented East Elevation along Baker Street (Section 96A Application 20/05397/NMA - Submitted August 2020)

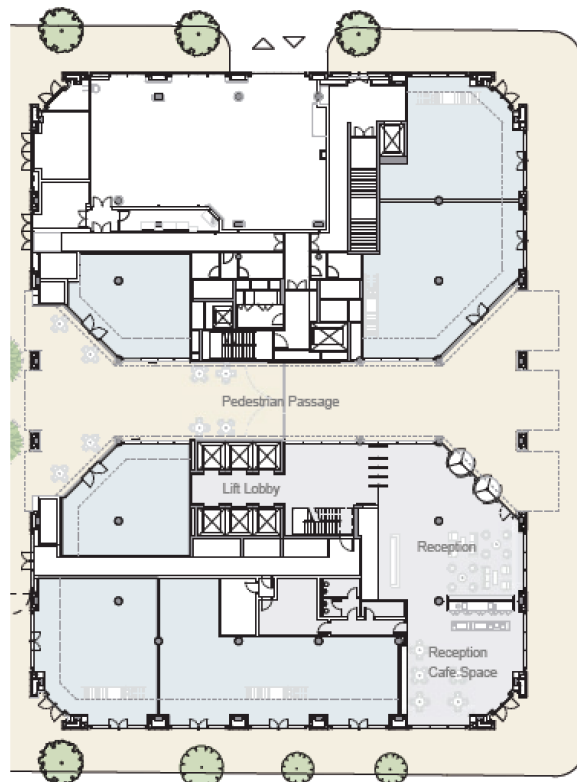
## 4.0 Office Building Roof Room



Proposed East Elevation along Baker Street



Consented Ground Floor Plan



Proposed Ground Floor Plan



**DRAFT DECISION LETTER**

<b>Address:</b>	Dev Site At 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street And 30, Gloucester Place, London,
<b>Proposal:</b>	Variation of conditions 1, 31 and 35 of planning permission dated 4 March 2020 (RN 19/06767/FULL) (amended by 20/05397/NMA) which permitted the following development : Demolition of the existing buildings at 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street and redevelopment to create a mixed use scheme providing commercial uses and up to 51 residential units within a new ground plus nine storey building (and an enclosed plant area) on Baker Street; a new stepped ground plus four to ground plus six storey building on George Street; refurbishment, extension and the change of use of the first floor from office to residential at 30 Gloucester Place; creation of a single storey basement level linking the Baker Street and George Street buildings to provide car and cycle parking, refuse and servicing; creation of a new central, publicly accessible courtyard; removal of 5 trees and replacement trees across the site, a new publicly accessible route at ground level connecting Baker Street and Gloucester Place; associated plant, landscaping, replacement pavements in part and other associated works NAMELY, to allow alterations including alterations at ground floor level and at 10th floor roof level including a new roof top room, roof terrace and alterations to plant enclosure at 19-35 Baker Street, new risers at 3rd floor to roof level at 30 Gloucester Place, introduction of increased flexibility to the commercial units across the ground floor and to remove the existing tree situated directly to the front of the newly approved entrance and replace it with a new tree to the south-west corner of Gloucester Place.
<b>Reference:</b>	20/06914/FULL
<b>Plan Nos:</b>	<p><b>i) Approved 27 March 2019 under application RN 16/11376/FULL,</b>  2211C, 2212 F, 2213E, 2214L, 2215G,2216 J,2217G,2218 G, 2219G, 2220 G,2221G,2222 G,2223 G,2224 F, 2225 F,2226F,2311E,2312F,2313 E,2314 E, 2315 E,2316F,2317 C,2318F,2319 D,2411F,2412 D,2413E,2571 D, 2591A.</p> <p><b>ii) Approved 4 March 2020 under application RN 19/06767/FULL,</b>  A/BSD_2243 A, A/BSD_2244 A,A/BSD_2245 A, A/BSD_2246 A,A/BSD_2331 A, A/BSD_2332 A,A/BSD_2333 A, A/BSD_2335 B,A/BSD_2336 A,</p> <p><b>iii) Approved on 13 October 2020 under application RN 20/05397/NMA,</b>  BSD-HAL-Z-LG01-DR-A-2211,F, BSD-HAL-Z-LG-DR-A-2212J, BSD-HAL-Z-LGM-DR-A-2213H, BSD-HAL-Z-00-DR-A-2214P, BSD-HAL-Z-0M-DR-A-2215K, BSD-HAL-Z-01-DR-A-2216 M, BSD-HAL-Z-02-DR-A-2217K, BSD-HAL-Z-03-DR-A-2218L, BSD-HAL-Z-04-DR-A-2219L, BSD-HAL-Z-05-DR-A-2220L, BSD-HAL-Z-06-DR-A-2221L</p> <p><b>iv) Application reference RN 20/06915/FULL</b>   BSD-HAL-Z-LG01-DR-A-2211, BSD-HAL-Z-LG-DR-A-2212,BSD-HAL-Z-LGM-DR-A-2213,BSD-HAL-Z-00-DR-A-2214,BSD-HAL-Z-0M-DR-A-2215,BSD-HAL-Z-01-DR-</p>

A-2216,BSD-HAL-Z-02-DR-A-2217,BSD-HAL-Z-03-DR-A-2218  
 BSD-HAL-Z-04-DR-A-2219,BSD-HAL-Z-05-DR-A-2220,BSD-HAL-Z-06-DR-A-2221,BSD-HAL-Z-07-DR-A-2222,BSD-HAL-Z-08-DR-A-2223,BSD-HAL-Z-09-DR-A-2224,BSD-HAL-Z-10-DR-A-2225,BSD-HAL-Z-RF-DR-A-2225,  
 BSD-HAL-Z-ZZ-DR-A-2311,BSD-HAL-Z-ZZ-DR-A-2312,BSD-HAL-Z-ZZ-DR-A-2313,BSD-HAL-Z-ZZ-DR-A-2314,BSD-HAL-C-ZZ-DR-A-2315,BSD-HAL-D-ZZ-DR-A-2316,BSD-HAL-D-ZZ-DR-A-2317,BSD-HAL-D-ZZ-DR-A-2318,BSD-HAL-Z-ZZ-DR-A-2319,BSD-HAL-Z-ZZ-DR-A-2412,BSD-HAL-C-ZZ-DR-A-2413  
 BSD-HAL-Z-ZZ-DR-A-2441, BSD-HAL-Z-ZZ-DR-A-2413, BSD-HAL-Z-ZZ-SH-A-9000, BSD-HAL-200-DR-A-2214 S

**Case Officer:** Mike Walton

**Direct Tel. No.** 020 7641  
 07866039922

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

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 apply to us for approval of material samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials. (C26BC)
	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 apply to us for approval of detailed drawings of a scale of 1:25 the following parts of the development - , a.Baker Street - Building C - Typical details of all new facades and roof storeys, b. George Street - Building D - Typical details of all new facades and roof storeys, c. Alterations to Gloucester Place façade, d. All shopfronts, e. All gates allowing access into the central courtyard , , You must not start any work on these parts of the development until we have approved what you have sent us., You must then carry out the work according to these detailed drawings. (C26DB)
	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 not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)
	Reason: Because these would harm the appearance of the building and would not meet Policies 38 and 40 of the City Plan 2019 - 2040 (April 2021). (R26HC)
5	You must apply to us for approval of a design strategy for all shopfronts and signs, and for the treatment of the courtyard shopfronts to ensure these are active frontages with public entrances. , , You must not start any work on these parts of the development until we have approved what you have sent us., , You must then carry out the work according to the strategy. (C26DB)
	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)
6	<b>Pre Commencement Condition.</b> , (a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved what you have sent us., , (b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, to Historic England, and to the Greater London Sites and Monuments Record, 1 Waterhouse Square, 138-142 Holborn, London EC1N 2ST., , (c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)
	Reason: To avoid damage to any archaeological remains on site as set out Policy 39 of the City Plan 2019 - 2040 (April 2021). (R32AD)
7	(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 in writing 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

	<p>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 in writing 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 written 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 &amp; 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 LA90, 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. (C46AC)</p>
	<p>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 Noise Technical Guidance Note (November 2019), 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)</p>
8	<p>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(s) 7 of this permission. You must not start work on this part of the development until we have approved what you have sent us.</p>

	<p>Reason:</p> <p>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 Noise Technical Guidance Note (November 2019), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AC)</p>
9	<p>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.</p>
	<p>Reason:</p> <p>To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R48AB)</p>
10	<p>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. (C49AA)</p>
	<p>Reason:</p> <p>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 Noise Technical Guidance Note (November 2019). (R49AB)</p>
11	<p>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.</p>
	<p>Reason:</p> <p>To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R49BB)</p>
12	<p>You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 10 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.</p>

	<p>Reason:</p> <p>To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R49BB)</p>
13	<p>You must apply to us for approval of detailed drawings and full particulars, including details of sound and odour attenuation measures, of the design, construction and insulation of the system for the extraction of cooking smells for all the restaurant Class E units in the event that these uses are implemented., , You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings and must not change it without our permission.</p>
	<p>Reason:</p> <p>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)</p>
14	<p>You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)</p>
	<p>Reason:</p> <p>In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)</p>
15	<p>You must provide each car parking space shown on the approved drawings and each car parking space shall only be used for the parking of vehicles of people living in the residential part of this development. (C22BA)</p>
	<p>Reason:</p> <p>To provide parking spaces for people living in the residential part of the development as set out in Policy 27 of the City Plan 2019 - 2040 (April 2021). (R22BC)</p>
16	<p>You must provide each cycle parking space shown on the approved drawings prior to occupation of the building and a minimum of 480 spaces, which shall include 64 spaces for the market residential, 16 for the affordable housing, 328 for the offices and 40 for the remaining uses which form part of the development and 32 short stay spaces shall be retained and the space used for no other purpose.</p>
	<p>Reason:</p> <p>To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)</p>
17	<p>You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide</p>

	the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the building. (C14EC)
	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)
18	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)
19	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. (C11BA)
	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)
20	Customers shall not be permitted within any of the Class E restaurant hereby approved before 07.00 or after 24.00 each day. (C12AD)
	Reason: To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)
21	Prior to the commencement of any demolition or construction on site the applicant shall provide evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. (C11CA)
	Reason: To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)
22	You must apply to us for approval of detailed drawings and a bio-diversity management plan in

	relation to the proposed living 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. (C43GA)
	Reason: To protect and increase the biodiversity of the environment, as set out in Policy 34 of the City Plan 2019 - 2040 (April 2021). (R43CC)
23	Prior to the occupation of the development details of a vehicle signalling system for the proposed car lift shall be submitted to and approved in writing. The approved vehicle signalling system shall be installed, permanently retained and operated in accordance with the approved details.
	Reason: In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)
24	You must provide the following environmental sustainability features (environmentally friendly, features) before you start to use any part of the development, as set out in your application: all electric air source heat pumps, water recycling system , 1447m2 of green roof, irrigation system. 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)
25	Prior to the occupation of the development electric vehicles charging points (active) for a minimum of 5 car parking spaces (20%) and electric vehicle charging points (passive) for a minimum of 5 vehicles (20%) shall be provided. These charging points shall permanently retained and maintained for the life of the development.
	Reason: In accordance with policy T6 of the London Plan 2021
26	All vehicles shall enter and exit the site in forward gear
	Reason: In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24BD)
27	All servicing must take place between 0700 and 2200 each day. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)



	Reason: To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)
28	At least three of the residential parking spaces hereby approved shall be accessible to wheelchair users.
	Reason: To provide parking spaces for people living in the residential part of the development as set out in Policy 27 of the City Plan 2019 - 2040 (April 2021). (R22BC)
29	<b>Pre Commencement Condition.</b> You must apply to us for approval of a method statement explaining the measures you will take to protect the trees on and close to the site. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved in writing what you have sent us. You must then carry out the work according to the approved details. (C31CC)
	Reason: To make sure that the trees on the site are adequately protected during building works. This is as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31AD)
30	You must apply to us for our approval of details of an auditable system of arboricultural site supervision and record keeping prepared by an arboricultural consultant who is registered with the Arboricultural Association, or who has the level of qualifications and experience needed to be registered. The details of such supervision must include: identification of individual responsibilities and key personnel, induction and personnel awareness of arboricultural matters, supervision schedule, indicating frequency and methods of site visiting and record keeping, procedures for dealing with variations and incidents. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. You must then adhere to the approved supervision schedule. You must produce written site supervision reports after each site monitoring visit, demonstrating that you have carried out the supervision and that the tree protection is being provided in accordance with the approved scheme. If any damage to trees, root protection areas or other breaches of tree protection measures occur then details of the incident and any mitigation/amelioration must be included. You must send copies of each written site supervision record to us within five days of the site visit.
	Reason: To protect trees and the character and appearance of the site as set out in Policies 34 and 38 of the City Plan 2019 - 2040 (April 2021). (R31CD)
31	You must plant new trees to replace those within the application site boundary which are shown to be removed on drawing 5167_LDA_DR_L_0302. The replacement trees shown on drawing 5167_LDA_DR_L_0301 must be planted in the first planting season after you

	complete the development. You must apply to us for our approval of the position, size and species of the replacement trees. You must also replace any replacement tree which dies, is removed or becomes seriously damaged or diseased within five years of the date we give our approval for the replacement trees, in the next planting season with another of the same size and species to the one originally planted.
	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)
32	Notwithstanding the submitted soil depths/ volumes, you must apply to us for our approval of details of the depth and area and overall volume of the of the new soils which you propose to use to create an adequate rooting environment for new tree planting and landscaping, including details of the drainage layer and other components, the soil specification and profile, and the way that the proposed areas of soil will be connected. You must not start work on the landscaping scheme until we have approved what you have sent to us. You must then carry out the work according to the approved details.
	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)
33	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 1 year 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 1 year of planting them, you must replace them with trees of a similar size and species.
	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)
34	Prior to occupation of the development you shall submit and have approval in writing by the local planning authority of a detailed Servicing Management Plan (SMP). The plan should identify process, internal storage locations, scheduling of deliveries and staffing. In particular it should consider :-,Restricting deliveries to the size of vehicle that can fit within the delivery bay, o Restricting the number of deliveries that are received from the street and maximising the number that are received from the delivery bay, o Managing arrivals to the delivery bay so that not too many arrive at the same time, , All servicing shall be undertaken in accordance with this strategy unless otherwise agreed in writing by the local planning authority.
	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)
35	The retail units numbered 1 to 17 as shown on plan numbered 2214 S shall only be used for retail (Class E), restaurant (Class E) indoor sport, recreation and fitness (Class E) or display of art (Class F) purposes only and shall be used for no other purposes including for other uses within Class E or F of the Use Classes Order (as amended September 2020). The total restaurant floorspace across the development shall be limited to 1791.5 m2 and units numbered 6 and 11-17 shall not be used for restaurant purposes.
	Reason: We cannot grant planning permission for unrestricted use in this case because it would not meet Policy of the City Plan 2019 - 2040 (April 2021). (R05AC)
36	You must apply to us for approval of a management plan for the courtyard to show how you will prevent customers causing nuisance for people in the area, including people who live in nearby buildings. You must not start to use the courtyard until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the courtyard is in use.
	Reason: To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R13FC)
37	You must apply to us for approval of a management plan to show how all the retail units will be used. You must not occupy any of the retail units until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the retail units are in use.
	Reason: To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Noise Technical Guidance Note (November 2019). (R13FC)
38	You must apply to us for approval of the following parts of the development interstitial louvres on the western facade of the Baker Street (building C). You must not start any work on these parts of the development until we have approved what you have sent us., , You must then carry out the work according to these details.
	Reason: To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)
39	You must apply to us for approval of a management plan to show how the 10th floor room and

	terrace will be used. You must not occupy the 10th floor room and terrace until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the 10th floor room and terrace are in use.
	Reason: To protect the environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)
40	The office accommodation approved as part of this development shall only be used for offices (Class E) purposes only and shall be used for no other purposes including for other uses within Class E of the Use Classes Order (as amended September 2020).
	To ensure that office accommodation is provided in accordance with policies 1 and 13 of the City Plan 2019 - 2040 (April 2021).
41	This permission must be commenced no later than 26 March 2022.
	Reason: This permission authorises amendments to the original planning permission granted on 4 March 2020 (RN: 19/06767/FULL) which must be commenced no later than the above date. (R03HA)

**Informative(s):**

- 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 You must register your food business with the Council, please use the following link: [www.westminster.gov.uk/registration-food-business](http://www.westminster.gov.uk/registration-food-business). Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at [ehconsultationteam@westminster.gov.uk](mailto:ehconsultationteam@westminster.gov.uk) for advice on meeting our standards on ventilation and other equipment. Under environmental health legislation we may ask you to carry out other work if your business causes noise, smells

or other types of nuisance.

- 3 Please contact Environmental Sciences by email to [environmentalsciences2@westminster.gov.uk](mailto: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.
- 4 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email [AskHighways@westminster.gov.uk](mailto:AskHighways@westminster.gov.uk). However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).
- 6 No digging should take place within 5 metres of a High Voltage Cable without contacting National Grid's Plant Protection Team <https://www.beforeyoudig.nationalgrid.com>
- 7 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice and to apply online please visit [www.westminster.gov.uk/suspensions-dispensations-and-skips](http://www.westminster.gov.uk/suspensions-dispensations-and-skips).
- 8 With reference to condition please refer to the Council's Code of Construction Practice at ([www.westminster.gov.uk/code-construction-practice](http://www.westminster.gov.uk/code-construction-practice)). You will be required to enter into an agreement with the Council appropriate to this scale of development and to pay the relevant fees prior to starting work. , , Your completed and signed Checklist A (for Level 1 and Level 2 developments) or B (for basements) and all relevant accompanying documents outlined in Checklist A or B, e.g. the full Site Environmental Management Plan (Levels 1 and 2) or Construction Management Plan (basements), must be submitted to the City Council's Environmental Sciences team ([environmentalsciences2@westminster.gov.uk](mailto:environmentalsciences2@westminster.gov.uk)) **at least 40 days prior to commencement of works** (which may include some pre-commencement works and demolition. The checklist must be countersigned by them before you apply to the local planning authority to discharge the above condition. , , You are urged to give this your early attention as the relevant stages of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval of each of the relevant parts, prior to each stage of commencement., , Where you change your plans after we have

discharged the condition, you must re-apply and submit new details for consideration before you start work. Please note that where separate contractors are appointed for different phases of the project, you may apply to partially discharge the condition by clearly stating in your submission which phase of the works (i.e. (a) demolition, (b) excavation or (c) construction or a combination of these) the details relate to. However please note that the entire fee payable to the Environmental Sciences team must be paid on submission of the details relating to the relevant phase., , Appendix A must be signed and countersigned by Environmental Sciences prior to the submission of the approval of details of the above condition.

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.

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