

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 June 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bayswater	
Subject of Report	The Colonnades, 34 Porchester Square, London, W2 6AP,		
Proposal	Variation of condition 12 of planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and appeal reference APP/X5990/W/17/3168220) which in itself varied conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, amendments to the servicing management plan to reflect current delivery and servicing arrangements.		
Agent	Mr David Green		
On behalf of	C/O Agent		
Registered Number	21/04074/FULL	Date amended/ completed	5 April 2022
Date Application Received	18 June 2021		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

1. Grant conditional permission, subject to a deed of variation to the original S.106 legal agreement dated 9 October 2014.
2. If the deed of variation 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.

2. SUMMARY & KEY CONSIDERATIONS

The application proposes to vary condition 12, a servicing management plan (SMP) of planning permission granted on appeal dated 23 June 2017 (which in itself varied conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL)).

A copy of the as approved SMP and revised SMP is provided within the background papers, along with a comparison table of differences. The proposed new SMP seeks to reflect current operating procedures of the commercial units in The Colonnades as a number of breaches of the originally approved SMP have been reported to the Council's Enforcement Department and the applicant is seeking to rectify the situation. The majority of the servicing is to remain as approved and all servicing is to remain from within the gated service yard, north of the commercial units with access to the servicing yard from the B411 Porchester Road.

The key differences in the new SMP are changes to timings for unloading; the installation of acoustic matting to noisy areas; the marking out of a pedestrian route so access for residents of The Colonnades flats can be maintained to bins but not create an obstruction; removal of the requirement for non Waitrose 16.5m vehicles to drive in forward gear, a three strike rule for persistent offenders who break the terms of the SMP and to allow contractor/ maintenance parking.

A revised version of the SMP was submitted on 30 May 2022. This was not reconsulted on as it sought to clarify a point about noise and refrigeration from particular vehicles and rectify terminology that was being used throughout the documents and did not change any of the overarching principles of the SMP originally consulted on. Some renumbering of clauses was proposed also.

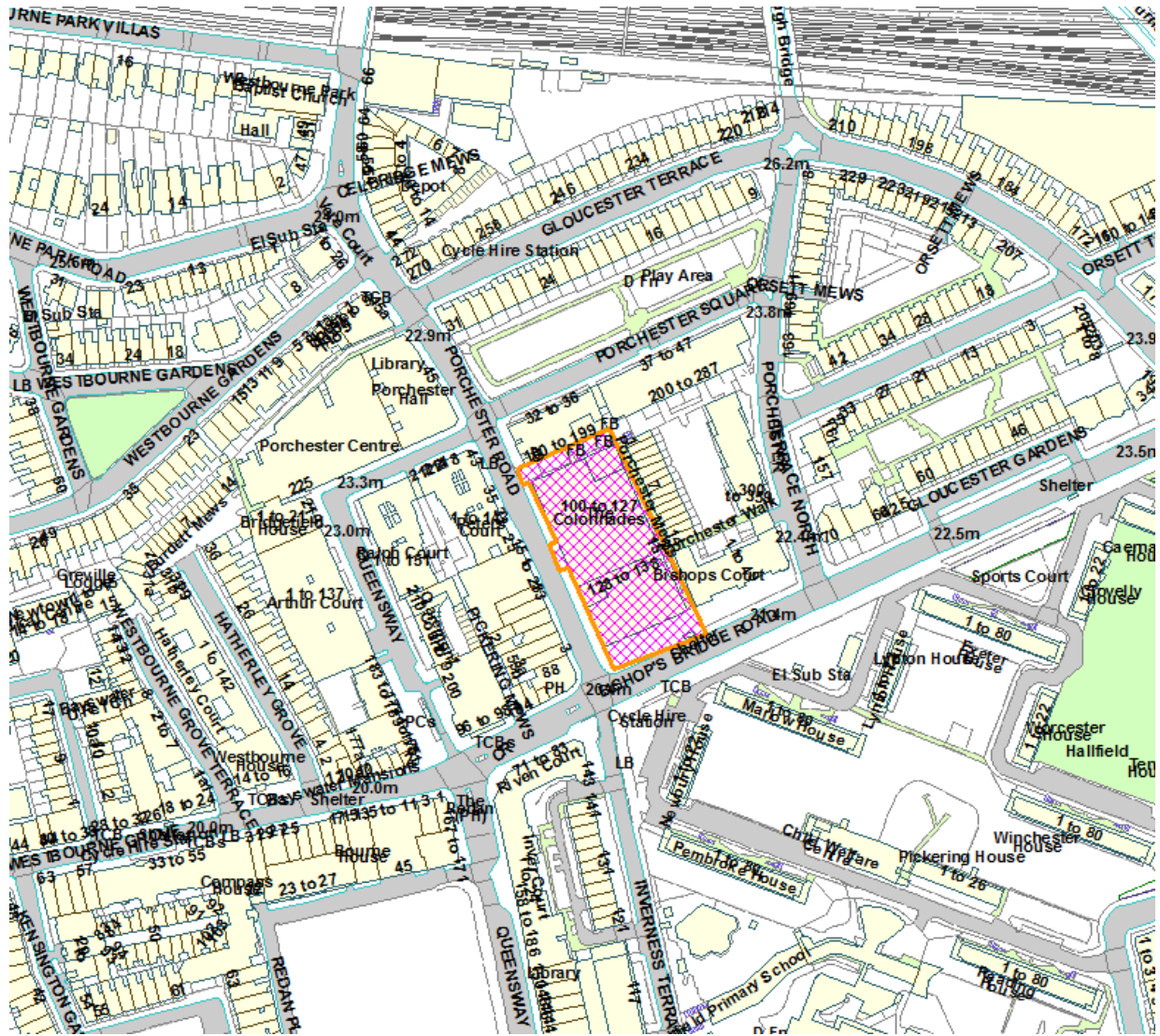
Objections have been received from Councillor Small-Edwards, the amenity society and on behalf of the residents in the adjacent residential block in The Colonnades development.

The key considerations in this case are:

- The impact of the servicing of the units in The Colonnades development upon the amenities of adjacent neighbouring residential properties.

The revised proposed Servicing Management Plan is acceptable in highways and amenity terms and is considered to comply with policies 7, 29 and 33 of the City Plan (April 2021) and is recommended for approval subject to a deed of variation to the original legal agreement.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Street View of The Colonnades



Service Yard



5. CONSULTATIONS

5.1. Application Consultations

COUNCILLOR SMALL-EDWARDS

Objection raised as it will remove restrictions and only worsen the noise issues that residents in The Colonnades.

BAYSWATER RESIDENTS ASSOCIATION

No response received.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

Objection raised to the application as the Servicing Management Plan does not address the well documented concerns of the residents of the Colonnades who have been adversely affected by the use of the servicing of 'The Colonnades shopping arcade' for many years. It is also noted that SEBRA fully supports the objection and concerns submitted by the residents of The Colonnades.

HIGHWAYS PLANNING TEAM - CITY HIGHWAYS

My understanding of the background to this is that there has been a supermarket on the site for many years and that it has long had the off-street servicing bay more or less as it has now but with little or no control over its use. It has long been, and remains, our policy that developments should be served off-street. Policy 29 of the City Plan says that "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."

Under a more recent application two units were amalgamated and the servicing bay was slightly reduced in size, but we were content that it would remain large enough for all servicing to take place off-street and the application gave us the opportunity to seek some control over its use through the introduction of a Servicing Management Plan (SMP), which was subsequently agreed under 14/12071/ADFULL.

There has been a slightly separate issue about residents' use of the servicing bay to take waste to the waste storage area and I note that in paragraph 5.1.6 of the latest version of the SMP they have now undertaken to mark out a route for pedestrians so that they can use the yard for the above purpose and I think this is a positive step.

From a highways point of view it is welcome that para 4.1.3 of the proposed SMP states that "All servicing associated with The Colonnades, as well as associated with the adjacent public house (The Daniel Gooch), will be undertaken directly from the service yard".

It is also welcome that para 5.2.4 states that "Drivers of delivery vehicles associated with the Waitrose food store are asked to phone ahead approximately 10 minutes prior to arrival if it is practical and possible to do so, to ensure the loading bay in the service yard is clear to prevent queuing of lorries in the vicinity of the site."

I do not consider that the proposed SMP is objectionable. My only thought is that I can't immediately see why the need to phone ahead should only apply to vehicles servicing Waitrose. Although it is more important that the articulated vehicles do not arrive when the servicing bay is full, we do not want any servicing from the street or any vehicles waiting in the immediate vicinity to enter the site.

With regard to the size of the articulated vehicles, these are controlled by regulation and they will not be able to use anything longer than 16.5m so the removal of a reference to this figure is not a concern.

PLANNING ENFORCEMENT TEAM - DEVELOPMENT PLANNING

Subject to clarification on a number of points, the servicing management plan is acceptable.

WASTE PROJECT OFFICER

Concern that the servicing details contradict and impede the waste store for the residents of The Colonnades.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 292

Total No. of replies: 4

No. of objections: 4

Four objections have been received, two of which are on behalf of all the residents in The Colonnades, authored by one resident. The remaining two comments support the comments made on behalf of the residents and raise no additional issues.

The letter from the residents of The Colonnades received sets out:

*a repeat of a statement made by residents in a meeting with Councillor Carmen, Planning Officers, Planning Enforcement Officers and Environmental Health officers on 30 March 2022;

*a general statement regarding the application to vary condition 12;

*detailed objections and feedback regarding the proposed variation to condition 12 including (listed below and can be found in the background papers):

- False statements made in the application;
- The on site facilities manager doesn't ensure adherence is made to the old requirements of the SMP and therefore is unlikely to do so to the new SMP, especially as the SMP is longer than the originally approved SMP.
- The HGV's need to be left running for refrigeration equipment, as confirmed by Waitrose in the meeting of 30 March 2022 and this will be in breach of agreement of the SMP
- Residents don't appear to be included in the 'engagement' process regarding consultation on any matters to do with servicing; when it should given residents have a right of access in the service area to the bins;
- the SMP states a pedestrian route has been marked out to allow residents access to

- the bins – this is incorrect and does not exist.
- All restrictions included in the originally approved SMP have been removed therefore watering down the provisions of the SMP. Examples include:
 - Vehicles – removed maximum size of 16.5m for Waitrose articulated HGV. Size is no longer specified so Waitrose not confined to max size or its current area in yard. Unacceptable no size restriction stated.
 - Does not specify that Waitrose HGV scissor tail lifts to only be used in same location as Waitrose Scissor Lift as current restriction. Therefore Waitrose HGVs restrictions removed affecting residents amenities.
 - No overhead acoustic roof protection has been built to protect residents from proposed increased noise from movement of wheeled cages/etc and deliveries in open service yard. Used to be a service road, not a yard. Was a substantial change in use. Resurfacing the area of the service yard as proposed will not stop noise.
 - Even current noise is unacceptable and is as a result of development 13/12442/Full despite assurances no increase in noise. Residents repeatedly complained of increased noise since development 13/12442/FULL and were fraudulently assured no increase in noise by TR Property Investment Trust PLC and council planning.
 - Removed Waitrose restriction in current SMP 2.11 “All goods, which will generally be delivered in cages, will be unloaded from the rear of the vehicle by means of the scissor lift before being transferred directly to the Waitrose delivery area on the first floor by the dock door on the northern elevation.” – this suggests that Waitrose will abuse capacity further, and on-site Facilities Manager liability to ensure adherence to SMP clauses has been removed.
 - Proposed SMP removes Waitrose restriction of all deliveries to Waitrose store via scissor lift AND dock door. (Current SMP 2.4: “The Waitrose foodstore, located at the first floor of the shopping arcade, will be serviced directly from the service yard by way of a scissor lift and dock door on the northern elevation of the building.”). Ambiguous now and allowed to abuse other areas of the Service Yard not belonging to Waitrose.
 - Removed restriction “30 to 60 min” servicing removed and increased the minimum to “45” minutes. Proposed SMP has slowed down delivery, speeding up delivery was reason given to justify development 13/12442/FULL and change of use of service road leading to covered yard. Contravenes purpose of original development which had protected residents amenities with roofed servicing yard.
 - Obstruction on service yard clause is watered down in proposed SMP (incl. 5.2.5) – now only considered an obstruction if it interferes with articulated lorry, rather than “[on-site Facilities manager] will also ensure the service yard is kept clear of obstructions at all times.” (current SMP 2.22). Obstructions include: obstructing the turning points, obstructing the residents bin area.
 - Removed Condition 23 commercial waste restrictions through proposed SMP. This is unreasonable. 13/12442/FULL - Condition 23 – “You must apply to us for approval of details of how waste and recycling for the supermarket (Unit 1) is going to be stored on the site...” and 15/02293/ADFULL – ‘Delegated Report’ (Pg 2) reminds the applicant: “The condition requires details of supermarket waste and recycling storage, which needs to be accommodated within the envelope of the building as the service yard and adjacent spaces have already been fully utilised to provide residential waste storage and a plant enclosure/sub-station.” This clearly states that the service yard is at full capacity and cannot store any commercial waste on it, under any circumstances. The proposed SMP 6.2 undermines this.

- Removes TR Property Investment Trust PLC and Waitrose liabilities of the nuisance scissor lift by claiming they will only do what is 'practicable' for scissor lift problems. It is not appropriate to include this in an SMP for Condition 12. They have repeatedly shown they are not capable. They are not capable of having or maintaining a silent scissor lift. It breaks down 5 frequently as stated by WCC Danielle Cherry in previous correspondence. Having spare parts on site is a red herring as it doesn't help the speed at which it is fixed. They don't use independent engineers – we are aware from an independent scissor lift engineer that the noise is both unacceptable and not normal. The audio recordings made by residents show penetrating audio frequencies (all across the spectrum) into the entire 100 block. The scissor lift is a noise nuisance and proposed 4.1.5 clause does not address this at all. Further – residents have asked Waitrose to stop using the open air Scissor Lift when it's clearly broken and making even more noise nuisance than normal, but Waitrose declines to do so (2022-04-02 complaint copied to WCC and Waitrose). The Scissor Lift needs to be removed immediately, neither Waitrose or TR Property Investment Trust PLC are capable of maintaining a scissor lift. All Waitrose HGVs have tail-lifts and should be used instead in the Waitrose loading bay built on the service yard. Commensurate sized Waitrose on Edgware Road has no scissor lift, a stricter time restriction (as mentioned a Councillor Site Visit 2022-03-30), and has fewer impacted residential properties.

- Removed Waitrose current noise mitigation restrictions (Current SMP 4 & 4.1) – delivery vehicle refrigeration units & engines to be turned off, staff hushed voices, no use of radios, slamming doors from HGVs delivering to Waitrose (including 16.5m) and moved some of them to "other vehicles" section (proposed SMP 5.3.3). This would therefore no longer apply to Waitrose 16.5m lorries or articulated lorries. This is unacceptable, and a noise nuisance.

- Removed restriction of "audible warning signals, including reversing beepers" to be disabled before 0800 (Current SMP 4.1) – this would be an unacceptable loss of amenity and a noise nuisance to the residents.

- Removed restriction that Waitrose HGVs will be equipped "with 'hush kits' and air suspension" – notably this removes the sentence: "Strict compliance with these noise mitigation procedures is essential to ensure minimal noise impact on the neighbouring properties."

- Removed restriction current SMP 2.14 "In the unlikely event that a driver of a Waitrose HGV is not able to leave the service yard immediately... The driver will also ensure the engine of the HGV is turned off when in the service yard." – this is no longer present in the proposed SMP, there are already breaches of delivery vehicles causing obstructions, not leaving immediately, and leaving engines running while abusing the yard after servicing. This is unacceptable.

- Current SMP (2.15) states that Waitrose drivers "are instructed to telephone the branch approximately 10 minutes prior to arrival to ensure the loading bay in the service yard is clear to prevent queuing of lorries in the vicinity of the site." The proposed SMP (5.24) waters this down to the point where it does not prevent queuing of lorries in the vicinity of the site – the proposed SMP wording changes "instructed" to "asked", and adds "if it is practical and possible to do so". This also reduces the liability of the on-site Facilities Manager, and therefore TR Property Investment Trust Plc.

- The proposed SMP section 6.2.6 is not possible as there is inadequate space, as stated in original 13/2442/FULL – the Service Yard must be kept entirely clear of any obstruction, the only items allowed are the residents bins. This proposed SMP

change would remove the restriction to keep the Service Yard clear. This is unacceptable.

- The proposed SMP section 5.3.4 is not possible as there is inadequate space, as stated in original 13/2442/FULL which includes the Swept Path analysis diagrams – the Service Yard must be kept entirely clear of any obstruction, commercial vehicles are not allowed to park unless servicing and must leave immediately after servicing. Please note that there is an underground carpark available and on-street parking should they be required by the retail units. (Obviously this development 13/12442/FULL had inadequate space for what was needed, this was a concern at the committee meeting in 2014. It is unacceptable that TR Property Investment Trust PLC attempt to change fundamental inadequacy of space through this SMP variation.) This proposed SMP change would remove the restriction to keep the Service Yard clear and the turning point clear. This is unacceptable. Further – more vehicles and more manoeuvring would increase noise and air pollution impacting on the residents. xviii. The proposed SMP section 5.2.1 removes the Swept Path as a requirement and waters it down to an “example”. This is unacceptable.

- The proposed SMP section 5.3.2 & 5.3.1 removes the Swept Path Analysis (SPA) as a requirement. It removes requirement (in current SMP 2.18) that all “Other Vehicles” enter the Service Yard in the forward gear (as demonstrated in the SPA) and suggesting that “it may be necessary for some vehicles which are not articulated to reverse into the service yard” – which again goes against the agreed SPA. By reversing along the service yard this would likely mean more traffic and pedestrian disruption on Porchester Road and noise due to use of things like audible reversing signals, and is unacceptable. This attempt to change agreed restrictions in 13/12442/FULL within the Proposed SMP is not acceptable and is not allowed.

- The proposed SMP section 5.3.1 removes the restriction that only non_Waitrose vehicles using the service corridor can use this area to service. Therefore currently Waitrose cannot use this area. The proposed change is unacceptable. It will negatively impact on residents amenities.

- The proposed SMP section 5.3.1 removes the restriction on vehicles up to 10 meters to only transfer goods by hand. The proposed change is unacceptable. It will negatively impact on residents amenities.

- Removed sections 2.9, 2.10, 2.11 from current SMP. The proposed SMP completely removes the requirement “Waitrose Partners” from the delivery procedure to ensure the driver manoeuvres correctly and safely (themselves and the public). This is unacceptable for obvious reasons and will cause further traffic disruption and breaches of health and safety. Note in proposed SMP section 5.2.1 – “the driver, with the assistance of the [on-site] Facilities Manager as a guide if required” – this is impossible as the driver would be required to wait on the road, exit the vehicle and try to locate the on-site Facilities Manager who, according to the other proposed changes, may not be available in the Service Yard. This is an attempt to remove a restriction which is already breached in the current SMP, as the Waitrose Partners are not around to guide the driver and this causes problems and delays on the road and footway which impact both public and residents’ amenities (including noise nuisance).

- The proposed SMP 5.2.6 is very unclear about location and removes the current Waitrose restriction to only unload via the scissor lift location / loading bay. This is unacceptable, and will increase noise. “most efficient manner” is not specific and clear, and allows for interpretation by TR Property Investment Trust PLC and should not – resulting in loss residents’ amenities.

- Use of the term “Facilities Manager” without prefix of “on-site” is unacceptable – this appears in several instances in the proposed SMP. m)
- The current SMP states clearly – (1.6) “It will be the responsibility of the on-site Facilities Manager to ensure that all operators at The Colonnades shopping arcade, as well as refuse collection operators, are familiar with the content of this SMP and that the means of delivery set out herein are strictly implemented.” and (5.2) – “For the avoidance of doubt, it is the responsibility of the on-site Facilities Manager to ensure ... [the service yard] is serviced strictly in accordance with the servicing arrangement as set out herein.” We object to the removal of the full responsibility of the on-site Facilities Manager’s role in the proposed SMP. Specifically the entirety of the proposed SMP’s 4.13 and 6.1.
 - i. Currently TR Property Investment Trust PLC and Waitrose know of breaches of current SMP and openly allow them to continue, have been warned by the council, but continue to breach current SMP (evidenced). Purpose of proposed SMP is to remove their liability by diminishing onsite Facilities Manager role of communicating SMP and ensuring strict adherence. TR Property Investment Trust PLC / Waitrose / onsite Facilities Manager are not capable of deciding what is reasonable – they are driven by profit only, as demonstrated at the Councillor Site Visit (2022-03-30) by Rebecca Amos (Waitrose) when she was told to reduce SMP delivery hours to 9am-6pm and not on Sundays to match the restrictions on Waitrose Edgware Road branch, she said that they couldn’t do that at the Baywater store as it would reduce their profits.
 - ii. Residents’ experience of the current SMP: monitoring is not working, the SMP is not “strictly implemented”. On-site Facilities Manager is not present in the service yard 7am-7pm everyday (evidenced); commercial units (including Waitrose) openly admit that they do not care about the on-site Facilities Manager (evidenced); use of installed CCTV has no audio and obviously cannot be used to monitor compliance; on-site Facilities Manager currently uses patrols and so is not always present (either in person in the service yard or in front of CCTV monitoring – either of which demonstrates non-compliance to the current SMP). Therefore the proposed SMP changes (specific reference to 6.1) would allow on-site Facilities Managers to continue this non-compliant activity. This is unacceptable, and does not meet the reasons for Condition 12. 8
Please note that some of the proposed removal of restrictions goes against the Government (DfT) “Quiet Deliveries Good Practice Guidance” documents and other code of conduct for quieter deliveries for retailers. This is unacceptable and a loss of amenities for the residents.

Finally, the author of the objection from the residents of The Colonnades raised concerns that the residents had not been notified of the proposals.

PRESS NOTICE/ SITE NOTICE:
Yes

5.2. Applicant’s Pre-Application Community Engagement

The Early Community Engagement Guidance encourages all applicants carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. However, unless a major application, not all applicants are required to submit details of the engagement they have

undertaken with their application. Therefore, whilst details of any pre-application engagement with neighbours that may have taken place has not been submitted, this is not contrary to the expectations of the guidance for development of this minor scale.

Officers are aware from the enforcement proceedings that regular contact takes place between the applicant/ Waitrose and the neighbour representative but officers don't believe that this has been as part of the shaping of the revised SMP.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1. City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2. Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3. National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1. The Application Site

The site is a large complex of six buildings, occupying a prominent corner between Bishop's Bridge Road and Porchester Road. It is situated within the Bayswater Conservation Area and forms part of the Porchester Road Local Centre. There are no listed buildings within the Site.

The residential element comprises a total of 228 flats / maisonettes across three blocks, as well as a mews block of 14 no. two-storey terraced houses. The three blocks are numbered 100, 200 and 300. The commercial element includes: Waitrose Bayswater supermarket; Graham and Green retail unit; 1Rebel gym; Happy Lamb restaurant; and Specsavers.

A service yard, accessed via Porchester Road, serves all of the commercial elements for both deliveries and collections (including waste), and is also the storage and collection location for residential bins for the three blocks.

7.2. Recent Relevant History

13/12442/FULL

Permission was granted in October 2014 for the reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works.

It is important to note here that prior to this permission being granted there were no restrictions on any of the commercial units within the Colonnades or servicing to these units and officers took the opportunity to condition hours of operation of the retail units and the servicing arrangements.

For information the hours of opening of the retail/ restaurant uses were approved to:
Retail units (Units 1, 2, 4 and 6): no customers before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 18.00 on Sundays, bank holidays and public holidays.

Restaurant/café units (Units 3 &5): no customers before 08.00 or after 23.30 Monday to Saturday (not including bank holidays and public holidays) and before 09.00 or after 22.30 on Sundays, bank holidays and public holidays.

Condition 12 was attached to this permission and stated:

You must apply to us for approval of a Servicing Management Plan, which includes details of how the service yard will be managed to ensure that all of the retail units can be serviced and the residential accommodation refuse collected within the approved service yard. You must not occupy the new and enlarged retail units until we have approved what you have sent us. Thereafter you must then manage the service yard in accordance with the Servicing Management Plan that we approve, unless we agree an alternative Servicing Management Plan in writing.

14/12071/ADFULL

The servicing management plan was approved on 11 February 2015, under application 14/12071/ADFULL (this is contained in the background papers).

All subsequent permissions (to more minor proposals relating to tables and chairs, amalgamation of units etc) have imposed the following condition 12:

“You must permanently operate the development and manage the service yard in accordance with the Servicing Management Plan that we approved on 11 February 2015 (14/12071/ADFULL), unless or until we approve an alternative Servicing Management Plan in writing”.

15/02293/ADFULL

Details of waste and recycling storage for Unit 1 pursuant to Condition 23 of planning permission dated 9 October 2014 (RN: 13/12442) were approved 13 July 2015

The condition required details of the supermarket waste and recycling storage, which needed to be accommodated within the envelope of the building as the service yard as adjacent spaces have already been fully utilised to provide residential waste storage and a plant enclosure/ sub-station.

Appeal APP/X5990/W/17/3168220

Planning permission was granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and appeal reference APP/X5990/W/17/3168220) for:

Variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. *NAMELY, to allow amalgamation of Units 4 and 5 facing Bishop's Bridge Road to form one retail unit for use as a mixed retail shop and restaurant use (Sui Generis) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).*

Appeal APP/X5990/W/21/3277361

Planning permission was refused on appeal dated 21 December 2021 (RN: 20/05767/FULL) and appeal reference Appeal APP/X5990/W/21/3277361 for:

Removal of Condition 25 of planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and appeal reference APP/X5990/W/17/3168220) which in itself was a variation of conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. *NAMELY to remove the requirement to allow residents access to the service yard.*

This decision continues to allow residents to use the waste storage provision which is sited to the rear of the service yard, under the undercroft of the residential units above, opposite the Waitrose and other commercial units service doors.

Enforcement History

The Planning Enforcement Team has been investigating various breaches of condition associated with the Colonnades and planning permission 16/09313/FULL since May 2020 including the breach of condition 12 and the Service Management Plan (SMP) approved under reference: 14/12071/ADFULL.

The City Council has received complaints (with evidence) between May 2020 to July 2021 and further evidence in April 2022 and June 2022 in respect of breaches of Condition 12 and the approved SMP from July 2015). These can be summarised as follows:

- Deliveries being undertaken from Porchester Road in breach of Paragraph 2.3
- that goods and cages are left in the service yard in breach of Paragraph 2.11
- more than one HGV unloading at any one time in breach of paragraph 2.13
- that vehicles are waiting/queuing in the area in breach of paragraph 2.15
- that the service yard is obstructed by goods, cages and waste in breach of paragraph 2.22
- that delivery vehicles are waiting on the public highway in breach of paragraph 3.4;
- that reversing beepers are being left on outside of the approved hours, in breach of the above sections of the Servicing Management Plan in breach of paragraph 4.1; and
- that smaller vehicles are reversing into the yard as opposed to entering in a forward gear in breach of paragraph 2.18

In addition, Planning Enforcement has received complaints that the engines and refrigeration units are not switched off 'as soon as practicable' or that engines. Refrigeration units are being switched back on after a delivery has been made and the vehicles sit in the service yard for significant periods with the engines/ refrigeration units running before leaving the site. We are also receiving reports of employees not talking in 'hushed voices' and slamming vehicle doors (all according to the neighbours in breach of paragraph 4.1 of the extant SMP). There are also a number of other complaints which have been lodged with our Noise Team in respect of noise from the service yard area, including but not limited to noise from the scissor lift. These remain under investigation by the City Council's Public Protection and Licensing Team.

8. THE PROPOSAL

Permission is sought to vary and update the wording and requirements of the SMP that was originally approved in 2015. This, according to the applicant is reflect current delivery and operation requirements because, during the course of enforcement investigations in relation to other matters, it became clear that there had been breaches of the SMP since approximately May 2020, and it is clear that Waitrose cannot now adhere to the as approved SMP.

During the assessment of the application there were some minor clarifications sought such as the distinction between the terminology 'facilities manager' and 'service yard manager'. These are one and the same and so amended to only refer to facilities manager. In addition, clarification was sought on noise and refrigeration of vehicles other than articulated lorries; inaccurate claims that a pedestrian route to the residential bins and to the storage of carboard. The SMP was revised on 30 May. It was not considered that this required re-consultation with residents as it would not have altered the in principle objection from the residents of The Colonnades to the revised SMP.

Whilst there are changes throughout the revised SMP, the key differences between the SMP's are changes to timings for unloading; the installation of acoustic matting to noisy areas; the agreement to marking out of a pedestrian route so access can be maintained

to bins but not create an obstruction; removal of the requirement for non Waitrose 16.5m vehicles to drive in forward gear; a three strike rule for persistent offenders who break the terms of the SMP and to allow contractor/ maintenance parking.

A copy of the approved SMP (2015) and the revised SMP is contained within the background papers. A comparison document is also included although this is not exhaustive, however this report does address all differences.

9. DETAILED CONSIDERATIONS

9.1. Land Use

There is no change to the lawful use of the commercial units. Permission was granted in 2014 for the reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level. The floorspace prior to this permission was lawful and historic retail units, and a Waitrose had existed for a number of years in Unit 1.

9.2. Environment & Sustainability

The application to vary this condition raises no issues in regards to the Council's environment and sustainability policies.

9.3. Biodiversity & Greening

The proposals raise no issues in regards to the Council's biodiversity and greening policies.

9.4. Townscape, Design & Heritage Impact

The only design changes proposed, as a direct result of the changes to the SMP is the laying of rubber matting within the service yard, adjacent the scissor lift area and service doors. This is a working service yard with machinery and equipment and therefore the matting is not considered to raise any design concerns.

9.5. Residential Amenity

The main objections to the application are that the commercial operators currently do not abide by the approved SMP and that the revised SMP removes significant controls on the servicing of the retail units in The Colonnades which in turn results in noise and disturbance to the detriment of the neighbouring properties at The Colonnades. These were listed verbatim in the 'consultation' section of this report.

Development that could result in a change to the amenity of neighbouring residents such as that of the proposals here must be found to be in accordance with policy 7 of the City Plan 2019 - 2040. The policy seeks to prevent unacceptable impacts in terms of protecting and where appropriate enhancing local environmental quality and improving sustainable transport infrastructure and highways conditions and making appropriate and effective waste management arrangements. Policy 33, and notably part C (Noise) is

also relevant which seeks to make sure that quality of life and health and wellbeing of existing and future occupiers are not adversely effected by the development. Policy text paragraph 33.5 states “Developments should ensure that any noise and vibration impacts are mitigated.....Careful consideration must be given to the design and location of schemes that could impact or be impacted by noise from development that includes: plant machinery, internal activities, amplified noise, transport (including servicing and deliveries) and other noise generating activities”.

The majority of the requirements of the SMP are not to be altered and whilst residents consider this unacceptable, this SMP was originally approved in 2015 and in officer’s opinion results in an acceptable servicing arrangement.

This section of the report will set out where amendments are sought to approved commitments (referring to the old paragraph number and new paragraph number) or to new insertions within the SMP and addresses the neighbours objections where relevant.

Paragraph 1 & 1.2 – Introduction & SMP Approach

The introduction and overall strategy of the as approved SMP (paragraphs 1.0-1.7) are reiterated for all intents and purposes in paragraphs of 1.0-1.25 of the revised SMP.

Paragraph 1.3 – Benefits of a SMP

Paragraphs 1.3 is a new paragraph and sets out the benefits of a SMP. This refers to the relevant guidance to be adhered too including The London Freight and Servicing Plan (2019); Fleet Operator Recognition Scheme (FORS) and Construction Logistics Plan (CLP). Also referred to is Managing Freight Effectively: Delivery and Servicing Plans (TfL 2007). This is nothing to comment on as this paragraph merely sets out the framework.

Paragraph 1.4 – Objectives of the SMP

Paragraph 3.1 of the approved SMP set out the objectives of the SMP and stated “ as the objective of the SMP is to minimise traffic disruption and potentially dangerous situations on the local highways network, as well as to minimise the nosie impact for those who live in neighbouring properties.

Paragraph 1.4 is a new paragraph and set out what an SMP seeks to achieve; in the applicant’s words “to provide improvements to procurement practices, supplied management, environmental management procedures, facilities management and safe and legal loading arrangements”. Officers consider the two main benefits of a good SMP are to reduce the impact of servicing upon the local highway network and to where possible remove this off-street and to ensure that servicing does not harm residential amenity. It is therefore regrettable that the applicant has not referred to these within this paragraph, however the terms and agreements of the SMP are set out further in the documents.

Paragraph 1.5 – SMP Structure

Paragraph 1.5 sets out the SMP Structure. This is a new paragraph but there are no comments to make.

Paragraph 2 (2.1 - 2.3) – Site location; Site Overview; Local Highway Designation; Planning History

Paragraph 2 (including pars 2.1 – 2.3) sets out the site location; site overview; local

highway description and planning history and is a new paragraph. There are no comments to make on this as it sets out the site's location and current uses within the development, but it is a new paragraph. One point to note is that the planning history is silent on the Planning Enforcement History.

Paragraph 3 (3.1 – 3.10) – Policy Framework

Paragraph 3 (including paras 3.1-3.10), sets out the following policy framework:

- The Mayor's Transport Strategy (2018)
- London Plan (2021)
- London Freight and Servicing Action Plan (2019)
- Freight Operator Recognition Scheme (FORS)
- Managing Freight Effectively: Delivery and Servicing Plans (SMPs)
- The London Low Emission Zone and Ultra Low Emission Zone; and
- Westminster City Plan 2019-2040

There are no comments to make on this new paragraph as this is a factual representation of adopted policy.

The objector argues that the additions of Paragraphs 1-3 above is unreasonable, although no further reason is given as to why. Whilst these additions enlarge the SMP, they do bring to the attention more recent policies than compared to when the original SMP was approved and in this regard this is relevant. The additional paragraphs do not alter the actual servicing requirements and officers therefore consider that this change is acceptable.

Paragraph 4 – Servicing Arrangements

Paragraph 4.1 - Overview

This is a new paragraph, but in effect replaces a number of paragraphs in the Servicing arrangement section of the approved SMP (notably para's 2.1; 2.3; 2.4; 2.5; 2.6).

Paragraph 2.2. of the old SMP relating to the exact location of the service yard gates has been removed from the new SMP given that the gates are in place, have been for a number of years and are conditioned to be retained as part of the development.

Paragraphs 4.1.3 of the new SMP enforces and strengthens the wording (from para 1.4 of the old SMP) that the facilities manager will be responsible for implementing the SMP. In addition, this paragraph sets out that persistent offenders (suppliers) who breach the SMP despite being made aware of its requirements will be subject to a 'three strike procedure'. This paragraph confirms that this is dealt with in more detail later in the SMP and therefore comments will be made on this point further in the report.

The objector considers that this should be amended to refer to residents of The Colonnades also, given that they can access their refuse bins. As discussed below a pedestrian route to the residents' refuse store is to be marked out for residents and this is to be secured by condition. Whilst the exact route may not be suitable/ desirable to the residents, the Planning Inspector who recently upheld that residents should have access to the refuse bins did not stipulate how this would be accessed and noted a number of routes. This was to be left to the freeholder.

It is therefore consider that the omission of 'with resident's' is therefore acceptable in this instance as it refers solely to the servicing of the commercial units.

This paragraph refers to the servicing of The Colonnades, as well as associated with the adjacent public house, The Daniel Gooch taking place from the service yard. The objector considers that this is a false claim as the pub does not exist and had not for many years. Permission was granted in 2017, later varied, for the "extension to front elevation at ground and first floor, re-cladding of building at ground and first floor and changes to the elevations in association with the change of use at first floor level from ancillary public house accommodation (Class A4) to a self contained residential unit (Class C3)". This permission has been implemented however the pub at ground and mezzanine remains vacant but could be operated as a pub without planning permission.

Paragraph 4.15 of the new SMP states "the scissor lift will undergo planned preventative maintenance checks scheduled on a 6 monthly basis. Details of the maintenance regime will be recorded by the operator and be made available to Westminster City Council on request. If the scissor lift became broken or incapable of operation then the operator will be required to fix the issues as soon as is practically possible". Objections have been raised on the grounds that Waitrose simply don't service their equipment properly and the scissor lift has a detrimental impact on neighbouring amenity as it 'squeals' There is no such provision within the approved SMP for matters relating to the scissor lift and this is therefore considered to be a substantial improvement over the approved SMP. In addition, noise complaints are being investigated by the Public Protection and Licensing Department and is at this time considered acceptable (please refer to para 5.2.6 heading in this report for further discussion on the scissor lift). Given no such provision in the approved SMP exists and that it is extremely difficult for Waitrose to confirm how long the fixing of the scissor lift would take as this is subject to so many variables; include outside contractors; parts etc, this clause is considered supportable.

Paragraph 4.1.8 states that the servicing yard will be open from the hours of 07:00 – 19:00 in line with the arrival and departure of the Facilities Manager. During all hours in which deliveries are expected to the Waitrose shop, a delegated Partner will be available. This paragraph replaces para 2.7 and 3.4 but does not alter the hours in any way and officers remain content with these hours.

Paragraph 4.1.10 is a new measure proposed within the SMP and requires the applicant to install acoustic matting to the area east of the scissor lift and to the delivery area of Waitrose. A plan has been submitted to show its location. The applicant proposed a condition to secure this within 3 months of any approval granted. The objectors confirms that acoustic matting is supported to reduce noise of wheeled cases. Officers consider this to be an improvement to mitigate the impact of noisy cages on the floor being wheeled to the docking area and will condition to ensure that this is installed within 3 months of any approval.

Paragraph 5 – Overall Strategy.

Again this is a new paragraph but does in some instance replace the Delivery Schedule paragraphs contained within the approved SMP (paras 3.1; 3.2; 3.3; 3.4; 3.5)

A new paragraph in revised SMP is 5.1.5 which states "when required, contractor vehicles associated with essential maintenance works to the retail units will be permitted

to park in the service yard providing they do not impede the swept path of any delivery vehicle and the facilities Manager is in agreement". The objectors has argued that there is simply not enough space for this to be allowed an that the agreement is that the service yard should be clear of obstruction. With the absence of a paragraph of this nature the applicant argues that there would easily be breached of the SMP. It seems reasonable to officer's to allow for maintenance vehicles to use this service area, when not being used for servicing provided, it will not being used as a car park or by staff of the retail units and that they adhere to the areas to be clear of obstruction including the residents bins; in accordance with the swept path analysis and in agreement with the facilities manager. The timing of the servicing of the units is generally known and it is agreed that maintenance vehicles could work around this. This removes vehicles of this nature off the surrounding highway network and whilst this conflicts in part with the impact upon neighbouring amenity, any noise generated from contractor vehicles is not considered to be so significant so to be deemed an unacceptable clause in the SMP.

Paragraph 5.1.6 of the revised SMP is also a new paragraph and states "a pedestrian route will be marked out to allow residents to access the bin storage and recycling area. As a point to note, and as brought to the attention of officers by the objectors, in the earlier version of the revised SMP this actually stated that a pedestrian route has been marked out to allow residents access to the refuse store area. This was incorrect, had not happened and understandably raised an objection. The applicant amended the wording as referred to above. The applicant has agreed to accept a planning condition requiring this to take place within an eight week period of an approval. Once in place it will be the responsibility of the facilities manager to ensure that this route is kept clear of obstructions at all times (including the storage of materials, equipment and parked contractor vehicles". On the point of the pedestrian route, the objectors argues that this route would have to be agreed with by residents and suitable for all residents.

This paragraph has been inserted into the SMP because during the enforcement investigations listed above; it was discovered that the freeholder of the site was not allowing residents to access the waste storage (which they can access should they miss the collection from the porters daily rounds of the residential flat or if the collection includes cardboard/ packaging which the porter does not collect), and this was in breach of Condition 25 of permissions dated 23 June 2017, which was replicate from permission 13/12442/FULL, dated 9 October 2014. The freeholder made an application under 20/05767/FULL to remove this condition, to not allow any residents into the service yard. This was refused by the City Council on 9 September 2020 and the decision was upheld at appeal. There are a number of routes from The Colonnades to the service yard; however the Planning Inspector did not explicitly state how residents should access this waste store and ultimately it is a private matter and one for the freeholder and leaseholders to agree upon. The freeholder is now proposing to regulate this access/situation because it relates fundamentally to the servicing provisions.

Paragraph 5.2 - Articulated vehicles

Much of the content of paragraphs 5.2.1-5.26 is already set out in paragraphs 2.8-2.17) (Waitrose 16.5 metre long HGV's) of the as approved SMP. There are some differences in the wording and that the facilities manager is now referred to as a guide for vehicles entering the service yard, which was not a requirement previously. This ensures another level of control over the receipt of deliveries and ensuring that they adhere to the SMP. Another change is the removal of the reference to 'Waitrose 16.5m long HGV's' in the

title of the paragraph and this has been raised as objection with the objectors stating that any removal of a size limit of an articulated lorry would be unacceptable. Reference to 16.5m long HGV's is set out within the text and the appendix shows the swept path analysis of a 16.5m long vehicle. Government guidelines also say that an articulated lorry of the nature used by Waitrose are up to 16.5m in length. Therefore, this omission in the heading is acceptable.

The objector argues that the 'example' of the swept path analysis of a 16.5m vehicle as set out in Appendix A is watered down with the use of the word 'example'. If the application to vary the condition is approved, any appendices are considered to be 'as approved' documents and therefore binding.

The revised SMP (para 5.2.3) states "Only one articulated vehicle will be in the service yard at any one time. It is expected to take between 45 and 60 minutes to unload a full-size articulated vehicle, while deliveries made by smaller delivery vehicles will be considerably quicker". This was previously listed as between 30-60 minutes (para 2.13 of the old SMP) so the minimum amount of time to unload the vehicle has been increased. This has attracted objection on the grounds that the variation to the SMP allows for slower deliveries, thereby result in more noise and disturbance for neighbours. Given the range allowed under the as approved SMP i.e up to 60 mins, this is not considered unreasonable. HGV's have a maximum of 48 crates per vehicle, which requires a minimum of 8 scissor lift movements; and then any empty cages need to be put back onto the HGV and up to 60mins allow for this unloading.

Paragraph 2.10 of the original SMP which refers to all those associated with a delivery having to wear high-vis jackets and will assist delivery with hand signals. This para has been removed from the new SMP. No formal reason for this has been given, although it is assumed that this is industry/ Health and Safety standard and is it doesn't directly affect the servicing of the property and is therefore no longer required.

Paragraph 5.2.4 of the proposed SMP is in effect a replication of para 2.15 of the approved SMP. This does however states that delivery vehicles are 'asked' to phone ahead prior to arrival; if it is practical and possible to do so. The approved requirement stated that delivery vehicles are 'instructed' to call ahead. The objectors argues that this waters down the obligations of Waitrose and facilities manager. Waitrose have already confirmed that it is their policy not to allow delivery vehicles to wait in residential areas (accept online shopping vans) and the wording allows the drivers to take into consideration whether it is safe and legal to make a call. It is considered that the facilities manager will, as a result of the SMP have to ensure that all vehicles and drivers are abiding by the terms of the SMP.

Paragraph 5.2.5 is a new paragraph and states "It will be the responsibility of the facilities manager to ensure that the service yard is kept clear of obstructions so that, barring unforeseen events, a full-size articulated vehicle can be accommodated at all times". Paragraph 2.16 of the old SMP stated that if there were exception and unavoidable circumstances as to why servicing could not occur then the driver would be contacted by telephone and instructed on what to do. The objectors considers this a watering down of the clause, when also read with the loss of para 2.2 of the approved SMP, in that an obstruction is only deemed an obstruction if it's to an articulated lorry. The objectors consider that an obstruction is also when access to the refuse store by the

residents can not be made. The new SMP ensures that it is the responsibility of the facilities manager and therefore there is someone accountable for this action which could be investigated if needs be. Officers believe that this clause, whilst not specifically referring to the pedestrian route, as this is dealt with elsewhere in the SMP is considered acceptable.

Paragraph 5.2.6 of the new SMP states “all goods delivered / collected in cages or otherwise, will be unloaded/loaded from the rear of the vehicle by means of a scissor lift or a tail lift. If at any time the scissor lift is out of operation, the vehicle will be unloaded / loaded in the most efficient manner ensuring that wheeled equipment movement is limited to noise attenuated areas of the service yard”. This differs slightly from paragraph 2.11 of the approved SMP which said “all goods, which will generally delivered in cages, will be unloaded from the rear of the vehicle by means of the scissor lift before being transferred directly to the Waitrose delivery area on the first floor by the dock door”. The new SMP allows for servicing by the tail lift of a HGV if the scissor lift is broken and this is acceptable. The objector argues that the variation of the wording would abuse capacity further and the facilities manager would no longer be responsible for this. It is unclear as to what the objector means on this point. The words first floor have been removed from this paragraph as no servicing to the first floor can take place externally from the service yard, this is done internally in the Waitrose demise via the use of lifts. The first floor description in the approved SMP reiterates where the Waitrose store is situated in the building (this is also referred to in para 2.4 of the approved SMP and is 4.1.4 of the proposed SMP). The objector on this point also argue that the previously approved para 2.4 of the SMP which refers to the other retail units and their servicing location results in ambiguity as to who can be serviced from where. Paragraph 4.1.4 of the proposed SMP clearly states the other retail units i.e. not Waitrose will be serviced from the service corridor, adjacent to the doors of the Waitrose servicing area, this is still accessed from within the service yard.

As noted above, the scissor lift matter has attracted significant objection because residents claim that it is noisy and a statutory noise nuisance. As way of additional background objectors have made formal complaints that noise from the scissor lift and in turn the whole service yard should be assessed as noise from within the development as controlled by noise condition, 9. The City Council maintains its position that Condition 9 is not the appropriate mechanism for managing the noise from the service yard, including the scissor lift, nor will this condition be used moving forward to assess noise from the service yard area. This decision has been made following advice from the City Council’s Director of Law.

Significant testing/monitoring from officers in Environmental Sciences, on behalf of health of Public Protection and Licensing have taken place and the assessments are ongoing. As noted above, should HGV’s use the scissor lift, the unloading of a HGV would utilise the lift 8 times. If a HGV were to use the tail lift on the vehicle then only three crates can be lowered at any one time, in comparison to 8 on a scissor lift. If this were to be a permanent solution the unloading would likely take far longer than 60 mins, thereby resulting in far longer unloading delivery times, prolonging any noise generated. In addition, the new paragraph refers to noise attenuated areas which is the acoustic matting proposed as a mitigation measure (referred to in the new para 4.1.10) to reduce the noise of the crates being wheeled from the scissor lift to the docking area which is very much welcomed by officers.

The objectors brings to the attention the servicing arrangement to a Waitrose store at Edgware Road which does not have a service yard nor a scissor lift and if servicing to this unit can be carried out effectively why can the same procedures not be adopted for The Colonnades. This appears to have been a Waitrose for many years and the floor area has a historic retail lawful use. There is no planning history relating to the servicing of this store however the objector states that this is from the rear on Brendon Street with no scissor lift and Waitrose seem to manage fine. Waitrose has argued that every store and its requirements are different and the operation of the scissor lift to the servicing of the store in The Colonnades is required.

Paragraph 5.3 – Other Vehicles

These paragraphs seek to reinforce the requirements of other servicing vehicles i.e. not HGV's, as originally set out in paragraphs 2.18-2.21 of the approved SMP. There is a removal of the requirement of these vehicles to drive in forward gear under the new SMP and this has attracted objection as reversing can be louder and attract warning beepers etc and this will potentially create more noise for residents to endure. The SMP confirms even when an articulated vehicle is parked in the service yard, most other delivery vehicles are still able to access the service yard, manoeuvre satisfactorily and load / unload, although it may be necessary for some vehicles which are not articulated to reverse into the service yard with the assistance of the facilities Manager as a guide if required. The removal of the wording 'drive in forward gear' has not been objected to by the Highways Planning Manager as this is a service yard and whilst some vehicles may have reversing beepers, many of the smaller vehicles may not. In the site context it is not considered that this is objectionable too, also noting that the facilities manager can be a guide.

A further objection is raised in that the removal of the wording from para 2.19 of the approved SMP that only non-Waitrose vehicles can use the side service corridor. Whilst this means that Waitrose could therefore use this area, this serve no purpose as their back of house and internal servicing area is adjacent the scissor lift area/servicing doors.

The objectors also argues that the wording from para 2.19 of the approved SMP which stated "all goods will be unloaded from either the rear or side of the vehicle, depending on the type of vehicle used, before being transferred by hand to the rear of the units...." would be unacceptable because its gives carte balance for these deliveries to be made by cages and therefore be noisier and harmful to residential amenity when compared to 'be hand' deliveries. As far as officer's are aware it is not the servicing of the smaller retail units from the side service corridor that have been under investigation and whilst these concerns are noted the revised wording does state "if wheeled equipment is used as part of the loading/unloading process its movement will be limited to noise attenuated areas of the service yard as much as reasonably practicable". As a point to note this does not necessarily mean cages but could mean 2 wheeled trollies.

Again, the wording 'facilities manager' has been inserted into the new SMP.

Paragraph 5.4 - Requirement For All Vehicles

This is a newly titled paragraph, but in effect it replaces, in part paragraph 4.1 Waitrose Noise Mitigation Procedures of the approved SMP. This has been included in the revised proposed SMP as the objectors correctly pointed out that the requirements below had been removed from the proposed SMP originally consulted on which would have, if approved had allowed the clause to not be appropriate for when an articulated lorry was

servicing the site, only when 'other vehicles' were using the service yard.

The new paragraph states "in order to ensure that noise associated with the Waitrose branch is kept to a minimum in the service yard, the following noise mitigation procedures are to be implemented on-site during all deliveries in line with standard Waitrose policy. This is summarised below:

- All members of the delivery team must talk in hushed voices during the delivery and must not slam delivery vehicle doors;
- Delivery vehicle engines and refrigeration units, where fitted, must be turned off as soon as practicable once they are stationary within the loading bay;
- No radios will be used by members of the delivery team during the delivery; and
- Consideration is to be given to the flooring to mitigate any noise associated with cage movements. This is currently being investigated with Waitrose".

The Freeholder has relabelled this paragraph to show that in some instance there is no difference to servicing protocol because of a vehicles size (a point raised by the objector to the earlier submitted SMP). One area of difference is that reference to ' all audible warning signals, including reversing beepers, are to be disabled on all Waitrose delivery vehicles which area at the branch between 07.00 and 08.00hours' has been removed; meaning that any vehicle could have these reversing beepers on between 07.00 and 08.00 daily. Officers have been informed that whilst some vehicles (Waitrose and other vehicles) can turn these off and this has been witnessed by officers on site, not all can for safety reasons and some are permanently set on the vehicle or by the operator and therefore there could always be breaches of the SMP.

Whilst it is regrettable that these cannot be turned off, and officers can sympathise with residents as to this early morning noise; it must be remembered that prior to the permission in 2014 there were no controls in place regarding servicing. This revised SMP seeks to mitigate a number of the noise issues raised by residents and to provide a solution for the commercial uses. It is considered by officers that the revised SMP represents a reasonable balance.

Paragraph 4.2 of the approved SMP which stated that "Waitrose HGV's will be equipped with hush kits and air suspension to further reduce noise. Strict compliance with these noise mitigation measures procedures is essential to ensure minimal noise impact on the neighbouring properties" has been removed from the proposed SMP, and this has raised an objection. Most lorries have air suspension and it is assumed that the removal of this point is because the Waitrose lorries will have this fitted. The applicant has not advised why this is no longer proposed; what the purpose of the hush kits are; or whether the Waitrose vehicles from 2015 (when the approved SMP was adopted) had these installed. The remainder of the proposed SMP places significant wait on the compliance of the SMP and introduces penalties if not. In addition, the City Council's Enforcement Department will investigate any reported breaches.

Paragraph 6 – Monitoring and Awareness

Paragraph 6.1 – Communication

This new paragraph states "all commercial tenants at The Colonnades shopping arcade will be made aware of delivery and servicing arrangements, including any restrictions, through the Occupiers Handbook. An updated version will be provided to existing

tenants and will be provided prior to occupation for any new tenants. The on-site facilities manager will also advise and update the tenants on any future changes to the delivery and servicing arrangements. The service yard will be monitored continuously during the hours of 07:00-19:00 by the on-site Facilities Manager through patrols, and via The Colonnades CCTV (where camera locations permit) to ensure that all vehicles adhere to the SMP measures”.

This paragraph is very much welcomed as it tells the City Council and residents of the Freeholders requirements of existing and new tenants with regards to servicing and is enforceable if say handbook updates are not given. The objector argues that this is not available to them if they want to investigate a breach in order to draw it to the attention of the facilities manager and that the CCTV has no audio rendering it useless.

Paragraph 6.2(6.2.1 – 6.2.6) – Monitoring

This set of guidelines replaces para 2.22 of the approved SMP entitled Service Yard Management. It stated “ in order to guarantee deliveries and refuse collection is managed appropriately, the on site facilities manager will ensure that all deliveries to, and refuse collection for, The Colonnade shopping arcade is undertaken within the service yard. They will also ensure the service yard is kept clear of obstructions at all times”.

This paragraph is to be replaced with the following new paragraphs:

Paragraph 6.2.1- “The Facilities Manager will monitor the site for any fly-waste or litter and will collect and process any materials within the boundary of the property; this will include recycling this material where possible/appropriate”.

Paragraph 6.2.2 – “Balers for cardboard and plastic and a compactor for the reduction of waste volume are provided on site within the dedicated store rooms. The management of commercial waste within the service yard is undertaken by the Landlord for the commercial tenants, except for Waitrose. A Waste Management Plan has been developed to confirm the proposed management arrangements for waste generated from the Site”.

Paragraph 6.2.3 – “Bales of cardboard and plastic waste are not to be stored in the service yard. The only exceptions to this would be when cardboard and plastic waste is put out on the day that it is due to be collected, and/or if unforeseen events make it necessary to put waste outside to prevent a health and safety or fire risk . It will be the responsibility of the Facilities Manager to inform WCC if this arises and circumstances require the temporary (ie a period of 24 hours or more) outside storage of cardboard and plastic waste. In such circumstances the materials will be stored in such a way that the service yard is kept clear of obstructions for delivery vehicles at all times”.

Paragraph 6.2.4 – “All suppliers will be made aware of this SMP and the general requirements herein by the commercial tenants. They will issue written/email instructions to their suppliers setting out the delivery procedures to be adopted by them, including the specific access arrangements to the delivery areas”.

Paragraph 6.2.5 – “The Facilities Manager will advise the commercial tenants on re-timing deliveries to make efficient use of the servicing yard. Vehicles which arrive outside of the scheduled window may be accepted at the Development, however, will be advised to deliver within their scheduled window in future”.

Paragraph 6.2.6 – “The Facilities Manager will also ensure that if materials / equipment are temporarily to be stored in the service yard, they do not impede the swept path of any delivery vehicle and that wheeled equipment movement is limited to noise attenuated areas of the service yard”.

Officers have no objections to these paragraphs in principle. The objector states that this section undermines the earlier principles of ensuring that all waste and refuse for Waitrose is stored internally, when in the report to committee in 2014 said that there was no space in the service yard for external storage. The details of how waste and refuse for Waitrose were to be stored were then required, as set out in Condition 23 of the original permission, and were approved under application 15/2293/ADFULL. This has not and is not to be altered. Officers accept the fact that there were breaches of this condition however since July 2021, this condition does not appear to have been breached.

The applicant has advised that any external storage will consist of bales of bin/ packaging etc that is due to be collected imminently, although no time frame can be given as to how close this is to the collection time, to ensure that this doesn't obstruct servicing that maybe happening at the same time. At the time of writing officers had requested a time limit and/or a plan to show where anything due to be collected imminently is to be stored in order make an assessment as to whether this is acceptable in terms of location or if this would contravene the earlier waste condition.

Paragraph 7 – Management/ Enforcement

The following three paragraphs replace paragraphs 5.1-5.2 of the approved SMP and state:

7.1.1 The Facilities Manager will monitor and advise occupiers as to any potential breaches that may have occurred had it not been for their intervention and any repeat offenders that may require more robust action. Repeat offending will be based on a 'three-strike' basis where the Facilities Manager will advise occupiers to review with their suppliers where repeat offending is recorded.

7.1.2 The contractual agreements between Freeholder and Leaseholder of each unit also contains provision for all commercial tenants to comply with relevant planning conditions which will include the Servicing Management Plan.

7.1.3 Signage will be displayed to ensure that all suppliers and drivers are aware of their potential impact on pedestrian safety and that due care and consideration must be taken when within the servicing areas to prevent conflict between manoeuvring vehicles and pedestrians

This is considered to be a much more water tight commitment to the previously approved SMP and is welcomed by officers.

Response to Objectors Additional Concerns (where not addressed above or not being altered as part of the revised SMP).

The objectors has queried the difference between on-site facilities manager and facilities manager as these are referenced throughout the SMP. At the time of writing, the case officer was waiting on clarification of this point, but it is assumed that these are one and the same. However, it is preferable that the revised SMP refer to on-site facilities manager so the City Council can be sure that the SMP is adhered to at all times and present when deliveries are expected/ occurring.

The objectors request a reduction in the hours of servicing to 'not before 09.00' and not at all on Sunday's. The servicing yard serves Waitrose, a large store and a number of other units. The hours of 07.00 to 19.00 Monday to Sunday was agreed as part of the original approval for the redevelopment of the site, and within the SMP approved in 2015 and is typical of servicing hours for commercial units of this nature. It would be unreasonable to limit the hours of servicing as part of this Section 73 application.

The objectors argue that the installation of matting outside the Waitrose servicing doors, so that cages that come off the scissor lift will make less noise, whilst supported in principle should not be included in the SMP (see commentary on para 4.1.10 above) and in effect this means that the applicant is conscious that there is a noise nuisance from the cages. Given the nature of the application, a revised SMP can offer this up as mitigation to noise and it must be remembered that the variation to the SMP is being made to try and tighten controls and resolve the issue, as far as reasonably practicable to neighbours. The rolling of cages has not been deemed a noise nuisance. The offer of the matting is welcomed and will reduce the noise of the cages being rolled. A condition securing that this is installed within 8 weeks of any approval is suggested.

The objectors argue for a acoustic barrier roof. This is not being proposed as part of this application and the local planning authority could not force the freeholders to submit an application of this nature. The local planning authority cannot considered an alternative and members are being requested to make a decision on the new SMP proposed. In any event an application for an acoustically lined roof over the service yard would require an assessment in design terms and could result in different noise and ventilation concerns.

The objector asks for the removal of the squealing scissor lift. A request of this nature to the applicant is not considered reasonable.

The objector notes a false statement within the application form in which the applicant states that the site is not visible from the public realm. Whilst the building and the gates to the service yard are visible from the street, the service yard in general is not, only in glimpsed views when the gates are open to allow a vehicle in or out.

The objector notes the behaviour of one of Waitrose's duty manager who has said 'they don't care about the on-site facilities manager'. This is hear-say and cannot be taken into consideration of.

The objector also picks up on the point raised the representative of the freeholder on a Councillor site visit on 30 March, where they said , in response to residents to be allowed access to their bins, 'that they did not want any residents in the service yard'. Whilst this is true the freeholder also stated however that they were well aware of the Planning Inspectors decision regarding the residential waste store.

Amenity Conclusion

For the reasons set out above, and detailed individually under each clause, the measures proposed by the applicant to seek to reduce noise to neighbouring properties and to ensure that servicing to all the retail units quickly and efficiently, tidily and without obstruction are welcomed. It is considered that the revisions to the SMP reduce the impact on neighbours as far as reasonably practical and that the revised SMP complies

with the Council's amenity policies.

9.6. Transportation & Waste

The SMP in general raises no highways concerns and is supported by the Highways Planning Officer. The SMP is similar in its content, aims and overarching principles on how vehicles and servicing will be managed to that that was approved under application 14/12071/ADFULL.

From a highways point of view it is welcome that para 4.1.3 of the proposed SMP states that "All servicing associated with The Colonnades, as well as associated with the adjacent public house (The Daniel Gooch), will be undertaken directly from the service yard".

It is also welcome that para 5.2.4 states that "Drivers of delivery vehicles associated with the Waitrose food store are asked to phone ahead approximately 10 minutes prior to arrival if it is practical and possible to do so, to ensure the loading bay in the service yard is clear to prevent queuing of lorries in the vicinity of the site."

One area of difference is that the new SMP does state that HGVs will be assisted by the facilities manager 'if required' whereas the old one says the HGV driver will be assisted. This does not raise any significant concerns. The SMP is sufficient to ensure that the servicing of the retail units within the development via the servicing yard (reconfigured as part of the October 2014 permission, 13/12442/FULL), and would not have an adverse impact on the operation of the local highway network. All retail units are to be serviced via the service yard and no servicing will be carried out from the public highway.

The proposals comply with policy 29 of the City Plan, adopted April 2021. The SMP has adheres to the Construction and Logistics Community Safety Scheme (CLOCS) and the Freight Operator Recognition Scheme (FORS).

Although some matters of waste are dealt within under the amenity section of the report, as the knock on effect of external waste storage would lead to obstruction which would lead to additional noise and harm to neighbours, consultation was also carried out with the City Council's waste projects officer. They objects to the removal of paragraph 2.2 which states "in order to guarantee deliveries and refuse collection is managed appropriately, the on site facilities manager will ensure that all deliveries to, and refuse collection for, the Colonnades shopping arcade is undertaken within the service yard. They will ensure that the service yard is kept clear of obstruction at all times".

This paragraph is to be replaced with the following " Bales of cardboard and plastic waste are not to be stored in the service yard. The only exceptions to this would be when cardboard and plastic waste is put out on the day that it is due to be collected, and/or if unforeseen events make it necessary to put waste outside to prevent a health and safety or fire risk. It will be the responsibility of the facilities manager to inform WCC if this arises and circumstances require the temporary (ie a period of 24 hours or more) outside storage of cardboard and plastic waste. In such circumstances the materials will be stored in such a way that the service yard is kept clear of obstructions for delivery vehicles at all times." (para 6.2.3 of the revised SMP) and "The facilities anager will also ensure that if materials / equipment are temporarily to be stored in the service yard, they

do not impede the swept path of any delivery vehicle and that wheeled equipment movement is limited to noise attenuated areas of the service yard” (para 6.2.6 of the revised SMP).

As noted above the applicant has been pressed on this matter a number of times and officers consider that the retail units should know when a collection for bales/ cardboard etc is to happen. It is reasonable to expect these collections to be put out in the service yard prior to their collection for a small amount of time, in order that the collections can be made as swiftly as possible and vehicles to exit the service yard. At the time of writing officers were waiting on the applicant’s confirmation that a time limit could be inserted into the SMP or that a plan be appended to the SMP which shows where these bales may be stored. However, should this not be forthcoming it must be remembered that the service area is very large; that it is in the applicant’s best interest to keep the area clear from obstruction at all times otherwise they would be unable to service their own units. With regards to keeping the service yard area clear for residents who wish to access the residential refuse store, as proposed, a condition to secure details of this is proposed and will stipulate that this particular area is always clear of obstruction.

9.7. Economy including Employment & Skills

Not relevant.

9.8. Other Considerations

The author of the objection from the residents of The Colonnades raised concerns that the residents were not notified of the proposals as they could not view the ‘neighbour notification letters’ on the City Council’s website. Neighbours in the most affected block of The Colonnades were originally written to on the 9 April 2022 and neighbours in further away blocks on the 19 April 2022, when the case officer was in receipt of the application and realised the whole development had not been consulted. Due to an administrative error, these neighbour letters were not published on the website and these letters were made public once this had been brought to the Council’s attention. The objectors continued to complain that they had not received a neighbour consultation letter, a further round of neighbour letters were sent on 29 April 2022. Therefore, the level of neighbour consultation carried out is considered appropriate for a development of this nature.

9.9. Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an

9.10. Planning Obligations & Pre-Commencement Conditions

A deed of variation is required to the original S106 legal agreement dated 9 October 2014, to reflect the new planning permission.

10. Conclusion

The variation to the wording and requirements of the SMP are acceptable in amenity and highways terms and whilst the concerns of neighbouring residents are acknowledged,

officers consider that the revised SMP will ensure that the commercial units can operate effectively with minimal disruption to neighbours and to the surrounding highway network.

(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: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

DRAFT DECISION LETTER

Address: The Colonnades, 34 Porchester Square, London, W2 6AP

Proposal: Variation of condition 12 of planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and appeal reference APP/X5990/W/17/3168220) which in itself varied conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, amendments to wording of condition 12 to allow the review of the operation and management of the servicing area at the Colonnades and to reflect current delivery and servicing arrangements.

Plan Nos: 15/02293/ADFULL
209 Rev.05 (showing location of louvre panels), sample of louvre panel (finished in RAL 7024 - dark grey), 12-097-WM-G01 and Waitrose Site Specific Waste Management Plan - Waitrose Bayswater (received 29 June 2015).

15/03869/ADFULL
207/05, 208/08, 209/09, 601/02, 602/01, 603/03, 608/03, 617/03, 627/01, 628/02, 633, 634/03, 637, 638, 639/03, 643/01, 646/03, 648/04, 649/03, P1471230115, example photograph of roller shutter, sample of PC Wall Tile (colour 'Matt Antracite') by Craven Dunnill, sample of Armstrong R-clip (colour 'Chrome (AM) Plain'), 'Public Realm Proposal - Material Specification for Planning Application' document dated 14 April 2015, 234/03, 630/08, 'Proposed Lighting - Porchester Walk' drawing by TPS, 9962-SG-G01 Rev.A, Ultra Lightpanel manufacturer's specification, Omega 76 manufacturer's specification and letters and email dated 13 April 2015, 15 June 2015 and 18 June 2015 from DLG Architects.

15/06305/ADFULL
PL_10319.312 and Technical Memorandum from EEC dated 23/11/2015.

17/06128/ADFULL
Details of tables and chairs to be placed outside of the retail units on the forecourt of the building and details of appropriate arrangements to secure a shop front and advertisement strategy; a publicly accessible disabled toilet; a 'recycling centre'; and a façade cleaning strategy pursuant to Conditions 20 and 30 of the planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and APP/X5990/W/17/3168220).

20/01596/ADFULL
Details of tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades and detailed scheme for the shop windows of the retail shop part of the unit pursuant to conditions 20 and 29 of planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL

and APP/X5990/W/17/3168220).

Servicing Management Plan (including appendices) dated April 2022, updated 30 May 2022.

13/12442/FULL

10 Rev.03, 11 Rev.03, 12 Rev.04, 13 Rev.02, 14 Rev.03, 16 Rev.09, 17 Rev.13, 18 Rev.07, 19 Rev.06, 26 Rev.02, 34 Rev.03, 36 Rev.01, 37 Rev.03, 38 Rev.06, 41 Rev.01, 42 Rev.01, 43 Rev.01, 44 Rev.05, 45 Rev.01, 46 Rev.03, 48 Rev.02, 50 Rev.01, 52 Rev.01, 53 Rev.01, 54 Rev.01, 56 Rev.01, 57 Rev.01, 58, 59, Design and Access Statement, Supporting Planning Statement dated Decement 2013, Consultation Statement and Transport Statement dated 11 December 2013 (Issue 3/ Ref: TR8131062/RH/DW/006) as amended by TR8130862/SP02 Rev.C, TR8130862/SP03 Rev.C and additional parking occupancy data provided in email from GL Hearn dated 4 March 2014.

14/12071/ADFULL

Servicing Management Pan (Issue 3: November 2014) by Glanville, Sto render sample, Alucobond sample (Pure white 10), Pilkington Suncool 66/33 (green) glass sample, Pilkington Suncool 50/25 (green) glass sample, Pilkington Planar clear DG (green) glass sample and 600 Rev.06 (for information - to identify location of approved facing materials).

14/12605/ADFULL

10319.100_Rev.A (area of hard landscaping within red line of application site only), 10319.301_Rev.A, 10319.302_Rev.A, 10319.30_Rev.A, 10319.309_Rev.A, 10319.311_Rev.A and Irrigation Performance Specification_Rev.A dated 27 November 2014.

Case Officer: Kimberley Davies

Direct Tel. No. 07866036948

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

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

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and

- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

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)

- 3 You must carry out the development in accordance with the facing materials that we approved on 11 February 2015 (14/12071/ADFULL), 13 July 2015 (15/02293/ADULL and 15/03869/ADFULL) or any other details submitted to and approved by the City Council.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 4 You must carry out the development in accordance with the details of new shopfronts and associated framing, ground level uplighters to facades, the recycling centre recess/ enclosure to Porchester Road elevation and recycling centre shutters that we approved on 13 July 2015 (15/03869/ADFULL) and 30 November 2015 (15/06305/ADFULL) or in accordance with any other details submitted to and approved in writing by the City Council.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 5 You must illuminate Porchester Walk and install CCTV in accordance with the Lighting strategy and details of CCTV we approved on 13 July 2015 (15/03869/ADFULL) and you must permanently retain and maintain the lighting and CCTV to Porchester Walk in accordance with the approved details or in accordance with any other details submitted to and approved in writing by the City Council.

Reason:

To prevent anti-social behaviour, maintain the safety of pedestrians and make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 7, 33, 38, 39, 40, 44 of the City Plan 2019 - 2040 (April 2021).

- 6 (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 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 & 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)

Reason:

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

- 7 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

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 Environmental Supplementary Planning Document (May 2021). (R48AB)

- 8 You must carry out the development and install the mechanical plant in in accordance with the supplementary acoustic report and noise attenuation measures that we approved on 30 November 2015 (15/06305/ADFULL) or any other details submitted to and approved in writing by the City Council. If any attenuation measures were approved, you must install these in accordance with the details we approve prior to occupation of the new retail units and thereafter permanently retain and maintain the attenuation measures in the approved locations

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021) and because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 9 The design and structure of the building 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)

Reason:

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

- 10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

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

- 11 You must provide the reconfigured service yard area shown on the approved plans prior to occupation of the new retail units. Thereafter you must only use the service yard area to service the retail units hereby approved and the residential accommodation within the Colonnades.
- 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).
- 12 You must permanently operate the development and manage the service yard in accordance with the Servicing Management Plan dated April 2022, as revised 30 May 2022.
- 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).
- 13 You must hang all doors or gates so that they do not open over or across the road or pavement.
- Reason:
In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021).
- 14 You carry out the development in accordance with the hard landscaping scheme for the surfacing of any part of the site not covered by buildings that we approved on 10 February 2015 (14/12605/ADFULL) and 13 July 2015 (15/03869/ADFULL) or in accordance with any other landscaping details as submitted and as approved by the City Council.
- Reason:
To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Bayswater Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021).
- 15 You must provide the publicly accessible disabled toilet at ground floor level, as shown on drawing 17 Rev.12 prior to occupation of the new and enlarged retail units. Thereafter the toilet must be permanently retained and maintained in this location and it must be open accessible from the public highway and available for public use between 07.30 and 23.00 daily.
- Reason:
To provide safe and secure public toilet facilities in accordance with Policy 15 and 43 of the City Plan 2019 - 2040 (April 2021).
- 16 You must use Unit 3 (as annotated on drawing 468) only for restaurant/ cafe use within Class A3 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).
- Reason:

To maintain the character, function and vitality of the Porchester Road Local Centre in accordance with Policy 14 of the City Plan 2019 - 2040 (April 2021).

- 17 You must use Units 1, 2 and 5 (as annotated on drawing 468) only for retail shop use within Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

Reason:

To maintain the character, function and vitality of the Porchester Road Local Centre in accordance with Policy 14 of the City Plan 2019 - 2040 (April 2021).

- 18 Customers shall not be permitted within the ground floor level retail shop units (Units 2 and 5) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 18.00 on Sundays, bank holidays and public holidays.

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).

- 19 Customers shall not be permitted within the restaurant/ cafe unit (Unit 3) and mixed retail shop and restaurant unit (Unit 4) before 08.00 or after 23.30 Monday to Saturday (not including bank holidays and public holidays) and before 09.00 or after 22.30 on Sundays, bank holidays and public holidays.

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).

- 20 You must place the tables outside of Units 2 and 3 in accordance with the details as approved on 11 August 2017 (17/06128/ADFULL) or 17 April 2020 (20/01596/ADFULL).

No tables and chairs shall be placed outside of the remaining retail units hereby approved on the forecourt of the building (where it does not form part of the public highway) without our written approval. You must apply to us for approval of the location, number, appearance, hours of use and location of storage for any tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades that you propose to place on the forecourt of the building. You must not place the table and chairs or associated structures outside the retail units until we have approved what you have sent us. You must then only place the tables and chairs in the locations we approve in accordance with the details of their use and appearance that we approve.

Reason:

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021).

- 21 All of the retail units hereby approved shall achieve a BREEAM 'Very Good' rating or higher (or

any such national measure of sustainability for commercial design that replaces that scheme of the same standard). Within 3 months of occupation of each of the retail units you must submit to us for our approval a copy of a Building Research Establishment (or equivalent independent assessment) Final Post Construction Stage Assessment and Certificate, confirming that the retail units, when built, have achieved a BREEAM 'Very Good' rating or higher.

If the submitted assessment does not demonstrate that the retail units have achieved a BREEAM 'Very Good' rating or higher, you must also submit to us for our approval a report that sets out remediation measures that are to be carried out so that the retail units will achieve this rating or higher. The submitted remediation report (if required) must also provide a time frame within which the specified remediation works will be carried out. You must not carry out any remediation works until we have approved the remediation report. You must then carry out the remediation works in accordance with the remediation report that we approve.

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).

- 22 You must provide the recycling centre (annotated 'Relocated recycling bins' on drawing 17 Rev.13) at ground floor level prior to occupation of the new and enlarged retail units. Thereafter the recycling centre must be permanently retained in this location.

Reason:

To provide suitable waste and recycling facilities in this part of the City in accordance with Policy 37 of the City Plan 2019 - 2040 (April 2021).

- 23 You must carry out the development in accordance with the waste and recycling storage for the supermarket (Unit 1) that we approved on 13 July 2015 (15/02293/ADFULL) or in accordance with any other details as submitted and approved in writing by the City Council. You must then provide the stores for waste and materials for recycling according to these details prior to occupation of the supermarket (Unit 1) and thereafter permanently retain them for the storage of waste and recycling from the operation of the supermarket.

Reason:

To protect the environment and provide suitable waste and recycling facilities in this part of the City in accordance with Policy 37 of the City Plan 2019 - 2040 (April 2021).

- 24 Prior to occupation of the ground floor retail units (Units 2 to 5 as shown on drawing 468) you must provide the store for waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark them and make them available at all times to everyone working in these retail units.

Reason:

To protect the environment and provide suitable waste and recycling facilities in this part of the City in accordance with Policy 37 of the City Plan 2019 - 2040 (April 2021).

- 25 Prior to occupation of the retail units you must provide the storage area within the service yard

for residential waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark this area and make it available at all times to everyone living in the residential part of the Colonnades.

Reason:

To protect the environment and provide suitable waste and recycling facilities in this part of the City in accordance with Policy 37 of the City Plan 2019 - 2040 (April 2021).

- 26 Notwithstanding the drawings approved on 9 October 2014 (13/12442/FULL), in accordance with the non-material amendment approved 9 February 2015 (15/00810/NMA), you must not form any windows in the eastern elevation of the supermarket at first floor level (Unit 1) or the ground floor retail unit (Unit 5 - as numbered on drawing 468).

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).

- 27 Customers shall not be permitted within the retail supermarket unit (Unit 1) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays), before 10.00 or after 18.00 on Sundays and before 08.00 or after 20.00 on bank holidays and public holidays.

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).

- 28 You must use Unit 4 (as annotated on drawing 468) only for mixed retail shop and restaurant use (Sui Generis) and for no other use. The area shaded grey on drawings 468 and AAYA - 180- I - 101 shall only be used for the retail sale of goods and shall not be used to provide restaurant covers.

Reason:

To maintain the character, function and vitality of the Porchester Road Local Centre in accordance with Policy 14 of the City Plan 2019 - 2040 (April 2021).

- 29 The shopwindow for Unit 4 shall be constructed according to the details as approved on 17 April 2020 (20/01596/ADFULL) or in accordance with any other shop window details as submitted to and approved in writing by the local planning authority. Any future scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows.

Reason:

To protect the appearance and character of the shopping street and to maintain the retail character and function of the Porchester Road Local Centre in accordance with Policy 14 of the City Plan 2019 - 2040 (April 2021).

- 30 The:

- i. Provision and adherence to a shop front and advertisement strategy.
 - ii. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
 - iii. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
 - iv. Provision and adherence with a façade cleaning strategy.
- Shall be continued to be provided in accordance with the Deed of Variation dated 9 June 2017 (and as approved on 11 August 2017 under application 17/06128/ADFULL) or in accordance with any other details as submitted and approved in writing by the City Council.

Reason:

To protect the appearance and character of the shopping street and to maintain the retail character and function of the Porchester Road Local Centre in accordance with Policy 14 of the City Plan 2019 - 2040 (April 2021).

- 31 The acoustic matting, as detailed in the plan in Appendix C shall be installed within 3 months of the date of this permission and shall be retained and maintained thereafter.

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)

- 32 Within 8 weeks of this permission, you must apply to us for approval of a plan indicating a clear and unobstructed route for pedestrians of The Colonnades to access the residential waste and recyclable storage within the service yard of The Colonnades. You must not mark out this route until we have approved in writing what you have sent us. You must then carry out the marking of this route within 4 weeks of any approval granted. (C26BD)

Reason:

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

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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:

- i. Provision and adherence to a shop front and advertisement strategy.
- ii. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
- iii. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
- iv. Provision and adherence with a façade cleaning strategy.

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.