

29 October 2020

**5 Kingdom Street**  
in the City of Westminster

planning application no. 19/03673/FULL

**Planning application**

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008 (“the Order”) and Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

**The proposal**

Full planning permission for the erection of a mixed-use development comprising ground floor (at Kingdom Street level) plus 19 storeys to provide offices (B1a) and retail (A1/A3) plus plant and amenity areas at roof level. Three floors below Kingdom Street delivered in phases to provide an auditorium (Sui Generis), and a flexible mix of business (B1a), retail (A1/A3/Sui Generis), sport and leisure (D2), exhibition/conference (D1/Sui Generis) uses and a community and educational space (D1) within the former 'Crossrail Box'. New outdoor terraces adjacent to railway at basement level; creation of a new pedestrian and cycle link between Harrow Road and Kingdom Street including internal and external garden and landscaping; and associated works.

**The applicant**

The applicant is **British Land** and the architect is **Allies and Morrison**.

**Recommendation summary**

The Mayor, acting as Local Planning Authority for the purpose of determining this application;

- i. grants conditional planning permission in respect of application 19/03673/FULL for the reasons set out in the reasons for approval section below, and subject to the prior completion of a section 106 legal agreement;
- ii. delegates authority to the Head of Development Management to issue the planning permission and attach, add, delete or vary, the final detailed wording of the conditions and informatives as required with any material changes being referred back to the Mayor, and authority to negotiate, agree the final wording, and sign and execute, and complete the section 106 legal agreement;

- iii. delegates authority to the Head of Development Management to agree any variations to the proposed heads of terms for the section 106 legal agreement;
- iv. delegates authority to the Head of Development Management to refer it back to the Deputy Mayor in order to refuse planning permission, if by 29 January 2021, the section 106 legal agreement has not been completed;
- v. notes that approval of details pursuant to conditions imposed on the planning permission will be submitted to, and determined by Westminster City Council;
- vi. notes that Westminster City Council will be responsible for the enforcement of the conditions attached to the planning permission;

# Introduction

1 Having assumed authority to determine this planning application, this report sets out the matters that the Mayor must consider in determining whether to grant or refuse planning permission and to guide his decision making at the upcoming representation hearing. This report includes a recommendation from GLA officers, as set out below.

## Officer recommendation - reasons for approval

2 The Mayor, acting under delegated authority as the local planning authority, has considered the particular circumstances of this application against national, strategic and local planning policy, relevant supplementary planning guidance and all material planning considerations. He has also had regard to Westminster's committee report dated 7 January 2020 (as updated by Westminster City Council's Addendum Report and letter), the draft decision notice setting out the two reasons for refusal and all consultation responses and representations made on the case both to Westminster City Council and the GLA. The below reasons set out why this application is acceptable in planning policy terms:

- i. The proposed office-led mixed-use building is strongly supported in principle. The optimisation of this accessible site and intensification of the extant planning permission would positively contribute towards the diversity of workspace and businesses within the CAZ and Opportunity Area, providing a significant increase of office space above the extant permission. This would include a significant amount of affordable workspace, which is an important benefit provided by the scheme. Furthermore, in line with local Policy S1 of the Westminster's City Plan, the proposals would provide a contribution towards affordable housing, which was assessed to be the maximum reasonable. The proposals would also include a range of other uses that would contribute to the vitality of the area. The application would comply with London Plan Policies 2.10, 2.13, 3.11, 3.16, 4.2, 4.6, Intend to Publish London Plan Policies SD1, SD4, SD5, E1, E2, E3, H4, HC5, HC6, S1 of the Mayor's Intend to Publish London Plan, Westminster's City Plan Policies S1, S3, S6, S20, S21, S22, S23, S24, S34 and UDP Saved Policies SS 11, TACE 4, TACE 5, PSPA 4, SOC 1. (Refer to *Land use principles* section)
- ii. The proposed building would cause less than substantial harm to the significance of a number of heritage assets surrounding the site (including Hyde Park and Kensington Gardens Registered Park, Royal Parks Conservation Area, Maida Vale Conservation Area, Bayswater Conservation Area, 14-20 and 21-26 Westbourne Terrace Road, 34-45 Blomfield Road, 2-16 evens Warwick Avenue and the non-designated canal network). The proposals would also better reveal the significance of the listed Westbourne Bridge, which is a heritage benefit of the scheme. The adverse impacts on settings are generally caused by the appearance of a new modern building of such height, massing and conspicuous design that would detract from the appreciation of some important views of these heritage assets. Such change would therefore cause a minor degree of harm to the understanding and appreciation of the heritage significance of these assets, which would generally fall at the low end of the scale of the 'less than substantial' harm, as defined by the NPPF. As the significance of a number of heritage assets would not be 'conserved', the application would be contrary to Policies 7.7 and 7.8 of the London Plan and Policies D9 and HC1 of the Intend to Publish London Plan (albeit it is noted that this does not form part of the statutory development plan), Westminster's City Plan policies S11, S25, S26 and S37 and UDP saved policies DES 3, DES 9, DES 10, DES 12, DES 13 and DES 15. However, the proposals would also provide significant public benefits, including: £14,300,000 payment in lieu towards the Council's affordable housing fund; 3,900sqm of affordable workspace for the lifetime of the building, rented at no more than 50% of average market rents of similar co-working spaces and associated provision of an Affordable Workspace Fund, including

initial investment of £50,000; the provision of pedestrian and cycle link between Harrow Road and Kingdom Street with new privately managed 'public spaces' under the main building and associated financial contribution or in-kind works to a value of £930,000 towards the highways improvements at the junction with the Harrow Road and Westbourne Bridge and installation of Public Art on site to a value of £1,000,000; and the provision of office floorspace generating approximately 3,890–5,086 jobs (1,967–2,682 additional jobs in comparison with the implemented permission). Considering the extent of the harm that would be caused, which would be 'less than substantial' at the low end of the scale, and the public benefits delivered by the scheme, it is concluded that the public benefits would outweigh the harm. The balancing exercise under paragraph 196 of the Framework is therefore favourable to the proposals. (Refer to *Heritage* and *Conclusion and planning balance* sections)

- iii. The proposals would create a legible sequence of public realm, improved permeability and active commercial frontages, which is strongly supported. The proposed design was developed to high standards, with great attention being paid both to the overall design and to the details, resulting in a dynamic building of landmark quality. The proposals would also preserve the London Panorama from Primrose Hill, achieve the highest standards of fire safety, promote a safe environment and achieve a high level of accessible and inclusive design. The proposals would comply with Policies 7.2, 7.3, 7.4, 7.5 and 7.6 of the London Plan, Policies D3, D4, D5, D8, D11 and D12 of the Intend to Publish London Plan, Policies S3, S12 and S28 of the Westminster's City Plan, and UDP Saved Policies DES 1, DES 4, DES 7 and DES 14. However, the proposed building would impact on local views and the setting of canals and the proposals would not fully comply with Policy 7.7 of the London Plan, Policy D9 Intend to Publish London Plan, Policies S26 and S37 of the Westminster's City Plan and UDP Saved Policies DES 3, DES 12, DES 13 and DES 15. (Refer to *Design* and *Conclusion and planning balance* sections)
- iv. The proposed development would not unacceptably reduce the level of daylight and sunlight to neighbouring residential properties, given the inner-London urban setting. The technical assessment demonstrates that most properties would experience negligible impacts. Notwithstanding this, it is acknowledged that the proposal would result in adverse impacts to daylight and sunlight levels to some surrounding properties (particularly on Westbourne Terrace Road). Given the requirement for an appropriate balance to be struck with the benefits provided by the scheme, GLA officers consider that the resultant harm to surrounding daylight and sunlight levels would be acceptable. Furthermore, the development would not cause an undue loss of privacy or increase in sense of enclosure; and issues of noise, disturbance and light pollution would be adequately mitigated through planning conditions. The impact of the proposals on living conditions at neighbouring properties would be acceptable, and the proposals therefore comply with London Plan Policies 7.6, 7.7 and 7.15, Policies D3, D4 and D14 of the Mayor's Intend to Publish London Plan, Policy S29 of the Westminster's City Plan and UDP Saved Policy ENV 10 and ENV 13. (Refer to *Living conditions at neighbouring properties* section)
- v. The proposed development has demonstrated that a high standard of sustainable design and construction would be achieved, minimising carbon dioxide emissions, using energy efficiently and including renewable energy, in accordance with the London Plan energy hierarchy. In addition, the development would increase urban greening at the site, deliver acceptable drainage measures and have an acceptable impact on air quality. Conditions are also recommended to ensure that adequate provisions are made for waste and recycling storage and to ensure that land contamination issues would be appropriately mitigated. As such, the scheme complies with the policies contained within Chapter 5 of the London Plan and Policies 7.19 and 7.21, Policies within Chapter 9 of the Mayor's Intend to Publish London Plan and Policies G5, G6 and G7, Sustainable Design and Construction SPG, Policies S30, S31, S38, S39, S40 and S44 of the Westminster's City Plan and UDP Saved

Policy ENV 4, ENV 5, ENV8, ENV 12 and ENV 17. (Refer to *Sustainability and climate change* and *Other environmental issues* sections)

- vi. The proposed office-led mixed-use development would encourage cycling, walking and public transport use, due to its very accessible location, its car-free nature (with the exception of Blue Badge) and the provision of cycle parking storage and facilities. Furthermore, the proposal would provide a new route connecting Kingdom Street to Harrow Road, which would considerably improve the permeability of the site for pedestrians and cyclists. An appropriate package of transport mitigation measures is proposed in terms of travel plan incentives, deliveries, servicing and construction. Subject to the transport mitigation measures being delivered, the application supports the transport objectives set out in Policy S3 and S12 of the Westminster's City Plan and the transport Policies 6.1, 6.2, 6.3, 6.9, 6.10, and 6.13 of the London Plan, Policies T1, T2, T3, T4, T5, T6 and T7 of the Intend to Publish London Plan, Policies S41, S42 and S43 of the Westminster's City Plan and UDP Saved Policies TRANS 1, TRANS 2, TRANS 3, TRANS 7, TRANS 9, TRANS 10, TRANS 14, TRANS 15, TRANS 18, TRANS 20, TRANS 21, TRANS 22 and TRANS 27. (Refer to *Transport* section)
- vii. The Environmental Statement (ES) and addendum provides an assessment of the likely significant effects of the proposal on the environment during the construction and operational phases. The ES, addendum and supporting documents comply with the relevant regulations in terms of their scope and methodology for assessment and reporting. The supporting documents in particular also appropriately respond to and address Development Plan policy, supplementary planning guidance and the representations made. As is usual for a major development of this nature, there are potential environmental impacts and, where appropriate, mitigation has been identified to address adverse impacts. The general residual impact of the development with mitigation is considered to range from negligible to minor beneficial throughout most of the site. Given the context of the site, the environmental impact of the development is acceptable in view of the general compliance with relevant, London Plan and local policy standards and where applicable, the relevant British Standards.
- viii. Appropriate, relevant, reasonable and necessary planning conditions and planning obligations are proposed to ensure that the development is acceptable in planning terms and the environmental, and socio-economic impacts are mitigated, in line with London Plan Policy 8.2, Policy S33 of the Westminster's City Plan and Westminster's Planning Obligations Section 106 SPG (2008). (Refer to *Mitigating the impact of the development through planning obligations* section)
- ix. Accordingly, notwithstanding the limited policy conflicts which are considered to arise, the proposals are considered to accord with the development plan when considered as a whole and the other relevant material considerations which point towards refusal are not sufficient to justify refusal of planning permission.

### **Section 106 Legal agreement**

3 The following heads of terms have been agreed as a basis for the planning obligations to be contained within the section 106 legal agreement.

#### Affordable housing

4 A financial contribution of £14,300,000 to Westminster City Council towards the provision of Affordable Housing within the City of Westminster.

#### Affordable workspace

5 3,900sqm to be provided within the development as affordable workspace, with all-inclusive rates provided at an average discount of 50% when benchmarked against similar co-working spaces in the area. Details of the operation and management of the space to be set out in a detailed Affordable Workspace Strategy.

6 Provision of a Business Support Fund, including initial investment of £50,000, to fund a range of services including the provision of advice and support for new businesses; running skills and training programmes for local people; and coordinating outreach projects. Details of the governance and spending priorities of the fund to be set out in an Affordable Workspace Support Fund Strategy.

### Transport

7 The following transport obligations would be secured by legal agreement:

- £930,000 towards highway improvements at the junction with the Harrow Road and Westbourne Bridge via a financial contribution and/or in kind works by the applicant.
- Works in the public highway and on land in private ownership required to complete the 'West Link', to connect Kingdom Street with Harrow Road.
- £187,000 towards delivering a new cycle hire docking station in the vicinity of the site (exact location to be agreed).
- £4,500 towards legible London signage.
- £20,000 towards a study of the physical condition of the Westbourne Bridge and the ways it can be enhanced.
- Commercial Travel Plan.
- Travel Plan Monitoring Contribution.
- Construction management plan being secured and associated monitoring.

### Other obligations

- Provision of a new pedestrian and cycle link between Harrow Road and Kingdom Street with associated new 'Public Garden' under the main building and public access between 06:00 and 24:00.
- 100sqm community and education space, open to local community groups to book for free (with facilities shared with the affordable workspace).
- Community access to the 250 seat Auditorium, comprising of 4 sessions per month (each session comprising either a morning, afternoon or evening).
- A financial contribution of £2,136,726 towards Westminster's Employment and Skills Fund.
- An Employment and Skills Plan which sets out training strategies focusing on work-related training and skills programmes, tackling barriers to employment, and providing young people with the experience and aspiration to access, secure and sustain jobs in a range of sectors.
- Provision of public art on site to the value of £1,000,000.
- Carbon off-set payment (if implemented energy strategy does not achieve net zero carbon on completion).
- The costs to the Council of monitoring and enforcing the section 106 legal agreement would be secured.

## Conditions to be secured<sup>1</sup>

8 The following list provides summary of the subject matter of the conditions and informatives to be attached to any planning permission which is to be granted:

1. Time limit
2. Compliance with approved drawings
3. Restrictions on change of use from office
4. Box layout
5. Non-B1 maximum capacity
6. Operational Management Plan
7. Odour control
8. Public toilets
9. Delivery of the public route
10. Public Route Operational Management Plan
11. Landscaping scheme
12. Retention of scheme architects
13. Design details
14. Facing and landscaping materials
15. Wayfinding and public art
16. Television interference
17. External lighting and security
18. Fire statement
19. No music audible outside
20. Hours of operation – Terraces and patios
21. Opening hours (excluding office use)
22. Noise – Emergency plant and generators
23. Noise – Plant and machinery
24. Noise – Internal activity
25. Acoustic report
26. Vibration
27. Compliance with Energy Assessment
28. Flood risk and Sustainable Urban Drainage System
29. Restrictions on conference/exhibition/leisure use
30. Thames Water – Wastewater capacity and water supply
31. Thames Water – Piling Method Statement
32. Thames Water – No construction within 5 metres of the water main
33. Urban greening features
34. BREEAM
35. Circular economy statement
36. Non-Road Mobile Plant and Machinery (“NRMM”)
37. Wind mitigation
38. Contaminated land investigation
39. Vehicles movement
40. Service bays height
41. Cycle storage details
42. Waste and recycling store details
43. Car parking
44. Delivery vehicle electric vehicle charging facility
45. Noisy work – Hours
46. Code of Construction Practice
47. Demolition and Construction Environmental Management and Logistics Plan

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<sup>1</sup> Draft conditions have been prepared and will be published as an addendum to this report on the day of the hearing; this list provides a summary of the draft notice condition headings.

48. Delivery, Servicing and Waste Management Plan
49. Servicing
50. London Underground method statement

### **Informatives**

1. CIL
2. Highways licensing
3. Considerate constructors
4. Building regulations
5. Thames Water
6. Waste and recycling
7. Building work
8. Employment & skills plans
9. Code of Construction Practice
10. Designing out crime

### **Publication protocol**

9 This report has been published seven clear days prior to the Representation Hearing, in accordance with the GLA procedure for Representation Hearings. Where necessary, an addendum to this report will be published on the day of the Representation Hearing. This report, any addendum, draft decision notices and the Mayor's decision on this case will be made available on the GLA website:

<https://www.london.gov.uk/what-we-do/planning/planning-applications-and-decisions/public-hearings/5-kingdom-street-public-hearing>

## Site description

10 The application site, identified in red in Figure 1 below, is located in the City of Westminster. The site is bounded by Harrow Road and the Westway to the north, Westbourne Bridge to the west, the railway lines linked to Paddington station to the south, and other plots within the Paddington Central campus to the east. The site falls within the Paddington Opportunity Area, the Central Activities Zone (CAZ) and the North Westminster Economic Development Area (NWEDA).

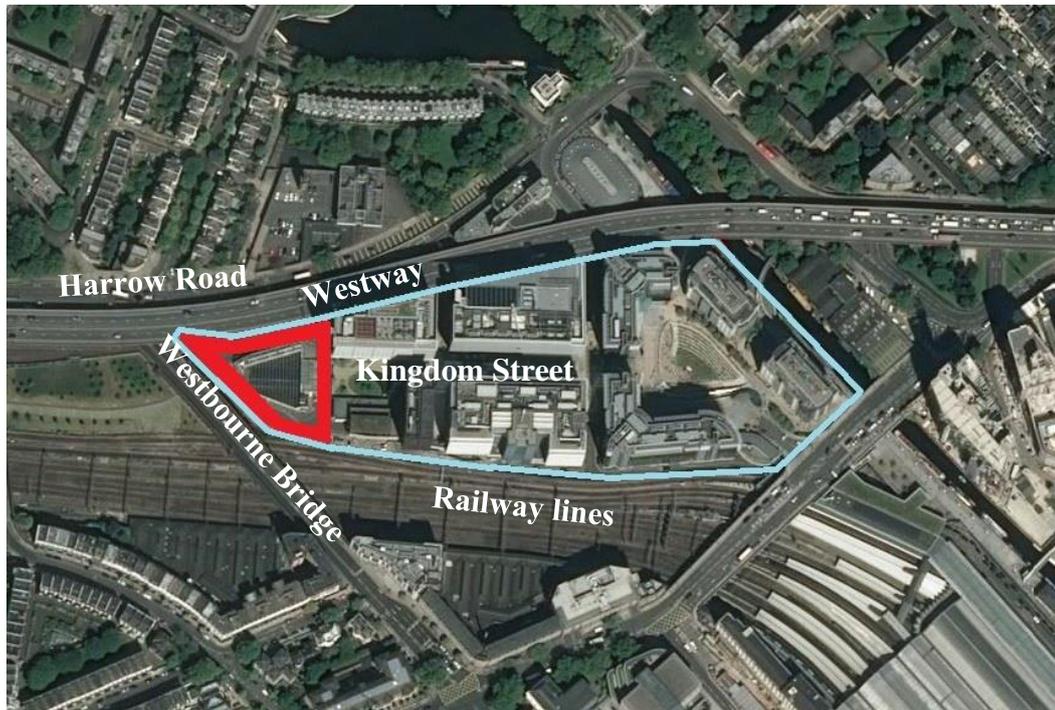


Figure 1: Site plan – in red the approximate boundary of the site at ground floor level, in light blue the boundary of Paddington Central.

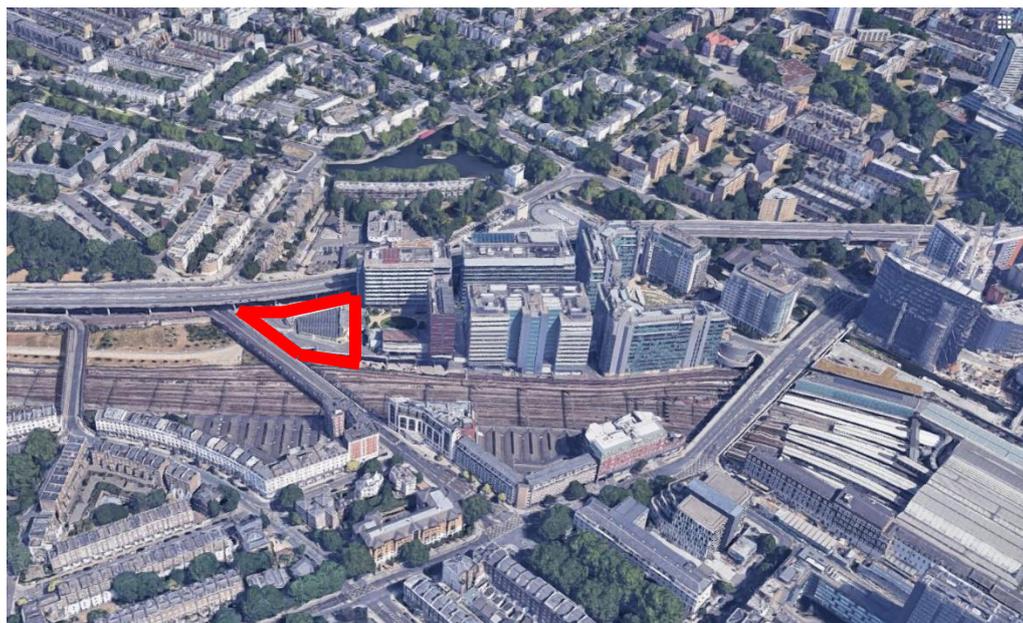


Figure 2: Bird's eye view of the site and its context – in red the approximate boundary of the site at ground floor level (see Figure 4, Figure 5 and Figure 6 for accurate boundaries).

11 The site currently accommodates a ‘meanwhile’ use which began in 2017. It comprises a temporary food and beverage venue, which is accessed via Kingdom Street and spans across Kingdom Street and Harrow Road levels. The temporary building provides 353 sq. m. (GIA) of floorspace and currently has planning permission to operate until 23 December 2021.

12 The site is located within Paddington Central, which is a mixed commercial and residential development. A masterplan for the area was developed in the late 1990s and an outline planning permission was granted (see *Relevant planning history* section) in 2000. The masterplan has since been delivered through a number of phases between the 2000s and 2010s. The site would be the last significant plot to be developed within this masterplan<sup>2</sup> and has extant planning permission for an office-led development.

13 The estate comprises five office buildings, a hotel, and two residential buildings, with a retail presence at street level. The buildings maintain a generally uniform height around 42-45m above the height of the canal towpath. In terms of materiality, the office buildings present large areas of glazing and the use of grey coloured metal cladding, the hotel building utilises copper based brass and gold shingles, while the residential buildings feature large areas of glazing with stone cladding.



Figure 3: Elevation of Paddington Central Estate as existing, with consented schemes in dashed lines.

14 The site spans across three different levels and the extent of the red line boundary varies between them:

- Kingdom Street level, which represents the ground floor of the campus, where public realm is focused and where access to the buildings of the campus is provided. At this level, the site covers an area of 0.43 ha (see Figure 4). This level will be referred to as GF (Ground Floor).

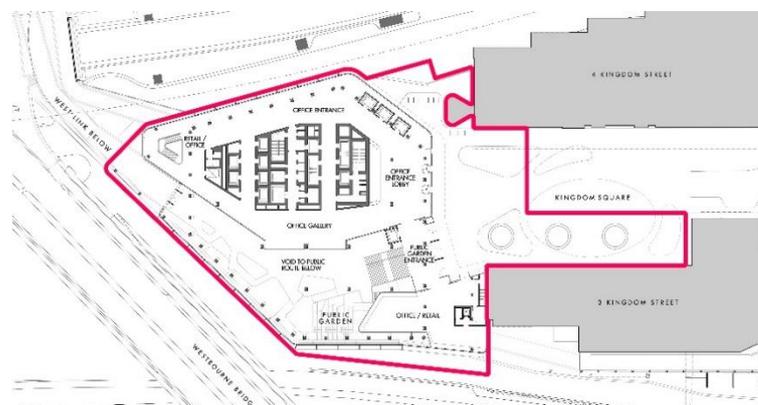


Figure 4: Location Plan at GF.

<sup>2</sup> It should be noted that the Gateway hotel at Sheldon Square is in the estate, but was not part of the 2000 masterplan. It has been consented, but not yet built.

- Harrow Road level, which is the level of the urban fabric to the north of the site and at which vehicular access is provided to the site and campus. At this level, the site covers an area of 0.9 ha (see Figure 5). This level will be referred to as B1 (referred to as “Lower Ground Floor” in the submitted documents).

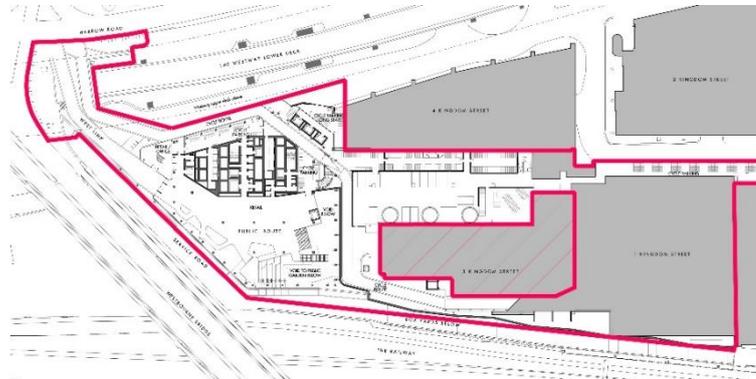


Figure 5: Location Plan at B1.

- Railway track level, which is the lowest level of the site and is the level of the railway line to the south of the site. At this level, the site covers an area of 1.26 ha (see Figure 6). This area was safeguarded for use by Crossrail for storage purposes during the construction process, however, it would revert back to the landowners upon completion of the Crossrail works at Paddington. This area will be referred to as the ‘Box’. It extends eastwards under the site, 4 Kingdom Street, 3 Kingdom Street (Hotel Novotel London Paddington) and 1 Kingdom Street buildings, is approximately 8m tall and has an open south aspect over the railway. This level will be referred to as B3 (referred to as “Lower Box Level” in the submitted documents).



Figure 6: Location Plan at B3.

15 Beyond the Paddington Central campus, to the south of the railway lines are the Bayswater area and Paddington Station environs. Bayswater is predominantly residential and accommodates a mix of scales and typologies. The Paddington Station area is predominantly commercial in character and it accommodates a mix of building scales, including some large-scale buildings along Eastbourne Terrace. The area to the west of the site and wider campus comprises largely railway infrastructure and associated land, it is currently open in character. To the north of the Westway is Little Venice, which comprises predominantly low-density residential areas. To the east of Paddington Central is Paddington Basin, which has been a focus for new, large scale development in recent years, including tall buildings.

16 There is a large number of designated heritage assets in the surroundings of the site. The conservation areas (see Figure 7) include: to the south, in very close proximity, the Bayswater Conservation Area, and, at a slightly greater distance, the Hallfield Estate

Conservation Area and the Queensway Conservation Area; to the south-west, the Westbourne Conservation Area; to the north of the site, in very close proximity, the Maida Vale Conservation Area; and to the north-east, the Paddington Green Conservation Area. Within the conservation areas there is also a large number of listed buildings (see Figure 8), which are mostly grade II listed terraced houses within the Bayswater, Maida Vale and Westbourne conservation areas. The closest listed building to the site is the grade II Westbourne Bridge, located immediately to the west, and built over the railway lines in 1909.

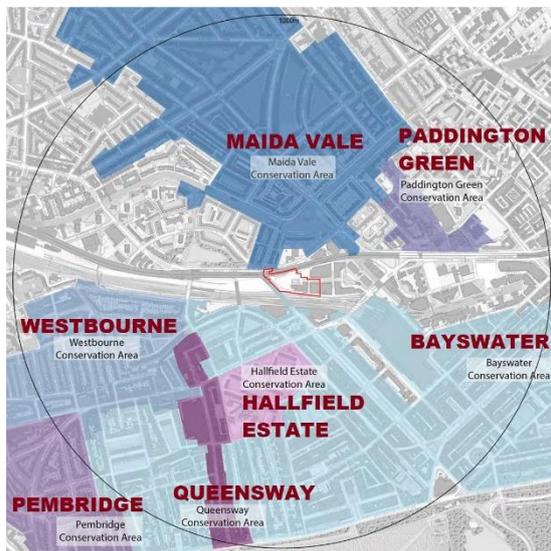


Figure 7: Conservation areas surrounding the site in a 1 km radius.

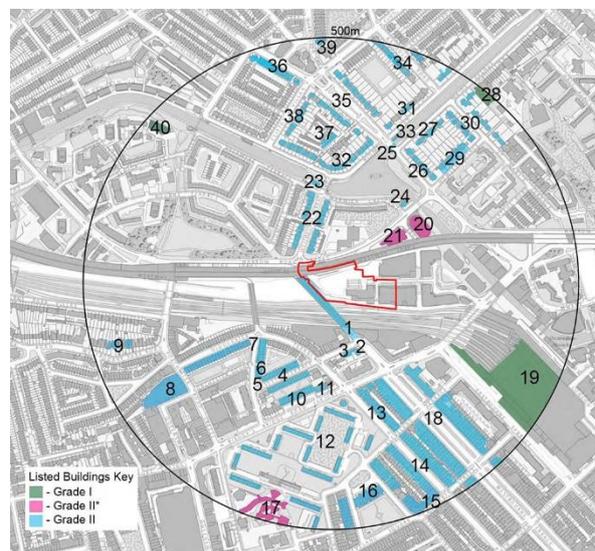


Figure 8: Listed buildings surrounding the site in a 500m radius.

17 Further away to the south of the site also lies the Royal Parks Conservation Area, which includes Hyde Park and Kensington Gardens (both Grade I listed Registered Parks). In terms of higher grade listed buildings, the grade I Paddington Station lies to the south-east; the grade I listed St Mary Magdalene Church is to the north-west; the grade II\* listed St Mary's Church is to the east; and the grade II\* former British Rail Maintenance Depot Blocks also lies to the east on the north side of the Westway.

18 The nearest part of the Transport for London Road network (TLRN) is the A40 Westway, an elevated dual carriageway (TLRN), which extends above the westbound carriageway of the A404 Harrow Road which is part of the Strategic Road Network (SRN). A further 900m to the east, is the A5 Edgware Road (TLRN). Vehicular access to the site is from a service road leading from the Harrow Road roundabout, which provides access to both the track and Kingdom Street levels respectively. There is currently an existing 15 docking points cycle hire docking station at Orsett Terrace southwest of the site. There is also an existing Taxi rank at Paddington Rail Station at the north eastern side of the station, which is within walking distance to the site.

19 The site records an excellent Public Transport Access Level (PTAL) of 6a, on a scale of 0-6b where 6b is the highest, Paddington National Rail/London Underground Station is approximately 450m east of the site, which is one of London's main rail termini. It is served by National Rail and TfL services along the Great Western Mainline route and is also serviced by London Underground Bakerloo, District, Circle, and Hammersmith & City lines services. The Elizabeth Line (Crossrail) will also serve the station when it opens in the future. In addition, Royal Oak station is located around 500m to the west and provides access to Hammersmith & City and Circle line services. There are several high frequency bus corridors close to the site. To the north, the Harrow Road is served by the 18. To the south, Bishops Bridge Road is served by the 7, 23, 27, 36 and 46.

## Details of the proposal

20 The proposal is for the erection of an office-led mixed-use building providing the following uses (which distribution can be seen in Figure 9):

Land Use	Location	Proposed development - sqm (GIA)
Office (including internal ancillary space) (B1a)	GF to 19F	48,264 sqm
Flexible retail (A1/A3)	B1 <sup>3</sup>	265 sqm
Flexible retail/office use (A1/A3/B1a)	B1, GF, Mezzanine	723 sqm
'Public Garden' incl. cafe/bar (Sui generis)	B2 <sup>4</sup> , B1, GF	1,635 sqm
Flexible mix of commercial/leisure/cultural uses: Restaurant (A3); Market Hall (Sui Generis); Conference/Exhibition space (D1/Sui Generis); Cinema (D2); Gym/sports (D2).	B3 <sup>5</sup> , B2	3,390 sqm - Restaurant/Market hall: combined, would make up to a maximum of 100% of total area; - Conference/Exhibition space: would make up to a maximum of 100% of total area; - Cinema: would make up no more than 50% of total area; and - Gym/sports: would make up no more than 50% of total area.
Affordable Workspace (B1a)	B3, B2	3,900 sqm
Education and community space (D1)	B3, B2	100 sqm (to be connected to facilities within the affordable workspace)
Auditorium (Sui Generis)	B3, B2	738 sqm
Mixed Use Ancillary (plant, servicing, etc.)	B3, B2, B1	6,913 sqm
<b>Total:</b>		<b>65,928 sqm</b>

<sup>3</sup> Referred as Lower Ground Floor in the submitted documents.

<sup>4</sup> Referred as Upper Box Level in the submitted documents.

<sup>5</sup> Referred as Lower Box level in the submitted documents.

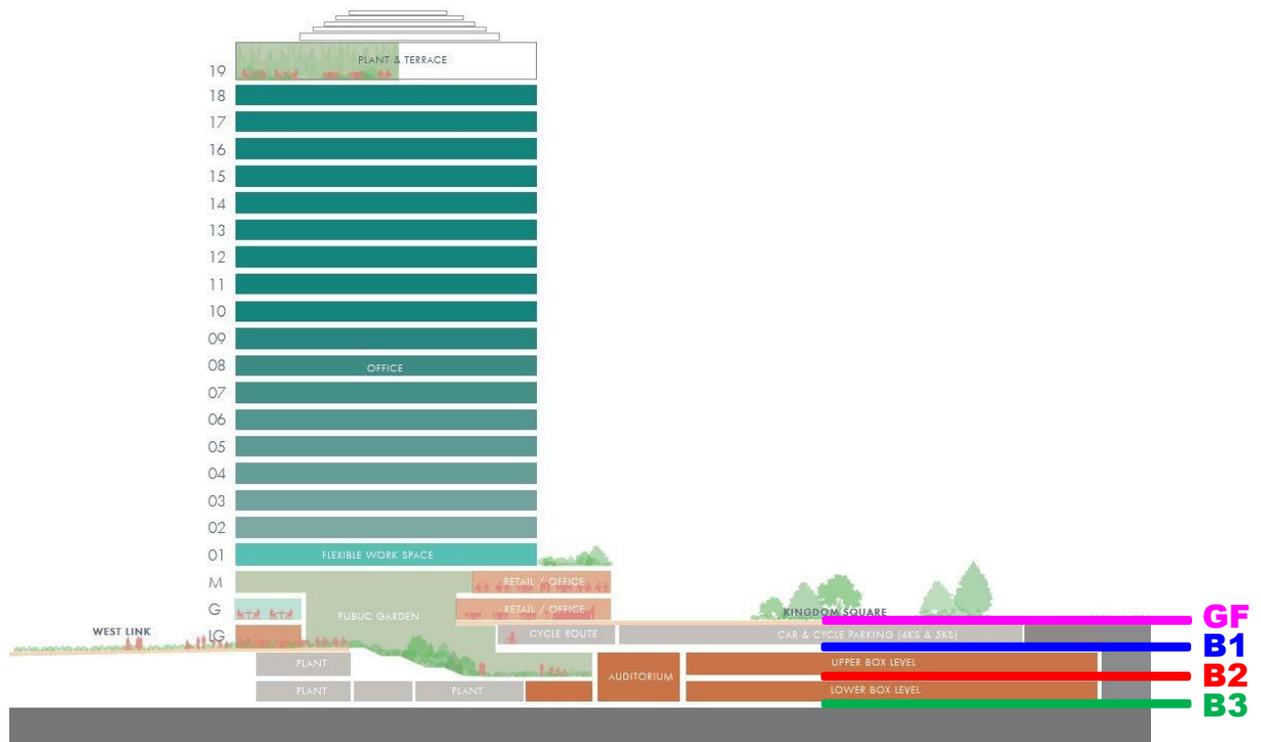


Figure 9: Schematic section of the proposed building.

21 The proposed building would have an irregular 6-sided plan form and would be a free-standing 20-storey structure, with three storeys provided below Kingdom Street level. The overall height of the building, including plant, would be 123.54m A.O.D. (see Figure 10 and Figure 11).



Figure 10: Cross-section illustrating levels as proposed.



Figure 11: Elevation of the proposed building within the Paddington Central Estate.

22 The market office space would occupy the levels from ground floor to the 18<sup>th</sup>. The ground floor (GF) would include the entrance to the office space above and also include a separate retail area, accessible from Kingdom Street (see Figure 12). Levels from 1-18 would provide large flexible floorplates with large windows, a central core and soft spots to enable interconnectivity between floors if required (see Figure 13). They would also include one floor dedicated to the provision of flexible workspace (not affordable). In addition, the 19<sup>th</sup> Floor would include plant, internal amenity space and a roof terrace for the office occupiers.

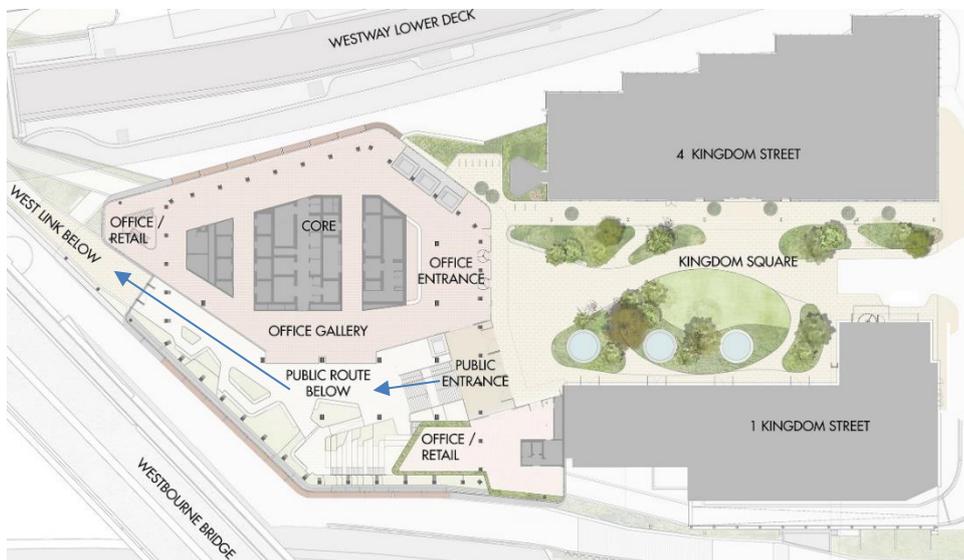


Figure 12: Schematic GF plan.



Figure 13: Schematic 1F plan, which shows the typical office floor plate.

23 The B1 floor<sup>6</sup> (see Figure 14) would provide access from Harrow Road level to both pedestrians and cyclists and would contain: a public route with seating and greenery referred to as the 'Public Garden', connecting above to Kingdom Street level (GF) and below to the 'Foyer'

<sup>6</sup> Referred as Lower Ground Floor in the submitted documents.

at B2 level<sup>7</sup> (or “Upper Box Level”), leading to the Box; some retail floorspace; and back-of-house facilities (e.g. cycle parking, route and facilities, and car parking).

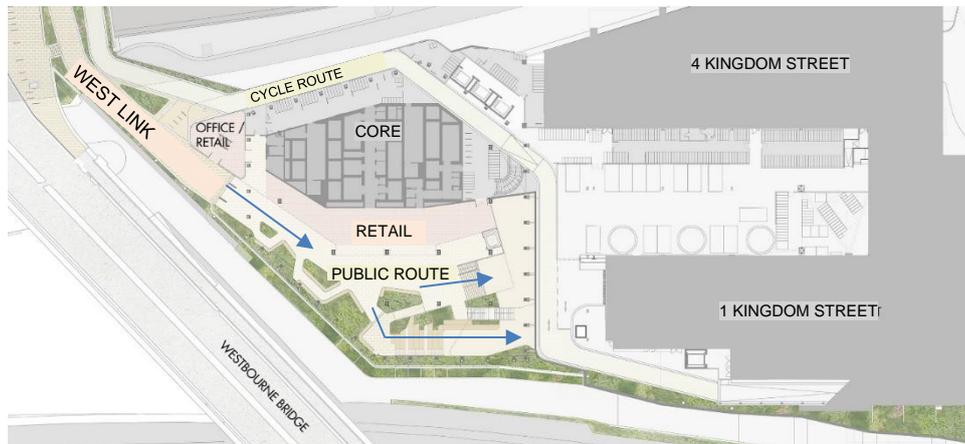


Figure 14: Schematic B1 floor plan.

24 The B2 level (see Figure 15) and B3 (see Figure 16) floors would include back-of-house facilities under the footprint of the proposed building and a range of uses within the Box. The Box space at B2 level would be accessed from the Foyer (accessible via lift, connecting floors between GF and B3 levels) or via stairs from the ‘Public Garden’ at B1. The B3 floor would be accessible via the same lift (connecting floors between GF and B3 levels) or via internal staircases from B2 level. The levels B2 and B3 would also be connected through some double height spaces.

25 The Box space at B2 and B3 level would comprise: a double-height auditorium (730 sqm); an educational space for the community (100 sqm); affordable workspace (3,900 sqm); and a range of flexible commercial/leisure/cultural (3,390 sqm). The Box space at B3 would also be able to access a yard in front of the railway, which would generally serve as amenity space for the Box (as any servicing use would be very infrequent). A dedicated taxi pickup and drop-off would also be located here.

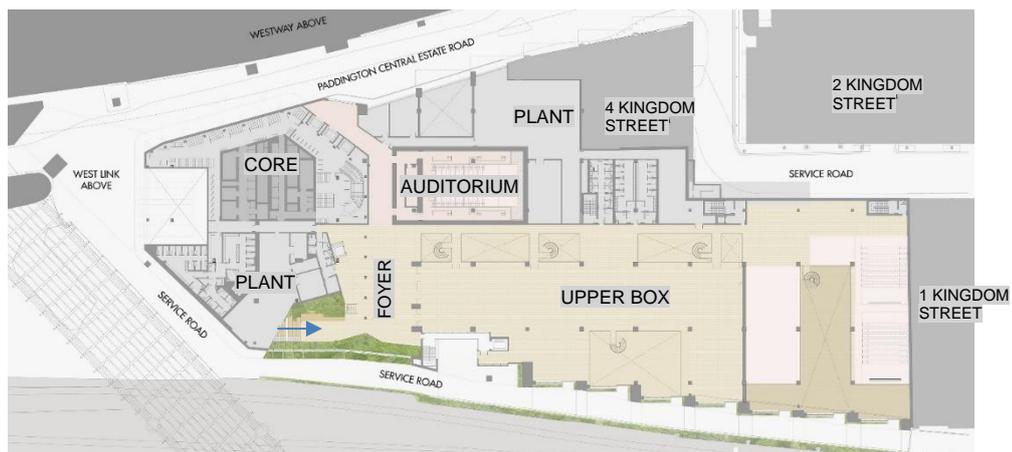


Figure 15: Schematic B2 floor plan.

<sup>7</sup> Referred as Upper Box Level in the submitted documents.



Figure 16: Schematic B3 floor plan.

26 The facades of the building (above GF) are designed to be viewed as ‘principal’ elevations from different viewpoints in the city, with a ‘twisting’ design that it is given by a slight offset of the facade module floor-by-floor, and a dynamic increase in the solidity of facade modules from the bottom of the building to the top (see Figure 17). The main cladding material proposed for the building is terracotta, with a warm earthy colour tone, which is complemented by white aluminium back panels and white concrete nodes (see Figure 18).

27 The proposed development would be car free, with the exception of two accessible blue badge parking spaces. The proposal would also include a new cycle route linking Paddington and Harrow Road and the provision of 730 long stay cycle parking spaces and of 226 short stay cycle parking spaces. Servicing would occur from a dedicated service bay at B3 level, on the western elevation of the building. Service vehicles would access this space via the existing estate road at B3 level, which is private and would be connected to the public highway at Harrow Road.



Figure 17: CGIs of the proposed building. Figure 18: CGI detail of facade.

28 At the top of the building, the main façade is extended as a double-height module, to partly enclose the plant and the rooftop terraces. In addition, a series of five metal bands is

introduced to provide a terminating crown of the building and cover the remaining plant (see Figure 19 and Figure 20).

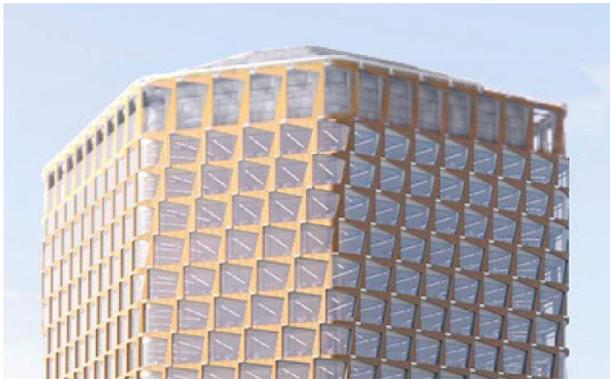


Figure 19: View of the termination of the building.

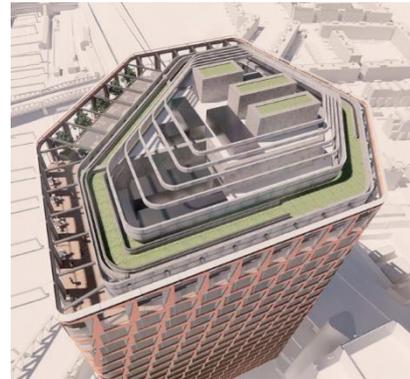


Figure 20: View of the top of the building.

29 At the base of the building, a single solid plinth unifies the lower levels of the scheme, incorporating the Box and the plant and servicing areas for the main building (see Figure 21). Its design relates to the more industrial trackside context and displays large brick bays, treated with a dark grey-blue engineering brick. Depending on the functional requirements, these bays display metal louvres in the servicing areas, or open up with large expanses of glass around the Box to maximise daylight into the space.

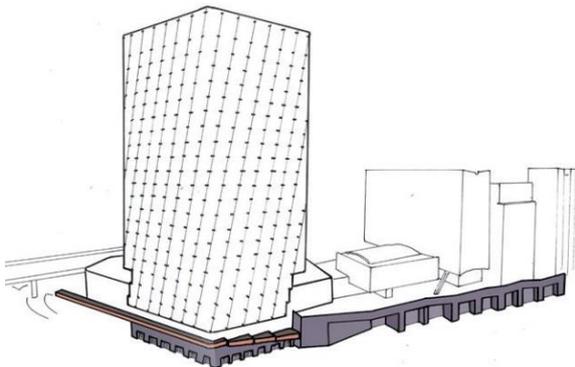


Figure 21: View of the plinth of the building.



Figure 22: View of the yard between the Box and the railway tracks.

30 The lower levels of the scheme also include two key access points to the building, one from Kingdom Street and one from Harrow Road. These areas are designed to be as glazed as possible, to invite visitors to enter the building, and are also complemented by the introduction of two light 'pavilions', which would accommodate flexible retail or office uses. The eastern pavilion (see Figure 25) is located on the south side of Kingdom Square between the main building and the hotel and accessed directly from the public realm, while the western pavilion (see Figure 23) is accessed from the new public route connecting Harrow Road to the site underneath the Westway.



Figure 23: Western pavillion.

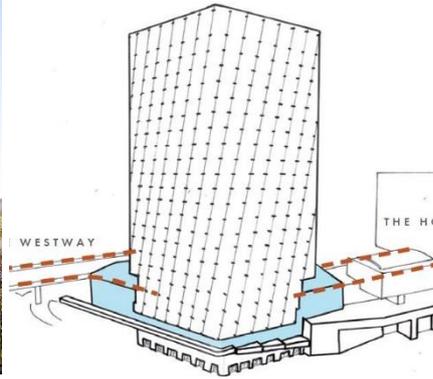


Figure 24: The two pavillions.



Figure 25: The eastern pavillion.

31 The proposal features the following public realm improvements: the creation of a new route from Harrow Road (see Figure 26), which would include new hard and soft landscaping, public art and wayfinding lighting; the provision of a Public Garden within the building (see Figure 27 and Figure 29), with green areas, seating areas and retail; a publicly accessible Foyer leading to the Box (see Figure 27); improved landscaping to the western end of Kingdom Street (see Figure 28); and the Box yard (see Figure 22).



Figure 26: View from under the Westway of the new public route connecting Harrow Road and the site.



Figure 27: View of the Public Garden (at B1) showing the connection to the Foyer and the Box (below at B2) and Kingdom Street (above at GF).



Figure 28: View of the landscaping on Kingdom Street;



Figure 29: View of the Public Garden from the entrance on Kingdom Street.

## Relevant planning history

### Previous applications

32 On 23 May 2000, outline planning permission for redevelopment of the Paddington Central site was granted (ref: 97/06935/OUT) for: *“Redevelopment to provide a mix of uses; namely offices, 210 residential units, local shopping and studio/light industrial buildings in buildings between 7 and 13 storeys in height. Creation of new access of Bishops Bridge Road and new egress ramp, provision of basement car parking and ancillary office accommodation. New footpaths and pedestrian links including a new footbridge across the canal”.*

33 The outline consent sets out parameters for the total quantum of office floorspace which can be provided across the Paddington Central redevelopment. The layout of the approved masterplan is shown in Figure 30 below.



Figure 30: Paddington Central Outline Planning Permission Masterplan.

34 A reserved matters application (09/08353/RESMAT), relating to the outline permission of 2000, was granted in January 2010 and this approved the detailed design and external appearance of 4 and 5 Kingdom Street<sup>8</sup>: *‘Reserved matters approval in relation to the last two buildings at 4 and 5 Kingdom Street pursuant to Condition A.1(a),(b),(c) in part relating to the layout, siting means of vehicular and pedestrian access, parking, detailed design and external appearance and the surface treatment of any part of the site not covered by buildings or formally landscaped areas and Condition M.1 (disabled access) attached the outline planning permission dated 23 May 2000 (as amended by 09/08354/FULL), for one 13 storey office building plus plant room and one 10 storey office building plus plant room.’*

35 With further approved amendments, no.4 has been completed while the building approved in January 2010 for the site of no.5 has not, but the consent remains extant as the permission has been implemented.

36 This permission is for a 13-storey building (94.12m A.O.D.) with a glass and metal façade at the east elevation, and a continuous curved metallic brise-soleil along the north, west and south elevations (see Figure 31 and Figure 32). The proposals include 25,528 sqm of office space, do not include the use of the ‘Box’ space and are accessed exclusively from Kingdom Street.

<sup>8</sup> 4 Kingdom Street being the site marked as block G in Figure 30 and 5 Kingdom Street being the application site, marked as block I in Figure 30.

37 This scheme holds an outstanding planning obligation of £813,400 (index linked) towards Westminster's Social and Community Fund, which would currently correspond to £1,386,617.24<sup>9</sup> (to be paid prior to occupation). It should also be noted that the extant permission pre-dates the Community Infrastructure Levy (CIL) and there are no additional outstanding planning obligations associated with the implemented scheme.



Figure 31: View of 5 Kingdom Street as approved in 2010.



Figure 32: View of 5 Kingdom Street as approved in 2010.

### Current temporary use

38 In March 2017, consent was granted for: “*Temporary use of cleared site at 5 Kingdom Street as restaurants (Class A3) and bar (Class A4) and erection of a temporary two storey building, with temporary access arrangements from Kingdom Street and Westbourne Bridge Road*” (Ref: 16/12331/FULL).

39 The temporary development (operated by Pergola) has since been constructed and is in operation. A number of minor material amendments to the planning approval to extend the use of the Site have been made, including the extension until 23 December 2021, approved on 15 April 2020 (Ref: 20/02491/FULL).

### Current application

40 The current scheme was subject to pre-application discussions with GLA officers and WCC officers. On 8 February 2019, a formal pre-planning application meeting was held at City Hall to discuss strategic issues with respect to land use, urban design, strategic views, inclusive access and transport.

41 The GLA's pre-application advice report of 3 April 2019 (GLA ref: GLA/4925/JM) supported the principle of an office-led development at this Opportunity Area site, within the CAZ. Notwithstanding this, the applicant was advised that any future planning application would need to address the matters raised within the advice report, with respect to various matters associated with: heritage; inclusive access; energy; urban greening; and drainage.

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<sup>9</sup> Based on the RPI all items index which was 171.7 in Sep 2000 and 292.7 in June 2020 (latest available figure).

42 The current application was submitted to the City of Westminster Council on 14 May 2019 (LPA ref: 19/03673/FULL and GLA ref: GLA/4925). This application sought planning permission for:

*'Erection of a mixed-use development comprising ground floor (at Kingdom Street level), plus 18 storeys to provide offices (B1a) and retail (A1/A3) plus ancillary plant and amenity areas. Three floors below Kingdom Street delivered in phases to provide an auditorium (Sui Generis), a community space (D1) and a flexible mix of business (B1a/B1b), retail (A1/A3/Sui Generis), sport and leisure (D2) and exhibition (D1) uses within the former 'Crossrail box'. New outdoor terraces adjacent to railway at basement level; creation of a new pedestrian and cycle link between Harrow Road and Kingdom Street including internal and external garden and landscaping; and associated works.'*

43 Stage 1: On 3 May 2019, the Mayor of London received documents from Westminster City Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. The application was referred under Category 1B and 1C of the Schedule to the Order 2008:

- *Category 1B: Development which comprises or includes the erection of a building outside of Central London and with a total floorspace of more than 15,000 square metres.*
- *Category 1C: Development which comprises or includes the erection of a building more than 30 metres high and is outside the City of London.*

44 On 15 July 2019, the Mayor considered planning report GLA/4925/01. This report advised Westminster City Council that, whilst the office-led mixed-use redevelopment was supported in principle, the application did not fully comply with the London Plan and the Draft London Plan and the issues raised relating to energy, drainage and transport should be addressed.

45 On 7 January 2020, Westminster City Council officers recommended the refusal of the application, which was endorsed by Members of the Planning Committee, in line with the officers' recommended reasons for refusal. The draft decision notice cited the following reasons for refusal:

1. *Because of its height, mass, location and design the proposed 18 storey tower (plus plant rooms) would harm the character and appearance of this part of the City and result in less than substantial harm to a range of designated heritage assets including harm to the setting of numerous grade II listed Victorian terraces and villas (notably 9-31 Porchester Square; 14-20 Westbourne Terrace Road; 21-26 Westbourne Terrace Road; villas and terraces in Blomfield Road facing Little Venice (34-44 Blomfield Road); villas on south-west side of Warwick Avenue (nos.7-31); and the terraces on either side of the southern end of Warrington Crescent (nos.1-49 and 4-36); harm to the setting of the grade I registered parks of Kensington Gardens and Hyde Park; harm to the setting of the Royal Parks Conservation Area, the Bayswater Conservation Area, the Maida Vale Conservation Area, the Westbourne Conservation Area; and harm to the setting of the Little Venice canal intersection. The proposed public benefits are not considered to outweigh this harm. The development would therefore not meet S11, S18, S25, S26, S28 and S37 of Westminster's City Plan (November 2016) and DES1, DES3, DES4, DES9, DES10, DES12, DES13 and DES 15 of our Unitary Development Plan that we adopted in January 2007.*
2. *Insufficient information has been submitted to demonstrate that the proposed building, by reason of its height and mass would not result in a cumulative material loss of light to the detriment of the amenities of the occupiers of the properties on Westbourne Terrace Road and Warwick Crescent following the Councils resolution to grant planning permission for the development on Blomfield Mews (RN: 19/00026/COFUL). The*

*proposal is therefore contrary to policy S 29 of Westminster's City Plan (November 2016) and Policy EN V13 of the Unitary Development Plan adopted in January 2007.*

46 Stage 2: On 23 March 2020, the Deputy Mayor for Planning, Regeneration & Skills, acting under delegated authority, considered a planning report reference GLA/4925/02. The report concluded that having regard to the details of the application, the development was of such a nature and scale that it would have a significant impact on the implementation of the London Plan policies on employment, and consequently there were sound planning reasons for the Mayor to intervene in this case and issue a direction under Article 7 of the Order that the Mayor would act as the Local Planning Authority for the purpose of determining the application. The Deputy Mayor agreed with this recommendation.

47 The GLA's Stage 2 report identified that there were outstanding matters that needed to be resolved, including: delivery of the maximum level of affordable housing contribution, energy and transport. Since the Deputy Mayor issued this direction, GLA officers have worked with the applicant to resolve the outstanding issues by securing revisions to the scheme to increase the level of the affordable housing contribution and the provision of affordable workspace, as well as energy and transport matters raised at Stage 1. Further consideration was also given to Westminster City Council's reasons for refusal.

48 Following the Deputy Mayor's decision to call in the application, the applicant has made the following amendments to the scheme:

- Increasing the contribution to Westminster's affordable housing fund to £14.3 million (from £1.75 million);
- Increasing the affordable workspace to 3,900 sqm (GIA) and providing this in the 'Crossrail Box' (from 1,400 sqm), with consequent reduction of 'flexible' space from 7,866 sqm to 3,490 sqm;
- Revising the energy strategy to achieve 44% carbon saving based on current modelling and achieving a net zero carbon development by maximising on site opportunities for savings up to completion and making off-site contribution measures if necessary;
- Reconfiguring the Garden space linking Harrow Road to Kingdom Street and to the 'Crossrail Box';
- Reconfiguring the office entrance and the floor plans of levels 18 and 19, with an increase in office floorspace of 570 sqm (GIA);
- Raising the height of the lift over-runs and selected rooftop plant by 4.32m above the parapet (which is retained at the same height originally proposed).

49 On 31 July 2020, the applicant submitted the abovementioned revisions to the application and additional documents in response to GLA comments.

50 Re-consultation on amended plans: A 37 day re-consultation was carried out on 6 August 2020 beyond statutory requirements, notifying interested parties on the amendments to the proposal.

51 Site visit: The Mayor will undertake an accompanied site visit on 27 October 2020 with GLA and TfL officers, representatives from the Council and the applicant team.

52 The environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been taken into account in the consideration of this case. The Mayor's decision on this case, and the reasons for it, will be made available on the GLA's website [www.london.gov.uk](http://www.london.gov.uk).

## Relevant legislation, policies and guidance

53 In determining this application, the Mayor must determine the application for planning permission in accordance with the requirement of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004. In particular, the Mayor is required to determine the application in accordance with the development plan unless material considerations indicate otherwise. For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area consists of the Westminster City Plan (2013), saved policies of Westminster's Unitary Development Plan (UDP) and the 2016 London Plan (Consolidated with Alterations since 2011).

54 Paragraph 213 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF, and that due weight should be given to them, according to their degree of consistency with the NPPF. All relevant policies in the adopted development plan are considered to be consistent with the NPPF.

55 The Mayor is also required to have regard to national planning policy and guidance, as well as supplementary planning documents and, depending on their state of advancement, emerging elements of the development plan and other planning policies. The following are therefore also relevant material considerations:

56 On 1 December 2017, the Mayor published his draft London Plan for public consultation. Consultation on the Plan closed on 2 March 2018. On 13 August 2018, the Mayor published a version of the draft Plan that includes his minor suggested changes. The draft London Plan was subject to an Examination in Public (EiP), which was undertaken between 15 January and 22 May 2019. On 16 July 2019, the Mayor published the draft London Plan – Consolidated Suggested Changes Version (July 2019), which incorporates the suggested changes put forward by the Mayor before, during, and after the EiP sessions. The Panel of Inspectors appointed by the Secretary of State issued their report and recommendations to the Mayor and this was published on the GLA website on 21 October 2019. On 9 December 2019, the Mayor issued to the Secretary of State his Intend to Publish London Plan, together with a statement of reasons for any of the Inspectors' recommendations that the Mayor did not wish to accept. On 13 March 2020, the Secretary of State wrote to the Mayor setting out his consideration of the Mayor's Intend to Publish London Plan, and issued Directions under Section 337 of the Greater London Authority Act 1999 (as amended). The Mayor considers that amendments are needed to the Secretary of State's proposed modifications in order to remove policy ambiguities and achieve the necessary outcomes. Discussions are underway to resolve these matters in order to publish the new London Plan as soon as possible.

57 The Secretary of State's proposed amendments are reflected in the relevant sections below, and to the extent that they are relevant to this particular application, have been taken into account as a material consideration. The emerging policies of the Intend to Publish London Plan are considered to be consistent with the NPPF and can be given significant weight, other than those subject to Directions from the Secretary of State, which are discussed further in the relevant sections below.

58 In June 2017 Westminster City Council issued a Regulation 18 notice to consult on the scope of the City Plan full revision. The initial consultation ran from 16 June to 28 July 2017. Following this the Council informally consulted on a full draft of a new City Plan between 12 November and 21 December 2018. Subsequently, the Council consulted on a Full Regulation 19 publication draft City Plan 2019 - 2040 between 19 June 2019 and 31 July 2019 and published the proposed submission City Plan and all accompanying documents to be considered by Full Council on Wednesday 13 November 2019. Following Full Council's approval, the Council submitted all documents to the Secretary of State for independent

examination on Tuesday 19 November 2019. The examination hearings have taken place virtually over Microsoft Teams in the week commencing 28 September 2020 and the week commencing 12 October. Owing to its relatively early stage of preparation, the draft City Plan can only be afforded limited weight at this stage.

59 The relevant planning policies and guidance at the national, regional and local levels are noted in the following paragraphs.

### **National planning policy and guidance**

60 The National Planning Policy Framework (NPPF) provides the Government's overarching planning policy framework. First published in 2012, the Government published a revised NPPF in July 2018 and further revised in February 2019. The NPPF defines three dimensions to sustainable development: an economic role – contributing to building a strong, responsive and competitive economy; a social role – supporting strong, vibrant and healthy communities; and, an environmental role – contributing to protecting and enhancing the natural, built and historic environment. The sections of the NPPF which are relevant to this application include:

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 6. Building a strong, competitive economy
- 7. Ensuring the vitality of town centres
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

61 A key component of the NPPF is the presumption in favour of sustainable development. In terms of decision making, this means approving applications that accord with the development plan without delay; or, where there are no relevant development plan policies, or where such policies are out-of-date, granting permission unless either: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or where NPPF policies that protect areas or assets of particular importance provide a clear reason for refusing a proposed development.

62 The National Planning Practice Guidance is also a material consideration.

### **Spatial Development Strategy for Greater London and guidance**

#### The London Plan (2016)

63 The London Plan 2016 is the Spatial Development Strategy for Greater London. The relevant policies within the London Plan are:

- Policy 1.1 Delivering the strategic vision and objectives for London;
- Policy 2.9 Inner London;
- Policy 2.10 Central activities zone – strategic priorities;
- Policy 2.11 Central activities zone – strategic functions;

- Policy 2.12 Central activities zone – predominantly local activities;
- Policy 2.13 Opportunity Areas and intensification areas;
- Policy 2.14 Areas for regeneration;
- Policy 2.18 Green infrastructure;
- Policy 3.1 Ensuring equal life chances for all;
- Policy 3.2 Improving health and addressing health inequalities;
- Policy 3.16 Protection and enhancement of social infrastructure;
- Policy 3.19 Sports facilities
- Policy 4.1 Developing London’s economy;
- Policy 4.2 Offices;
- Policy 4.3 Mixed use development and offices;
- Policy 4.6 Support for and enhancement of arts, culture, sport and entertainment;
- Policy 4.7 Retail and town centre development;
- Policy 4.8 Supporting a successful and diverse retail sector and related facilities and services
- Policy 4.9 Small shops
- Policy 4.10 New and emerging economic sectors
- Policy 4.12 Improving opportunities for all;
- Policy 5.1 Climate change mitigation;
- Policy 5.2 Minimising carbon dioxide emissions;
- Policy 5.3 Sustainable design and construction;
- Policy 5.4A Electricity and gas supply;
- Policy 5.5 Decentralised energy networks;
- Policy 5.6 Decentralised energy in development proposals;
- Policy 5.7 Renewable energy;
- Policy 5.9 Overheating and cooling;
- Policy 5.10 Urban greening;
- Policy 5.11 Green roofs and development site environs;
- Policy 5.12 Flood risk management;
- Policy 5.13 Sustainable drainage;
- Policy 5.14 Water quality and wastewater infrastructure;
- Policy 5.15 Water use and supplies;
- Policy 5.17 Waste capacity;
- Policy 5.18 Construction, excavation and demolition waste;
- Policy 5.21 Contaminated land;
- Policy 6.1 Strategic approach;
- Policy 6.2 Providing public transport capacity and safeguarding land for transport;
- Policy 6.3 Assessing the effects of development on transport capacity;
- Policy 6.4 Enhancing London’s transport connectivity;
- Policy 6.5 Funding Crossrail and other strategically important transport infrastructure;
- Policy 6.7 Better streets and surface transport;
- Policy 6.9 Cycling;
- Policy 6.10 Walking;
- Policy 6.12 Road network capacity;
- Policy 6.13 Parking;
- Policy 6.14 Freight;
- Policy 7.1 Lifetime neighbourhoods;
- Policy 7.2 An inclusive environment;
- Policy 7.3 Designing out crime;
- Policy 7.4 Local character;
- Policy 7.5 Public realm;

- Policy 7.6 Architecture;
- Policy 7.7 Location and design of tall and large buildings;
- Policy 7.8 Heritage assets and archaeology;
- Policy 7.10 World Heritage Sites;
- Policy 7.11 London view management framework;
- Policy 7.12 Implementing the London view management framework;
- Policy 7.13 Safety, security and resilience to emergency;
- Policy 7.14 Improving air quality;
- Policy 7.15 Reducing and managing noise;
- Policy 7.19 Biodiversity and access to nature;
- Policy 7.21 Trees and woodlands;
- Policy 7.30 London's canals and other rivers and waterspaces;
- Policy 8.2 Planning obligations; and
- Policy 8.3 Community Infrastructure Levy.

64 As set out above, policies in the Mayor's Intend to Publish London Plan are considered to be consistent with the NPPF and can be given significant weight, other than those subject to Directions from the Secretary of State, as explained further in the relevant sections below.

#### The Mayor's Intend to Publish London Plan

65 The following policies in the Mayor's Intend to Publish London Plan are considered to be relevant:

- Objective GG1 Building strong and inclusive communities;
- Objective GG2 Making best use of land;
- Objective GG3 Creating a healthy city;
- Objective GG5 Growing a good economy;
- Objective GG6 Increasing efficiency and resilience;
- Policy SD1 Opportunity Areas;
- Policy SD4 The Central Activities Zone (CAZ);
- Policy SD5 Offices, other strategic functions and residential development in the CAZ;
- Policy SD10 Strategic and local regeneration;
- Policy D1 London's form, character and capacity for growth;
- Policy D2 Infrastructure requirements for sustainable densities;
- Policy D3 Optimising site capacity through the design-led approach;
- Policy D4 Delivering good design;
- Policy D5 Inclusive design;
- Policy D6 Housing quality and standards;
- Policy D7 Accessible housing;
- Policy D8 Public realm;
- Policy D9 Tall Buildings;
- Policy D11 Safety, security and resilience to emergency;
- Policy D12 Fire Safety;
- Policy D13 Agent of change;
- Policy D14 Noise;
- Policy S1 Developing London's social infrastructure;
- Policy S5 Sports and recreation facilities;
- Policy S6 Public toilets;
- Policy E1 Offices;
- Policy E2 Providing suitable business space;
- Policy E3 Affordable workspace;

- Policy E8 Sector growth opportunities and clusters;
- Policy E9 Retail, markets and hot food takeaways;
- Policy E11 Skills and opportunities for all;
- Policy HC1 Heritage conservation and growth;
- Policy HC2 World Heritage Sites;
- Policy HC3 Strategic and local views;
- Policy HC4 London View Management Framework;
- Policy HC5 Supporting London's culture and creative industries;
- Policy HC6 Supporting the night-time economy;
- Policy G1 Green infrastructure;
- Policy G5 Urban greening;
- Policy G6 Biodiversity and access to nature;
- Policy G7 Trees and woodlands;
- Policy SI1 Improving air quality;
- Policy SI2 Minimising greenhouse gas emissions;
- Policy SI3 Energy infrastructure;
- Policy SI4 Managing heat risk;
- Policy SI5 Water infrastructure;
- Policy SI7 Reducing waste and promoting a circular economy;
- Policy SI12 Flood Risk Management;
- Policy SI13 Sustainable drainage;
- Policy SI17 Protecting and enhancing London's waterways;
- Policy T1 Strategic approach to transport;
- Policy T2 Healthy streets;
- Policy T3 Transport capacity, connectivity and safeguarding;
- Policy T4 Assessing and mitigating transport impacts;
- Policy T5 Cycling;
- Policy T6 Car parking;
- Policy T6.2 Office parking;
- Policy T6.3 Retail parking;
- Policy T6.4 Hotel and leisure uses parking;
- Policy T6.5 Non-residential disabled persons parking;
- Policy T7 Deliveries, servicing and construction;
- Policy T9 Funding transport through planning;
- Policy DF1 Delivery of the plan and planning obligations.

### Greater London's Supplementary Planning Guidance

66 The following published strategic supplementary planning guidance (SPG), strategies and other documents are also relevant:

- Affordable Housing and Viability SPG (August 2017);
- Accessible London: achieving an inclusive environment SPG (October 2014);
- The control of dust and emissions during construction and demolition SPG (July 2014);
- Character and context SPG (June 2014);
- Central Activities Zone Supplementary Planning Guidance (2016);
- London View Management Framework SPG (March 2012);
- London World Heritage Sites SPG (March 2012);
- Sustainable Design and Construction SPG (April 2014);
- All London Green Grid SPG (March 2012);
- Planning for Equality and Diversity in London (October 2007);

- Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy (April 2013);
- Crossrail Funding (March 2016);
- Culture and Night Time Economy SPG (November 2017);
- Land for Industry and Transport SPG (September 2012);
- Mayor's Environment Strategy (May 2018);
- Mayor's Transport Strategy (March 2018);
- London Cycle Design Standards (October 2016);
- Energy Planning Guidance (April 2020);
- Public London Charter - pre-consultation draft (March 2020);
- Circular Economy Statement Guidance - pre-consultation draft (April 2020);
- Whole Life-Cycle Carbon Assessments - pre-consultation draft (April 2020);
- 'Be Seen' Energy Monitoring Guidance - pre-consultation draft (April 2020);
- Fire Statements Guidance – pre-consultation draft (July 2020);
- Evacuation Lifts Guidance – pre-consultation draft (July 2020).

### **Local planning policy and guidance**

67 Westminster's City Plan (November 2016) and saved policies from the 2007 Westminster's Unitary Development Plan (UDP) provide local development plan planning policies for the area. The relevant policies are:

#### Westminster's City Plan (November 2016)

- Policy S1 Mixed Use In The Central Activities Zone
- Policy S3 Paddington Opportunity Area
- Policy S6 Core Central Activities Zone
- Policy S11 Royal Parks
- Policy S12 North Westminster Economic Development Area
- Policy S18 Commercial Development
- Policy S19 Inclusive Local Economy And Employment
- Policy S20 Offices And Other B1 Floorspace
- Policy S21 Retail
- Policy S22 Tourism, Arts And Culture
- Policy S23 Hotels And Conference Facilities
- Policy S24 Entertainment Uses
- Policy S25 Heritage
- Policy S26 Views
- Policy S28 Design
- Policy S29 Health, Safety And Well-Being
- Policy S30 Flood Risk
- Policy S31 Air Quality
- Policy S32 Noise
- Policy S33 Delivering Infrastructure And Planning Obligations
- Policy S34 Social And Community Infrastructure
- Policy S37 Westminster's Blue Ribbon Network
- Policy S38 Biodiversity And Green Infrastructure
- Policy S39 Decentralised Energy Networks
- Policy S40 Renewable Energy
- Policy S41 Pedestrian Movement And Sustainable Transport
- Policy S42 Servicing And Deliveries
- Policy S43 Major Transport Infrastructure

- Policy S44 Sustainable Waste Management
- Policy S47 The Presumption in Favour of Sustainable Development
- Policy CM47.2 Credits

Westminster's Unitary Development Plan (UDP) (saved policies)

- Policy STRA25 Parking control
- Policy STRA34 Pollution: air, water and land
- Policy TRANS 1 Protecting the environment from the effects of transport activities
- Policy TRANS 2 Road safety
- Policy TRANS 3 Pedestrians
- Policy TRANS 4 Bus service provision and improvement
- Policy TRANS 7 Taxis and mini-cabs
- Policy TRANS 9 Cycling
- Policy TRANS 10 Cycle parking standards
- Policy TRANS 14 Transport assessments
- Policy TRANS 15 Traffic reduction
- Policy TRANS 18 Road improvements
- Policy TRANS20 Off-street servicing, deliveries and collection
- Policy TRANS21 Off-street parking
- Policy TRANS22 Off-street parking: non-residential development
- Policy TRANS 27 Disabled access to buildings
- Policy PSPA 4 Controlling new hotel and conference facilities
- Policy SOC 1 Community facilities in general
- Policy SOC 7 Indoor leisure and libraries
- Policy SOC 8 Public toilets
- Policy SS 4 New retail floorspace in the CAZ and the CAZ Frontages
- Policy SS 5 Seeking an appropriate balance of town centre uses in the West End International Centre and elsewhere in the CAZ and CAZ Frontages - outside the Primary Shopping Frontages
- Policy SS 11 Superstores, Supermarkets and Other Major Retail Developments
- Policy SS 14 Environmental improvements
- Policy TACE 4 Conference and related facilities
- Policy TACE 5 Arts and cultural uses
- Policy TACE 10 Entertainment uses which will be permissible only in exceptional circumstances
- Policy ENV 2 Environmental appraisal
- Policy ENV 4 Planting around and on buildings
- Policy ENV5 Air pollution
- Policy ENV6 Noise pollution
- Policy ENV7 Controlling noise from plant, machinery and internal activity
- Policy ENV8 Contaminated land
- Policy ENV10 Light pollution
- Policy ENV 12 Waste and recycling storage
- Policy ENV 13 Protecting amenities, daylight, sunlight and environmental quality
- Policy ENV 17 Nature conservation and biodiversity
- Policy DES 1 Principles of urban design and conservation
- Policy DES 3 High buildings
- Policy DES 4 Infill development
- Policy DES 7 Townscape management
- Policy DES 9 Conservation areas
- Policy DES 10 Listed buildings

- Policy DES 12 Parks, gardens and squares
- Policy DES 13 Canals
- Policy DES 14 Strategic views
- Policy DES 15 Metropolitan and local views
- Policy DES 16 World Heritage Site

#### Westminster's City Plan 2019-2040 (emerging plan)

68 As set out above, Westminster City Council are currently in the process of preparing the new City Plan 2019-2040, which will replace the Westminster's City Plan (November 2016) and saved policies from the 2007 Westminster's Unitary Development Plan (UDP). The examination hearings have taken place virtually over Microsoft Teams in the week commencing 28 September 2020 and the week commencing 12 October. Whilst GLA officers acknowledge that the policies contained within the plan have undergone various revisions as a result of public consultation, the new City Plan 2019-2040 is not yet an adopted plan and has not been through examination and as such, has limited weight. The following emerging policies are relevant to this application:

- Policy 3 Spatial Development Priorities: Paddington Opportunity: Area
- Policy 5 Spatial Development Priorities: North West Economic Development Area
- Policy 10 Affordable contributions in the CAZ
- Policy 14 Supporting economic growth
- Policy 15 Town centres, high streets and the CAZ
- Policy 16 Visitor Economy
- Policy 17 Food, drink and entertainment
- Policy 18 Community infrastructure and facilities
- Policy 25 Sustainable transport
- Policy 26 Walking and cycling
- Policy 27 Public transport and infrastructure
- Policy 28 Parking
- Policy 29 Highway access and management
- Policy 30 Freight and servicing
- Policy 31 Technological innovation in transport
- Policy 32 Waterways and waterbodies
- Policy 33 Air quality
- Policy 34 Local environmental impacts
- Policy 35 Green infrastructure
- Policy 36 Flood risk
- Policy 37 Energy
- Policy 38 Waste management
- Policy 39 Design principles
- Policy 40 Westminster's heritage
- Policy 41 Townscape and architecture
- Policy 42 Building height
- Policy 44 Public realm
- Policy 45 Security measures in the public realm

#### Westminster's Supplementary Planning Guidance/Documents

69 The following adopted Westminster City Council's Supplementary Planning Guidance/Documents are also relevant to the proposal:

- Design Matters in Westminster (2001)
- Inclusive Design and Access (2007)
- Designing Out Crime in Westminster SPG (1997)
- Historic Parks and Gardens in Westminster SPG (1996)
- Westminster Way: Public Realm Strategy SPD (2011)
- Recycling and Waste Storage Requirements (2019)
- Planning Obligations Section 106 SPG (2008)
- Draft Supplementary Planning Document – The Use of Planning Obligations and Other Planning Mechanisms (2015)
- Interim Guidance Note: Affordable Housing Policy (2015)

### **Community Infrastructure Levy**

70 Local planning authorities in London are able to introduce Community Infrastructure Levy (CIL) charges, which are payable in addition to the Mayor's CIL. Westminster City Council's CIL came into effect on 1 May 2016 and in this location is charged at a rate of £150 for commercial uses (offices; hotels, nightclubs and casinos; retail -all 'A' use classes and sui generis retail-); £400 for residential uses and a nil charge for other land uses. Following the adoption of a new charging schedule, MCIL2 rates now apply to planning permissions granted from 1 April 2019. Accordingly, a rate of £80 per sqm would apply to all development in the City of Westminster, with offices and retail in Central London being subject to a higher rate of £185 per sqm and £165 per sqm respectively.

## Responses to consultation

71 This section includes the responses from statutory consultees, local residents and residents' groups to the two rounds of consultation, as organised by Westminster City Council and by the Mayor.

72 As part of the planning process, Westminster City Council undertook one round of public consultation, by sending notifications to 3,595 addresses in the vicinity of the site, as well as posting site notices close to the site and publishing press notices. The consultation also included all relevant statutory bodies and amenity groups. In addition, the Mayor has carried out consultation on the revised documents, which were submitted subsequent to him taking over the application.

73 All consultation responses received in response to Westminster City Council's local consultation process, and any other representations received by the Mayor of London in respect of this application at the time of writing this report, are summarised below, and have been taken into account in this report. The Mayor has been briefed on the amount and content of all consultation responses, including the comments, objections and issues raised.

### Representations to Westminster City Council

#### **Statutory consultee responses to Westminster City Council**

74 Greater London Authority (including Transport for London): The Mayor's initial consultation stage comments (GLA report ref: GLA/4925/01) and the Mayor's Stage 2 decision (GLA report ref: GLA/4925/02) are set out in aforementioned reports and are briefly summarised in the *Relevant planning history* section.

75 Transport for London: commented as part of the Mayor's Stage 1 and 2 response, and also provided a separate direct response to Westminster City Council, setting out issues in relation to the mode share assessment, way-finding signage, cycle hire docking station contribution, public realm contribution, access route for the Crossrail Royal Oak portal, recommended conditions and also obligations. The detailed consideration of these points is set out in the *Transport* section.

76 Historic England: raised an objection and recommend a reduction in height to mitigate the harmful impact to the significance of a range of designated heritage assets.

Within 500m of the site there are 40+ separate entries on the Heritage List for England (including three Grade I and two Grade II\* listed buildings) and six conservation areas. Given the height, the proposed building will be visible for some distance beyond, including areas of high significance such as Hyde Park and Kensington Gardens.

Views 12, 14, 16, 17, 18, 19, 19.1, 20, 20.1, 20.2, 24, 29, 30 and 31 of the THVIA show the introduction of a very different built form than is found in the presiding streetscape, resulting in a harmful clash of character and appearance of the proposed building as overbearing or distracting from the historic townscape.

The building's relationship with Kensington Gardens and Hyde Park, both of which are Grade I registered parks and gardens of the highest significance, cause the most notable impacts. Views 5.1 and 5.2 are taken from the Grade II listed Serpentine Bridge looking north towards the Italian Garden (1860, Grade II) at the termination of the Long Water. Many of the existing buildings gathered around the treeline at the edge of the park are Grade II listed. Given layers of exceptionally significant landscape history found in this view, it should be treated as sensitive to change. None of the tall buildings which are existing or granted preserve or enhance, or better reveal the significance of the heritage assets which make up the focus of this view. It would not be beneficial to extend that harm any further. Views 4 from Kensington

Gardens also represents a harmful departure from the presiding character of the view, neither sustaining nor enhancing the significance of the park and its setting.

77 London Fire Brigade: Requested hard copy drawings to be submitted (provided by the applicant). No further response was received.

78 London Underground: No objection. Requested a condition for details of design and method statements of foundations, basement and ground floor structures.

79 Thames Water: No objection. Requested conditions and informatives in relation to waste and water.

### **Individual neighbourhood responses to Westminster City Council**

80 Westminster City Council reported that it has received a total of 61 objections and 2 letters of support in response to the public consultation undertaken on the original application. All responses were provided to the GLA subsequent to the decision to take over the application and have been made available to the Mayor in advance of the hearing.

81 The main concerns and issues raised in **objection** to the proposals are summarised below and grouped by topic headers used in this report:

#### Urban Design and Heritage

- The building is too tall and should not be taller than adjacent.
- The building will be overpowering to the skyline.
- The building will have an unacceptable impact on local (particularly Little Venice) and wider area.
- The proposed colours are unacceptable.
- Building should be in keeping with adjacent buildings.
- Would prefer less 'amenities' in the box and a smaller building.
- 'Wonky' windows will age very quickly.
- Proposals would be supported if it was lower.
- The tall building is contrary to policy.

#### Land use principle

- Query the need for more offices in Paddington.
- A post Brexit feasibility study should be undertaken to see if floorspace is required.
- Query what the 'cultural uses' are.
- Query who will be responsible for the 'community' space.
- Community benefits do not outweigh harm.
- Community benefits questioned, particularly if basement facilities are operated on commercial basis. Risk they would be little used. If free or not-for-profit and capital costs covered, might be otherwise.
- No requirement for another gym as there are six others within a one mile radius.
- The hotel approved at the other end of Paddington Central would be better placed here in terms of amenity, highways and land use.

#### Living conditions at neighbouring properties

- Pergola Paddington has demonstrated antisocial behaviour of people coming and going. Negative impact from increased number of people leaving work and anti-social behaviour.
- Loss of light and overshadowing should be assessed by a light report.
- The building will reflect sound from the Westway and underneath it.
- Increased light pollution.

#### Highways

- People rarely use existing link to the Harrow Road.
- Links to Royal Oak should be more formal path or tunnel which is well lit and attractive to use.
- Request for taxis and coaches to have a formal route through the site so they can exit at Harrow Road.
- Increased stress on the Highway and Public Transport Network.

#### Other

- The proposed 14 properties on Blomfield Mews would be negatively impacted by the development.
- Would like the site to retain the Pergola venue going forward.
- Concerns in relation to air quality and the report submitted being inadequate.
- Too many documents online to easily understand the development proposals.
- British Land did not consult with Westbourne Terrace Residents as stated.
- Complaints that have not been consulted.

82 The main comments in **support** to the proposals are summarised below:

- Welcome the new through route at the base of the building.
- Applaud British Land to construct an iconic building.

#### **Other responses to Westminster City Council, including residents' groups and elected members**

83 Councillor Cox on behalf of Hyde Park Ward members: raised an objection on the following grounds:

- Increase from consented scheme from 13 to 19 storeys raises concerns about the height, bulk, design, conservation area and amenity.
- Proposed cycle and pedestrian route has benefits, but it will not make a significant impact on barriers to CAZ employment for residents in Harrow Road area, as these are likely to relate to skills and qualifications rather than transport access.
- Community benefits are limited and not likely to outweigh the harm caused from increased bulk.
- The building will appear tall, raising above the tree line in the otherwise broadly unspoilt view from the Serpentine Bridge.
- It will be dominant at close quarters, being around twice the height of adjacent Novotel.
- Note concerns from Cllr Caplan and consider a more modest increase beyond consented would bring much of the economic benefit without inflicting the harms on heritage assets to the same degree.
- Proposed scheme does not conform with emerging City Plan.

84 Councillor Caplan on behalf of Little Venice Ward members: raised an objection on the following grounds:

- The development is too high, bulky and with the wrong colouring. As such, while not in the Little Venice Ward, it will have a significant negative impact on adjacent conservation area and listed buildings which sit within the historic landscape.
- The views from Blomfield Road, the Browning Pool and Warrington Crescent are very stark and would be very damaging.
- The colour and design of the building will be dominant on the skyline and will fail to blend into the environment, being overpowering and completely inappropriate in its setting.
- As Historic England state, the development will 'impact on setting of listed buildings and conservation areas over a broad area'. They also state that the existing consent is

damaging but this is not justification to accept a few extra storeys. Any new consent 'should not extend harm' which this application would do.

- The proposals does not conform with the emerging City Plan, but also fails the current City Plan as it fails the test because of harm it will cause to views from adjoining areas such as Little Venice.
- As a neighbouring ward, do not benefit from community benefits, but suffer the damage to area from the building.
- While the ambition of the applicant is applauded, the proposals are not acceptable and should be rejected.

85 Councillor Carman (Bayswater Ward): raised an objection. While the facilities suggested for the "box" are appreciated, 18 storeys is too high. The blocky design is also unattractive. The project as planned would dominate the skyline, especially affecting the views at Little Venice. The developers should reduce the height and reconsider the design.

86 Councillor Burbridge (Lancaster Gate Ward): raised an objection and supports South East Bayswater Residents' Association's comments. While the site is outside of her ward, it will have an adverse effect on the conservation area. In relation to community benefits, especially local gyms, there should be more details of free uses available and they should be better publicised to local residents.

87 South East Bayswater Residents' Association's: raised an objection on the following grounds:

- Height: The proposed twenty storeys of the building above rail level exceed by far the height of the rest of Paddington Central, and will stick out like a sore thumb. It is far above the height of the earlier consented scheme.
- Bulk: The proposed building invites comparison, in size, with the Sellar development adjacent to Paddington Station (31 London Street). Yet it is at the fringes of the Opportunity Area and will stand out far more; further, the Sellar scheme could claim justification on grounds of very necessary (indeed vital), and long demanded, community benefit, in the form of improvements to public transport, which is not the case with this scheme.
- Conservation Areas: The building will be very visible from the adjacent conservation areas to the North, West and South, and will detract from their setting.
- Design: Do not support either the design or the proposed colour of the building, which gives the impression of seeking to make the building as conspicuous as possible. This should be as inconspicuous as possible, should it go ahead either in its present form or in a modified form.
- Community benefits: There is no sign of demand for the proposed facilities in the basement area, particularly if operated on a purely commercial basis, as is apparently proposed, with only occasional free use. There is a distinct risk that they would be little used. It might be otherwise if the land in the basement area were on offer rent-free to, say, a community trust charged with developing sports facilities for young people (e.g. boxing and volleyball), and the other facilities that are proposed, on a not-for-profit basis, coupled with the offer of a capital sum to cover the cost of building these facilities. (It appears that these costs are now proposed to be borne directly by the developer as part of the development, but that rent would be charged later to the operators.)

88 Paddington Waterways and Maida Vale Society: raised an objection on the following grounds:

- Notes the basement areas of the site have been released by Crossrail, as they are no longer required by them and the opportunity that this presents to British Land. Whilst this provides the opportunity to improve connectivity and provide a community space, it does not justify the substantial increase in height, bulk and mass of the proposed upper floors.

- The extant scheme is not universally appreciated. Whilst it is in context with the remainder of Kingdom Street and aimed to provide a landmark building when viewed from the Westway, it would cause significant harm to the conservation area. The new building is substantially larger, not only in height with the additional floors, but also due to the omission of the screen to the facade and its replacement with a solid elevational treatment. The result is an overbearing blot on the already unhappy landscape that is Kingdom Street when viewed from the conservation area.
- The proposed increase to the height, bulk and mass will cause further substantial harm not only to our conservation area but also neighbouring areas as well. There should be no increase in the height, bulk or mass of the extant scheme.
- Request for neighbours' views to be taken into consideration.

89 Bayswater Residents' Association: raised an objection on the following grounds:

- The plan for this building, at 18-storey, is too high. The proposed building is much higher than the other buildings in Paddington Central, which are consistent in height. From the west elevation, the structure rises from the pedestrian level almost 2 times the height of all the other properties and would be dominating the entire Paddington Central site. One of the urban features that have made the built environment relatively pleasant in London and European cities in prior centuries is the uniform height in neighbourhoods. Even with buildings that are seen as mediocre with time, the blending in due to same height is less jarring than widely varying building sizes.
- Closer consideration should be given to how a looming structure of the proposed height would affect the residents of Westbourne Green.
- Request for neighbours' views to be taken into consideration.

## **Representations made to the Mayor of London - Re-consultation exercise (September 2020)**

90 The Mayor for Planning, Regeneration & Skills, acting under delegated authority, took over the planning application for the Mayor's determination on 23 March 2020. A re-consultation exercise took place on 6 August 2020 for 37 days in relation to revisions to the scheme that had been updated since the original consultation exercise which are summarised in the *Relevant planning history* section. Letters were sent to all those consulted by the Council, in addition to all those who had responded to the planning application thus far (3665 addresses). A press notice was posted and site notices were erected. The amendments were also publicised on social media.

### **Statutory consultee responses to the Mayor**

91 Thames Water: No objection to the revised scheme, subject to recommended conditions regarding water network upgrades, piling and construction within 5m of the water main and informatives regarding working near trade effluent consent and Thames Waters underground assets.

92 London Underground: The planning applicant is in communication with London Underground engineers with regard to the development above. No comment to make except that the developer should continue to work with LU engineers.

93 The Royal Parks: raised an objection on the following grounds:

- A key charitable objective of The Royal Parks is "to protect [and] conserve ... the Royal Parks" to ensure that they are not compromised to the detriment of future generations. The engagement surveys show that visitors value the tranquillity offered by the Royal Parks and the feeling of separation from the mundane is enhanced where there is a visual separation

of the park's natural surroundings from the urban landscape, that is, where there are no buildings overtopping or visible in between the tree canopies in views out of the parks.

- In our opinion, owing to the height of this proposed development, it would be visible across a broad area, impacting on views from three central London Royal Parks, namely Kensington Gardens, Hyde Park and The Regent's Park including Primrose Hill.
- View 3, 4, 5.1, 5.2, 7 demonstrate the harm that would be caused by the proposed building. The proposed building would also be visible in the panorama from the summit of Primrose Hill to central London, but it is unclear from the information provided whether the building's presence on the skyline would detract from this protected view, but it would be a concern if it did.
- It is noted that the planning application includes views showing the cumulative harmful impacts not only of this planning application but of other consented developments nearby. However, some of those schemes may not be implemented and, even if they were, this would be no reason to justify adding to the potential harm caused to the Royal Parks.

94 Natural England: No comment.

95 Environment Agency: No comment.

96 Historic England: maintained the original objection submitted to Westminster City Council and did not provide further comments.

### **Westminster City Council's response to the Mayor**

97 A formal consultation response considering the revised proposal was received from Westminster City Council on 18 September 2020. In addition to this, Council officers have participated in a lawyer-led meeting to discuss the proposed S106 agreement.

98 The Council raised an objection to the revised height, mass, location and design of the proposed building, finding that the harm caused to nearby heritage assets would not be sufficiently outweighed by the revised public benefits that the proposals would secure.

99 The Council also raised an objection on grounds of the cumulative loss of daylight and sunlight to windows serving habitable rooms of neighbouring residential properties on Warwick Crescent and Westbourne Terrace Road.

100 Lastly, the Council raised an objection to the loss of the dedicated 150sqm of community space.

101 The Council's more detailed comments are summarised below:

#### **Affordable housing:**

- The increased offer towards the affordable housing fund (from £1.75m to £14.3m) is acceptable and it is therefore recommended that this is secured via the legal agreement. The triggers will need to be agreed as part of the S106 negotiations, should the Mayor resolve to grant permission.

#### **Affordable workspace:**

- The increase in affordable office workspace is welcomed, subject to this space being secured via a suitably worded legal agreement.

#### **Heritage and townscape:**

- As before, the proposals would affect the setting of a large number of designated and non-designated heritage assets, and also local and protected views from both short and longer

distances. The proposed amendment (which increased the height by 4.32m) results in additional height, bulk and mass (albeit in a setback location). This additional height would be visible in both short and longer distance views including from the Maida Vale Conservation Area, Royal Parks Conservation Area (and Hyde Park and Kensington Gardens Registered Parks) and would impact upon the protected views from the Serpentine Bridge.

- This additional height not only prevents any reduction in the impacts previously identified by the Council, but would in fact slightly increase the harm caused to the setting of the nearby conservation areas, Royal Parks and to the views from both near and further range including those from the Serpentine Bridge. This further substantiates reason for refusal number 1, increasing further the significant weight that this should be given in accordance with the Act and the NPPF.
- It is therefore considered that the proposals fail to accord with policies DES 1, DES 9/10 and S25 / S28 of the UDP and City Plan and the public benefits proposed (as amended), would not outweigh the less than substantial but widespread harm that would be caused to the setting of a large number of designated heritage assets.

#### Daylight and Sunlight:

- The Council's sub-Committee report stated that, on the whole, the retained levels of light were considered to be representative of what is expected within an urban context and the second reason for refusal was therefore considered addressed. Even though it was acknowledged that the results of the updated Daylight and Sunlight Assessment indicated some significant additional losses, particularly to windows within Warwick Crescent, with a number of windows now experiencing losses of in excess of 20% their former value, these high percentage losses were generally acknowledged to be caused by existing lower levels of light.
- However, the Committee considered that the additional daylight/sunlight information submitted by the applicant raised significant concerns, which would justify an additional recommendation for refusal, had the additional information been made available to the Council at the time of considering the application. The cumulative impact of the development along with that at Blomfield Mews was considered to result in an unacceptable impact on the dwellings at Warwick Crescent and Westbourne Terrace Road.

#### S106 and community space:

- The applicant has started negotiation to draft the S106. It is proposed to remove the 150sqm dedicated community room. Given the overall scale of the development, the watering down of this public benefit and given that it is considered to be too early to fully understand whether or not there would be interest in such a space, an objection is raised in relation to the loss of this dedicated community space, and the alternative arrangements for securing community space within the proposed flexible workspace.

#### 'Public Garden':

- The revisions maintain the publicly accessible through garden route from Harrow Road to Kingdom Street, which remains acceptable.

#### Office layout

- The alterations move the office lobby down to Kingdom Street level and provide an additional level of offices at Level 18. These alterations will have an impact on both the CIL payment (up from £23,117,184 to £23,229,221) and the Councils Employment & Training Skills Payment (up from £2,087,820 to £2,136,726). Subject to the alterations to these payments, no objection is raised to the amendments in land use terms.

#### Energy:

- Efforts to increase the performance of the building are welcomed.

#### EIA and Transport:

- No additional comments.

### **Individual neighbourhood responses to the Mayor**

102 Responses: A total of 47 responses were received by the Mayor and/or the GLA to object to the proposals. These responses have been made available to the Mayor and have been taken into account in this report.

103 In summary, the issues raised **in objection** to the revised scheme can be broadly summarised as follows:

#### Urban design, tall buildings, heritage and views

- The proposed building, due to its significant height and massing, as well as inappropriate and conspicuous architectural design and materials, would overpower the skyline and cause significant harm to the cherished townscape, six conservation areas and over 40 historic buildings, which are of local, national and international significance (as the area has been filmed in many movies and Little Venice constitutes a major tourist attraction). This harm would not be outweighed by the proposed public benefits. Particular concerns are raised with regards to: the area of Warwick Avenue and Little Venice; skyline along the Regents Canal; views from Browning's Pool and from Warrington Crescent; views from Maida Vale; Paddington area; Serpentine Bridge in Hyde Park; Blomfield Road; Blomfield Villas.
- The development is not supported by the community, which views should be listened to.
- The proposals would constitute overdevelopment. The notion that developers can entice the City into over-development with promises of sums towards other benefits leaves the community feeling disappointed.
- There are other property developments in the area that have had a negative impact on Little Venice, but rather than seeing these as a precedent for further development, we should see them as a warning of the impact that poorly considered development can have on London.
- None of the proposed revisions to the plan address the fundamental issues previously raised by objections and the proposals were even worsened with a further increase in height.
- The developer and residents should take inspiration from regeneration zones like Kings across and London Bridge. Barclay homes have built a tower that affects the local skyline and Browning's Pool, but created something of fine taste that doesn't overwhelm its surroundings.

#### Residential amenity and microclimate

- The proposals would have an effect on microclimate, casting significant shadows and lowering temperature.
- The proposals would lead to increased noise, air pollution and light pollution.
- The proposals would harm living conditions at residential properties around the site, by reducing their daylight/sunlight (particularly to the residents of Westbourne Terrace Road who are already suffering from the proposed infill development on Blomfield Mews).

#### Office need

- Given that many office workers in London are not returning to work in offices, far less office space will be required in future in Central London. There are many offices in Paddington that have sat empty for years and this new one will be surplus to requirement. There is no need for more office space to be built.

#### Affordable housing

- The affordable housing contribution of £14.3m is insufficient and remains well below the £33m which a building of these dimensions should pay according to Westminster's published policy.

- Concerns are raised that even a higher contribution, the money won't generate the sort of benefits for the locals that one might hope.
- The need for affordable housing is acknowledged, but there are enormous amounts of empty space used by rich owners as investments. Simply using better policies to fill these existing properties would do much more to alleviate the housing crisis than building taller and taller buildings.

#### Other comments

- The proposals would lead in an increase traffic through neighbouring conservation areas.
- The proposals would put a strain on the area's infrastructure and community services.
- Welcome the development of the area underneath Kingdom Street ("The Box") and the creation of cycle path / pedestrian through route from Harrow Road to Kingdom Street, but they are insufficient to approve the proposals.
- The concept of 'The Box' itself raises questions. There is no explanation of how it and the various activities suggested would be organised and managed.
- The developer engaged in consultation with the local community and chose not to listen to the local residents.
- This is a prime location constantly bashed with development, and noise pollution and air pollution, not to mention the Heathrow proposals. This kind of developments and losing the essence of London areas for HNI, businesses and tourism.
- The developer is seeking a way to circumvent a sensible decision by Westminster City Council by offering a greater affordable housing contribution to persuade the Mayor to take over the application. The Mayor should not be persuaded to grant permission.
- It feels wrong at every level that the Mayor is interfering and calling in this application, when the community has been very clear in its opposition to this development. Local Councillors know what's needed in their area. The Mayor takes into account commercial interests before he considers the impacts on the local residents. Our views are constantly ignored, and accepting consultation responses feel like a token gesture that can easily be ignored.
- As a Labour Party member, The Mayor should take seriously the community aspects of a neighbourhood, and this area, if to be further developed, should be considered more creatively.
- We should stop allowing developers to ruin our city for their profits and personal greed.
- It was requested that the planning committee and Mayor review the Bloomfield Mews proposal, as it shouldn't have been approved given the local community objections.

#### **Other responses to the Mayor, including residents' groups and elected members**

104 Claudia Danser on behalf of the Westbourne Terrace Road Residents' Association: raised an objection on the following grounds:

- The design of the proposed building was not meaningfully revised and therefore remains unacceptable. The proposal would be an overbearing, unsightly white elephant at almost double the height of its neighbouring buildings and the locale. This would cause visible damage to views in Little Venice and as far as our highly prized green space of Hyde Park.
- The proposal would cause further significant loss of light in our homes on Westbourne Terrace Road, as our street will be in its shadow. This has a huge negative impact for local residents, especially us as our light is already significantly diminished by the Blomfield Mews development about to be built.
- The increased offer towards the affordable housing fund remains £20 million short, in comparison to what is required by planning policy and is therefore unacceptable.
- This pandemic has further cemented the reasons to reject this application. Companies in numerous sectors clearly stated that they are reducing their office space needs as people increasingly work from home. There is now even less demand, need and reason for this 20-storey office block in central London.

- If built, it would add to the many floors of office space that have been lying empty close by in Paddington basin for over 3 years. It should be noted that Sony have yet to fully move into the controversial building on the canal opposite Paddington Station and I understand from Sony's senior leaders that they are now seriously questioning their need for this amount of office space.
- Planning permission should not be granted for a building that is a surplus to requirement and is so damaging to local residents and the surrounding precious green areas of central London.

105 John Walton on behalf of the South East Bayswater Residents' Association (SEBRA): raised an objection on the following grounds:

- The proposed tower will be visible throughout most of our area. We object to the increase in height of 4.6m and we maintain our original objection to the application. We do not consider that the proposed benefits (as increased through revisions) are sufficient to outweigh the harm that this isolated tower would cause to the numerous heritage assets (including conservation areas, listed buildings and Grade I listed Registered parks). It would further cause harm to the sense of being in the countryside (rus in urbe), when in Hyde Park and Kensington Gardens and it will detract from many listed buildings in our area (as is most of the Bayswater Conservation Area).
- There is a loss of 150 sqm of dedicated community space, to which we object.

106 John Zealley on behalf of the Paddington Waterways & Maida Vale Society: raised an objection on the following grounds:

- We maintain our objection lodged with WCC, on the grounds that the proposed isolated 'landmark' tower will cause significant loss of amenity to all residents of and visitors to London, given its visibility from the largely residential Maida Vale Conservation Area, the Regents Canal Pool and tow path, associated Jubilee Greenway, Hyde Park and Kensington Gardens. The increase in height of part of the roof by 4.6m further reinforces the rationale for our grounds for objection. The revised public benefits proposed would be insufficient to outweigh the harm that would be caused to the heritage assets.
- We further believe that the balance of benefit and loss has shifted materially since the GLA chose to 'call in' this application, as the C19 situation has made clear that demand for large scale central London offices is likely to reduce (bringing into doubt the employment benefits of this scheme and the commercial viability of the increased payments), whilst the importance of low-stress outdoor amenity space, close to residential areas, has become more significant (for reasons of mental and physical well-being).

107 Cllr. Melvyn Caplan, Cllr. Lorraine Dean, Cllr. Matthew Green (Ward Members for Little Venice): raised an objection on the following grounds:

- We ask the Mayor to refuse the planning application in line with his own initial Stage 1 assessment of the development, which stated that the application did not comply with the London Plan and draft London Plan for reasons including the harmful effect that that the height of the building would have on surrounding heritage assets as well as concerns about the building materials.
- We objected to the initial application on the basis of, inter alia, the harmful impact that the height, mass, location and design of the building would have on the setting of listed buildings in the Maida Vale Conservation Area which covers most of Little Venice ward. This objection was supported by Historic England's own objection and concerns were shared by a number of local amenity societies and residents. The applicant has since added an additional level of offices at Level 18 as well as a lift over-run and plant enclosure, which add supplementary height to the building and would damage views from the Maida Vale Conservation Area further, in particular Blomfield Road, Warrington Crescent and Browning's Pool at Little Venice.

- We welcome changes made to the proposed development, such as the astute and extraordinary increase in the contribution to the housing fund from £1.75 million to £14.3 million, the increase in affordable workspace and the 43% carbon savings, however, we do not believe that these changes outweigh the harm related to the height, mass, location and design of the building.
- Whilst we fully support the provision of office accommodation in the area, we would like to draw your attention to the fact that applicant already has an extant approval in perpetuity for the redevelopment of the site to provide over 25,000m<sup>2</sup> of office space. The approved development would still provide office space for the area but, at 13 storeys and 94 metres in height, on a scale that would be considerably less harmful than the proposed development.

108 Cllr. Geoff Barraclough on behalf of the 19 Labour Councillors in Westminster: raised an objection on the following grounds:

- The Mayor has done a great job wringing an extra £12.5m from British Land but it's not nearly enough to compensate for this 20-storey eyesore, which is still strongly opposed by the community in and around Paddington.
- The affordable housing contribution of £14.3m remains well below the £33m which a building of these dimensions should pay according to Westminster's published policy.
- 5 Kingdom Street will be significantly higher than its surroundings and be visible from a very wide area, including from as far afield as the Serpentine Bridge in Hyde Park.
- Its design, massing and bulk are unsuitable for its location and 5 Kingdom Street will overlook over 40 historic buildings and six conservation areas.
- The views from Blomfield Road, Little Venice and Warrington Crescent are particularly damaging.
- Significant loss of light to the residents of Westbourne Terrace Road who are already suffering from the proposed infill development on Blomfield Mews.

### **Representations summary**

All the representations received in respect of this application have been made available to the Mayor, however; in the interests of conciseness, and for ease of reference, the issues raised have been summarised in this report as detailed above. The key issues raised by the consultation responses, and the various other representations received, are addressed under the relevant topic headers within this report, and, where appropriate, through the proposed planning conditions, planning obligations and/or informatives.

## Environmental Impact Assessment

109 Planning applications for development that are covered by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 are termed “EIA applications”. The requirement for an EIA is based on the likelihood of environmental effects arising from the development. The proposed development is considered to be Schedule 2 development likely to have significant effects on the environment by virtue of factors such as nature, size or location. Consequently, the application is considered to form an application for EIA and it has been necessary that an Environmental Statement be prepared in accordance with EIA Regulations.

110 The applicant submitted a Scoping Report (submitted 27 November 2018) outlining the scope of the Environmental Statement (ES) prior to the submission of the application to Westminster City Council. Following consultation with the relevant consultation bodies, Westminster City Council issued a Scoping Opinion on 9 January 2019. This confirmed that the scheme constituted EIA development and set out advice and instructions in relation to the methodology of the assessment. It identified a range of potential effects that would need to be included in the ES that was required to be submitted with the application.

111 The submitted ES is divided into four volumes covering the 1) non-technical summary of vol. II and III 2) main assessment text; 3) the townscape, heritage and visual impact assessment; 4) technical appendices (including technical reports about archaeology, contamination, transport, flood risk, ecology, air quality, noise and vibration, construction management, socio-economic effects, sunlight, daylight and overshadowing). The statement included qualitative, quantitative and technical analysis of the impacts of the development on its surrounding environment in physical, social and economic terms. The impacts of the planning application are assessed individually and cumulatively with other consented applications in the vicinity of the application site.

112 An addendum to the ES was submitted by the applicant on 31 July 2020 to accompany the revisions to the application. The addendum confirms that the revisions do not cause any new or different likely significant effects than those assessed under the original ES, apart from the socio-economic effects (which have been positively enhanced) and the overshadowing impacts on one neighbouring property (the rear garden of 25 Westbourne Terrace, which is now more negatively impacted).

113 Under the various subject headings, this report refers to the content and analyses contained with the ES and comments upon its findings and conclusions.

## Principal planning issues

114 Having regard to the site and the details of the proposed development, relevant planning policy at the local, regional and national levels, and, the consultation responses and representations received, the principal planning issues raised by the application that the Mayor must consider are:

- *Land use principles* (including office-led development and associated mixed uses);
- *Heritage* (including the setting of registered parks and gardens, conservation areas, listed buildings and non-designated heritage assets);
- *Design* (including layout and public realm, height and massing, architectural quality and appearance, LVMF, fire safety, designing out crime and inclusive design);
- *Living conditions at neighbouring properties* (including daylight and sunlight, overshadowing, sense of enclosure and privacy, noise and light pollution);
- *Sustainability and climate change* (including energy, flood risk and drainage, urban greening and ecology);
- *Other environmental issues* (including air quality, noise, wind microclimate, waste and contaminated land);
- *Transport* (including trip generation and mode split, vehicle and access parking, taxi pick up/drop off, cycle parking and facilities, vision zero and healthy streets, delivery and servicing, demolition and construction, travel plan, and infrastructure safeguarding); and
- *Mitigating the impact of the development through planning obligations.*

115 These issues are considered within the following sections of the report.

## Land use principles

116 This section examines the principle of the proposed land uses. It will assess against the development plan policies the proposed office use (including the proposed affordable workspace and the associated payment in lieu towards affordable housing), the flexible uses proposed (including retail, restaurant/market hall, conference/exhibition space, cinema and gym/sport facility), the proposed auditorium and the proposed community space.

117 The principle of redeveloping the application site to provide an office-led scheme was established within planning permission 09/08353/RESMAT, which was granted in January 2010 and formally implemented. The implementation was confirmed by certificate of lawfulness application 11/12117/CLEUD, dated 24 January 2012, and this is a material fall back position against which this application must be considered.

118 Since the grant of the extant permission, the National Policy Framework (February 2019), National Planning Practice Guidance, the London Plan (consolidated with alterations since 2011) (2016) and the Westminster's City Plan (2016) have been adopted. In addition to this, the Mayor's Intend to Publish London Plan 2019 is also now a material planning consideration that carries significant weight and the emerging Westminster's City Plan 2019-2040 is a material consideration, albeit this only carries limited weight at this stage.

119 Notwithstanding this, the changes brought forward within these policy documents do not impact the acceptability of office-led development in principle, which in any case has already been considered acceptable under the implemented permission 09/08353/RESMAT.

120 As mentioned in the *Details of the proposal*, the proposed building would provide the following:

Land Use	Proposed development - sqm (GIA)
Office (including internal ancillary space) (B1a)	48,264 sqm
Flexible retail (A1/A3)	265 sqm
Flexible retail/office use (A1/A3/B1a)	723 sqm
'Public Garden' incl. café/bar (Sui generis)	1,635 sqm
Flexible mix of commercial/leisure/cultural uses: Restaurant (A3); Market Hall (Sui Generis); Conference/Exhibition space (D1/Sui Generis); Cinema (D2); Gym/sports (D2).	3,390 sqm <ul style="list-style-type: none"> <li>- Restaurant/Market hall: would make up to a maximum of 100% of total area;</li> <li>- Conference/Exhibition space: would make up to a maximum of 100% of total area;</li> <li>- Cinema: would make up no more than 50% of total area;</li> <li>- Gym/sports: would make up no more than 50% of total area.</li> </ul>
Affordable Workspace (B1a)	3,900 sqm
Education and community space (D1)	100 sqm (to be connected to facilities within the affordable workspace)
Auditorium (Sui Generis)	738 sqm
Mixed Use Ancillary (plant, servicing, etc.)	6,913 sqm

121 Specific land use considerations are outlined in detail below.

## Office

122 The NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. In line with paragraph 80, significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

123 London Plan Policy London Plan Policy 2.13 and Policy SD1 of the Mayor's Intend to Publish London Plan support the growth and regeneration potential of Opportunity Areas. In particular, the Paddington Opportunity Area has been considered suitable to provide capacity for 5,000 jobs in the London Plan, which is proposed to increase to 13,000 jobs in the Intend to Publish London Plan. At a local level, Policy S3 of Westminster's City Plan states that the Paddington Opportunity Area also encourages the provision of a range and mix of uses across the Opportunity Area including a range of offices, flexible workspaces and light industrial units, including large floorplate office stock and affordable business floorspace suitable for small business and Creative Industries.

124 London Plan Policy 2.10 promotes a mix of local as well as strategic uses within the CAZ, whilst Policy SD5 within the Mayor's Intend to Publish London Plan seeks to give greater weight to office and other commercial CAZ functions. It should be noted that Policy SD5 is not subject to the Direction from the Secretary of State. At a local level, Policy S6 of Westminster's City Plan allows and encourages the growth of commercial uses within the Core CAZ, recognising the importance of ensuring that the area retains its globally important function as a business location.

125 London Plan Policy 4.2 and Policy E1 of the Mayor's Intend to Publish London Plan support new office space of different sizes. Policy E2 of the Intend to Publish London Plan, which is not subject to the Direction from the Secretary of State, supports the provision of a range of Use Class B business space, in terms of type, use and size, at an appropriate range of rents, to meet the needs of micro, small and medium-sized enterprises (particularly where more than 2,500 sqm of Use Class B floorspace is proposed).

126 At a local level, Policy S20 directs new office development to defined locations within Westminster, including the Paddington Opportunity Area, and adds that the Council will work to exceed the target of additional B1 Office floorspace capacity. In addition, Policy S12 of the Westminster's City Plan, relating to the North Westminster Economic Development Area, requires that development should contribute to increasing economic activity within the area and notes that B1 uses are acceptable throughout the Economic Development Area as part of major developments.

127 Considering that the policy context outlined above strongly supports an increase in provision of office space and associated jobs in the CAZ and in the Paddington Opportunity Area, the office accommodation accords with the development plan.

128 It is acknowledged that residents raised objections and concerns in relation to the potential lack of demand for this new office space, particularly in light of the effects of the COVID-19 pandemic and the potential prospects of increased home-working in the future, but also arguing that there are existing office blocks lying empty in the area in the area (albeit no address was provided).

129 First, it should be mentioned that the applicant has analysed the vacancy rates in Paddington and found that the rate in Paddington is at 3.4%, which is lower than Central London (currently at 5.7%, with 10-year average is 2.8%) and lower than West End (currently at 4.2%). Savills and Colliers also reported similar numbers, with the first reporting West End office vacancy rate of 4.9% at the end of July 2020, and the latter reporting a rate of 4.4% at the

end of June 2020. It is therefore considered that the blocks could be lying empty as a result of subdued return by office workers because of Covid-19, rather than because of true vacancies.<sup>10</sup>

130 Secondly, whilst it is acknowledged that the pandemic may generate a shift in the future in the way people work in London and use office space, it should also be recognised that at present there is not enough evidence to demonstrate that demand for office space has reduced so significantly and drastically, or permanently, as to be a material consideration to outweigh the normal application of the development plan and the associated planning policies.

131 It should also be noted that the applicant's consultants, who drafted the Office Market Assessment in 2019, reiterated in September 2020 that the conclusions of the assessment still stand and that, whilst demand is weak at the current time, strong demand for large floorplate, flexible space is expected to continue in the future, particularly in the context of the Paddington Area, which is a very high performing office market where supply of high quality space is still constrained. Another important factor that should be considered is that Westminster, according to its latest Authority Monitoring Report (AMR) published in March 2020, has seen a large decline in office floorspace since 2013, with a net loss of over 341,569 sqm and further losses in the pipeline (with developments under construction indicating a further decrease of 433,900 sqm of B1 floorspace).

132 S38(6) of the Planning and Compulsory Purchase Act 2004 ('the PCPA 2004') states that "determination must be made in accordance with the [development] plan unless material considerations indicate otherwise". Considering the lack of robust or reliable evidence of reduced demand for office space in the CAZ and in the Paddington Opportunity Area, full weight should be given to the policies of the development plan which support further office space in this location. As the proposed office floorspace would comply with the relevant policies of the development plan which support that land use on the application site (as discussed above), the delivery of new office floorspace in the quantum and form proposed is considered acceptable in principle.

133 A condition is recommended to ensure that the office floorspace remains in use as such and is not used for any other purpose, due to the need to protect office floorspace in the Paddington Opportunity Area and Central Activities Zone.

#### Affordable workspace

134 Policy E3 of the Intend to Publish London Plan supports the provision of affordable workspace and the use of planning obligations to secure it at rents maintained below the market rate for a specific social, cultural or economic development purpose. It should be noted that Policy E3 is not subject to the Direction from the Secretary of State. At a local level, Policy S3 of the Westminster's City Plan supports the provision of a range and mix of uses across the Opportunity Area including a range of offices, flexible workspaces and affordable business floorspace suitable for small business and Creative Industries. It should be noted that emerging Policy 14 of the City Plan 2019-2040 also states that "Proposals involving the provision of affordable workspace will generally be supported throughout the commercial areas of the city".

135 The proposed development would provide 3,900 sqm of affordable workspace to be managed by a workspace provider that would be approved by the Council. The workspace would be provided at a range of discounts to the average market price (all-inclusive) of comparable co-working spaces in the Paddington area. Discounts would range between 10%

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<sup>10</sup> The Mayor of London is to commission major new research into future of central London to better understand the challenges, opportunities and impacts of the Covid-19 pandemic. The research will investigate the emerging trends that might affect London's city centre economy including a snapshot of the central London office market.

and 100% (issued according to an eligibility matrix, to be agreed with the Council) and would result in an average of 50% discount across the whole space. It would be the responsibility of the applicant (or the workspace operator) to monitor and report to the Council on the delivery of 50% average discount. This would give the workspace appropriate flexibility to let the space to end users with different requirements.

136 This proposal would also be accompanied by a support fund (the 5KS Affordable Workspace Fund, instigated by British Land with an initial £50,000 investment) to help local start-up and SME businesses grow. This fund would also be used to reinvest any surplus of fees that may be generated by providing the workspace at an average discount of less than 50%. In those instances, the surplus would be reinvested into the 5KS Affordable Workspace Fund. There would also be controls in place to ensure that the average discount of 50% continues to be delivered.

137 It is accepted that the workspace would be provided within the Box and, given that the layout has not been defined at this stage, a condition is recommended to ensure that the final proposed design and layout, as well as the wayfinding and lighting strategy, are acceptable.

138 Rent levels, an affordable workspace management plan (to be approved by the Council), an affordable workspace marketing strategy (also to be approved by the Council) and appropriate triggers for the delivery of the affordable workspace (25% of occupation of market office space) would be secured within the section 106 agreement, in line with Policy E3 of the Intend to Publish London Plan.

139 Whilst the average affordable workspace rent levels are not as low as some others recently secured in other parts of London on a £/sqft basis, they are an all-inclusive rate and they do represent a significant discount on local market office rents. A significant quantum of space is also proposed and there is flexibility for start-up businesses to benefit from an even greater discount. The proposed affordable workspace is therefore welcomed and supported, and is a significant planning benefit of the scheme.

#### Mixed-use development

140 London Plan Policy 4.3 states that “within the Central Activities Zone and the north of the Isle of Dogs Opportunity Area, increases in office floorspace, or those above a justified local threshold, should provide for a mix of uses including housing, unless such a mix would demonstrably conflict with other policies in this plan”. Part B of this policy requires local policies to develop local approaches to achieve this.

141 At a local level, Policy S1 of the Westminster’s City Plan requires development within Core CAZ, the Named Streets, and Opportunity Areas, which includes net additional B1 office floorspace, to provide residential floorspace or an equivalent payment in lieu equivalent to the net additional B1 office floorspace less 30% of the existing building floorspace. The residential floorspace will be provided in accordance with the below cascade:

- i. The residential floorspace will be provided on-site or in the immediate vicinity of the site.
- ii. The residential floorspace will be provided off-site, including by mixed use credits (Policy CM47.2), on a site in the vicinity of the development site, or in the case of Victoria and Paddington Opportunity Areas, within that Opportunity Area.
- iii. The residential floorspace will be provided off-site, including by mixed use credits (Policy CM47.2) elsewhere within the CAZ. This part of the cascade does not apply to Victoria and Paddington Opportunity Areas. The housing provided must be of a higher quality than would be possible under i. or ii. above.

- iv. Payment of an appropriate payment in lieu to the Affordable Housing Fund equivalent to the net additional B1 office floorspace less 30% of the existing building floorspace.

142 As mentioned above, the proposals would include the provision of office floorspace ranging between 52,164 sqm and 52,887 sqm (depending on whether the office use is implemented for the flexible retail/office space of 723 sqm). The extant permission allowed for the provision of 25,224 sqm, which would be considered as “existing floorspace” within the meaning of Policy S1. Therefore, the associated quantum of residential floorspace that would be sought in the first instance would be between 19,373 sqm and 20,096 sqm GIA.

143 Considering the policy cascade, the applicant considered that the residential floorspace could not be provided and a payment in lieu to the Affordable Housing Fund of £14.3 million has been proposed for the following reasons. Based on the Council’s published ‘per unit sum’ of £304,000 (April 2016), this could deliver approximately 47 affordable housing units.

144 First, the application site was not considered suitable for residential use, given its location bounded by the Westway and the railway lines. Noise surveys have been completed at the site and it was found that noise levels would range between 64dB and 80 dB, requiring noise mitigation measures of extremely high performance to provide an acceptable noise climate for occupants. In addition, mechanical ventilation and cooling would likely be necessary to meet statutory requirements/industry guidance, which would add significant environmental cost. Furthermore, there would be air quality implications in association with the provision of residential floorspace on site and this use is therefore considered unsuitable.

145 Secondly, no suitable sites were found in the vicinity of the development site to provide the residential floorspace off-site of the quantum required. There would be no opportunities to provide new residential floorspace within the Paddington Central campus, as the estate is currently 99% occupied. In addition, British Land commissioned a site search, to identify potential opportunities for residential development in the vicinity of the site. However, whilst this search identified 18 sites within the Paddington Opportunity Area, these sites were not considered practical.

146 The Council confirmed that the proposed development would trigger the requirement of £34,336,832 towards the affordable housing fund, which is significantly higher than the £14,300,000 proposed by the applicant. The application is therefore supported by a viability report, which demonstrates that a higher payment would not be viable. The applicant states that there is already a viability deficit in land value terms, which is accepted because the proposed scheme would generate a level of return which, in capital terms, would be greater than that generated by the extant planning permission.

147 GLA officers have scrutinised the submitted viability information and identified that the proposed scheme is marginally in deficit against the Benchmark Land Value. The financial contribution of £14.3m proposed for affordable housing is therefore considered to represent the maximum reasonable amount.

148 It should also be noted that Policy S3 of Westminster’s City Plan states that “the requirement for residential floorspace as part of new commercial development may be applied more flexibly where the Council considers this to be necessary in order to deliver substantial planned transport and/or public realm improvements which are [...] of benefit to the local community”. It is acknowledged that the proposed connection from Harrow Road to the site and the associated public realm improvements would benefit the local community and this can be considered, in addition to viability, as a further reason to accept a lower contribution than Policy S1 would theoretically require.

## Flexible uses

149 The proposals would provide the following flexible uses (in addition to the office use discussed in section *Office*):

- i. up to 988 sqm of retail;
- ii. up to 988 sqm of restaurant;
- iii. up to 3,490 sqm of restaurant/market hall;
- iv. up to 3,490 sqm of conference/exhibition space;
- v. up to 1,895 sqm of cinema;
- vi. up to 1,895 sqm of gym/sport facility.

150 The proposed retail, restaurant/market hall uses, cinema and gym/sport facility would constitute a significant amount of retail and leisure uses. Paragraph 89 of the NPPF states:

*When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:*

- a) *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- b) *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*

151 As discussed below (in sections *Retail, Restaurant and Market Hall, Conference and Exhibition Space / Cinema and Gym/sports*), the proposed uses are considered to comply with planning policy and a Town Centre Impact Assessment would consequently not be required. However, as it is noted that the Council considered UDP Saved Policy SS 11 to apply and to require Town Centre Impact Assessment (as mentioned in section *Retail*), the applicant has accordingly submitted such an assessment.

152 This assessment concludes that the proposed retail and restaurant/market hall uses would not cause harm to the vitality and viability of nearby shopping areas or centres, for a number of reasons including:

- The proposed development and the increase in employees in the area would generate an independent need for the proposed A3/market hall floorspace;
- There is no planned investment in the nearby centres that would be put at risk by the proposed development;
- The centres in the surrounding area are in good health and are unlikely to be vulnerable to trade diversion from existing cafe/restaurant uses;
- In any case, the level of trade diversion from these centres is likely to be negligible;
- The increase in workers and visitors in the area from the proposed development may benefit nearby centres, as they may be drawn to the shops and services in these nearby centres.

153 The Council agreed with the conclusions of the Assessment and GLA officers concur with this view. As such, the proposed uses would comply with paragraph 89 of the NPPF.

154 The assessment of the specific flexible uses is outlined below (sections *Retail, Restaurant and Market Hall, and Conference and Exhibition Space / Cinema and Gym/sports*).

## Retail

155 London Plan Policy 2.10 and Policy SD4 of the Mayor's Intend to Publish London Plan promote a mix of local as well as strategic uses within the CAZ. Policy 4.9 of the London Plan and Policy E9 of the Intend to Publish London Plan state that large-scale commercial developments should consider securing a provision of small and affordable shop units. At a local level, Policy S6 of the Westminster's City Plan encourages the provision of retail floorspace throughout the area, including Opportunity Areas. In addition, Policy S3, which relates to the Paddington Opportunity Area, welcomes the provision of a range and mix of uses to support the economic and social regeneration of the area, including retail. Policy S21 states that new retail floorspace will be directed to the designated shopping centres, however, the supporting text recognises that larger retail development may also be appropriate to the Opportunity Areas where they can be introduced sensitively.

156 Saved UDP Policy SS11 aims to resist major retail developments that would have a negative impact on the viability and vitality of Westminster's existing shopping centres. The subtext to Policy SS11 states that the policy applies to any major retail proposal including those that contain A2 or A3 uses, although it does not provide a definition of what constitutes 'major'<sup>11</sup>. However, the subtext also states that "in the case of large A3 developments, policy TACE10 will take precedence", therefore, the combination with the A3 use is not discussed here and is discussed within section *Restaurant and Market Hall* against policy TACE 10.

157 The proposals would include the potential of providing up to 988 sqm of flexible space operating as A1 retail, which would activate the base of the building and would likely serve the office workers within the development.

158 It is noted that Saved UDP Policy SS11 aims to resist major retail proposals outside existing shopping centres. However, considering the proposed size of maximum 988 sqm in the context of a building of 65,928 sqm, it is the GLA officers' view that the space would complement the main office use and it would not constitute a major retail proposal.

159 However, it is also acknowledged that the Council considered UDP Saved Policy SS 11 to apply and to require the submission of a Town Centre Impact Assessment to demonstrate that the proposal would not cause harm to the vitality and viability of shopping areas or centres in the catchment area of the development.

160 As the submitted assessment concluded that the vitality and viability of neighbouring shopping centres would be preserved (as mentioned in section *Flexible uses*), which is the key aim of the policy, it is considered that even in the case in which UDP Saved Policy SS 11 was regarded as relevant to the proposals, the application would be compliant.

161 The proposed retail use is therefore considered compliant with all the policies mentioned above and is supported.

## Restaurant and Market Hall

162 London Plan Policy 2.10 and Policy SD4 of the Mayor's Intend to Publish London Plan promote a mix of local as well as strategic uses within the CAZ. Policy HC6 of the Intend to Publish London Plan promotes, particularly in areas like the CAZ, the night-time economy, which refers to all economic activity taking place between the hours of 6pm and 6am and

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<sup>11</sup> It is noted that the glossary of the Westminster's City Plan defines "Major development (small scale)" as "Development where: the proposed number of new residential units to be attained from the proposal is between 10 and 199 or a site area of between 0.5 hectares and less than 4 hectares; or the proposed gross floorspace to be built created is between 1,000 sqm and 9,999 sqm or a site area of between 1 hectares and less than 2 hectares".

includes evening uses. At a local level, Policy S3, which relates to the Paddington Opportunity Area, welcomes the provision of a range and mix of uses to support the economic and social regeneration of the area, including entertainment. Policy S24 of the Westminster's City Plan states that new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. Furthermore, Saved UDP Policy TACE 10 states that permission for large or very large entertainment uses will be granted only in exceptional circumstances and, where granted, they will be subject to conditions to control its operation where necessary and appropriate.

163 In relation to Saved UDP Policy TACE 10, it should be noted that it was adopted prior to the publication of the NPPF and an appeal in 2012 (APP/A/12/2183693) has affected the way Westminster City Council has applied this policy. In this appeal, the Inspector determined to grant permission, because he considered that the proposed use would not result in material harm to the living conditions of adjacent occupiers and that the absence of proven harm qualified as an exceptional circumstance. It is consequently considered that proposals preserving the living conditions at neighbouring properties would comply with the policy and be acceptable.

164 The proposals would include the potential of providing up to 3,490 sqm of combined restaurant use (A3) and market hall (Sui generis) in the Box. In addition, they could include a small 'sui generis' cafe/ bar within the public garden space and up to 988 sqm of flexible space operating as A3.

165 The immediate vicinity of the application site is generally commercial in character with office, retail and hotel uses to the south and to the east of 5 Kingdom Street. The closest residential properties are on Westbourne Terrace Road, approximately 50m away.

166 The key concern relating to the proposed uses would be the potential disturbance caused by large numbers of people leaving the premises late in the evening. However, in this respect the Westminster Committee Report notes that the proposed use would be similar, albeit larger, to the existing meanwhile use operating on site since 2017 as a mixed-use restaurant and bar and covering approximately 1,500 sqm. The report also states that the permission for the meanwhile use included conditions to secure an Operational Management Plan, which have proven successful to mitigate any harm arising from the restaurant/bar use to the living conditions at neighbouring properties.

167 The applicant has submitted a draft Operational Management Plan, noting that a number of practical measures could be put in place to ensure that living conditions are preserved at neighbouring properties, including: the presence of an experienced security team, the presence of staff to guide visitors and prevent anti-social behaviours, the management of queues and the presence of a new taxi and private hire pick-up point on the southern side of the application site. As noted by the Council, the proposals would connect the site with Harrow Road and would therefore provide another transport connection towards Royal Oak, which would help disperse the patrons.

168 It is therefore considered that a condition securing an interim Operational Management Plan (once the configuration of the uses has been decided) to be submitted prior to the commencement of the use and requiring the submission of a final Operational Management Plan within 6 months of commencement of the uses would adequately mitigate the potential harm arising by the movement of large numbers of people leaving the premises late in the evening.

169 With regards to the management of odour, detailed ventilation and extraction arrangements have not been finalised at this stage. However, it is acknowledged that it would be possible for them to be designed in accordance with WCC Environmental Health requirements, once the configuration of the uses has been decided. It is therefore considered that a condition securing that no primary cooking takes place within the development unless details of a suitable ventilation system have been approved by Council would ensure that the proposals would not cause nuisance at neighbouring properties.

170 The applicant has also submitted a Delivery, Servicing and Waste Management Plan to demonstrate how the proposed scheme of development would be serviced to ensure there is no adverse impacts on local amenity. The plan includes provision of a dedicated off-street service bay, located at B3 Level, which would be acceptable.

171 Furthermore, the applicant has submitted a Noise and Vibration Impact Assessment by Scotch Partners that concludes that noise sources associated with the development (such as patron noise, noise from entertainment uses and noise from increased taxi frequency) could be readily controlled and would not be out of character with the rest of the development. The noise impacts on neighbouring residential properties are further discussed in the *Noise* section.

172 GLA officers agree that the harm could be mitigated via conditions, requiring the submission of details of the above-mentioned Operational Management Plans, of the ventilation system (if needed) and of the acoustic mitigation measures.

173 In conclusion, it is considered that the proposed A3/Sui generis uses would preserve good living conditions at neighbouring properties, subject to the recommended conditions. This conclusion is consistent with the Council's assessment of the scheme. The uses would therefore comply with the relevant development plan policies and are supported, as they would contribute to the vitality and vibrancy of Paddington and would generate a considerable number of new jobs, which are welcomed.

#### Conference and Exhibition Space / Cinema and Gym/sports

174 London Plan Policy 4.6 and Policy HC5 of the Intend to Publish London Plan supports the continued growth and evolution of London's diverse cultural facilities and creative industries. Policy HC5 furthermore seeks to ensure that Opportunity Areas and large-scale mixed-use developments include new cultural venues. Policy HC6 of the Intend to Publish London Plan, promotes the night-time economy and the diversification the range of night-time activities (including evening uses). London Plan Policy 3.19 and Policy S5 of the Intend to Publish London Plan support the provision of new sports facilities.

175 At a local level, Policy S3, which relates to the Paddington Opportunity Area, welcomes the provision of a range and mix of uses to support the economic and social regeneration of the area, including entertainment and arts/cultural uses. Policy S22 of the Westminster's City Plan states that new arts and cultural uses and tourist attractions will be acceptable within the Core CAZ, the North Westminster Economic Development Area and the Strategic Cultural Areas. Policy S23 directs new conference facilities to the Paddington Opportunity Area, the CAZ, and other areas. UDP Saved Policies TACE 4 and 5 states that permission for, respectively, conference and related facilities, and new arts and cultural uses, will be granted within the CAZ, where there would be no adverse effects on the character and function of the area and on residential amenity. Policy TACE 5 also mentions that there should be no adverse environmental or traffic effects. UDP Saved Policy PSPA 4 states that new conference facilities will be acceptable in the Paddington Special Policy Area where they do not prejudice the provision of preferred uses outlined in policy PSPA 2 (superseded by Policy S3 of the Westminster's City Plan, which seeks to promote the provision of homes and jobs).

176 The proposals would include the potential of providing up to 3,490 sqm of conference/exhibition space in the Box, which could be used for range of arts, cultural, professional and leisure events.

177 The proposals would also include the potential of providing up to 1,895 sqm for a cinema and up to 1,895 sqm for a gym (or other sport facility) in the Box.

178 These uses would be supported, as they would diversify the mix of uses in Paddington and add vitality to the area. Subject to adequate mitigation measures being secured to ensure that there would be no adverse impacts on residential amenity, traffic and environment, the proposed uses would comply with the policies outlined above. A condition is therefore recommended to secure the submission of an interim Operational Management Plan prior to the commencement of the use and a final Operation Management Plan within 6 months of commencement of the uses.

### **Auditorium**

179 The relevant policies would be Policy 4.6 of the London Plan, Policy HC5 and HC6 of the Intend to Publish London Plan, Policy S3 and S22 of the Westminster's City Plan and UDP Saved Policy TACE 5 (as mentioned above in section *Conference and Exhibition Space / Cinema and Gym/sports*).

180 The proposals include a 250-seat auditorium within the Box, with a floorspace of 738 sqm extending on both B2 and B3 levels, which can be used with raked seating accessed from B2, or as a double height space accessed from B3. The flexibility of the space would enable it to be used for a range of different activities, like cultural, business and community events.

181 This is supported, as it would offer a flexible event space in the CAZ and in the Paddington Opportunity Area, diversifying and enhancing the mix of uses. Subject to adequate mitigation measures being secured to ensure that there would be no adverse impacts on residential amenity, traffic and environment, the proposed auditorium would comply with the policies outlined above. A condition is therefore recommended to secure the submission of an interim Operational Management Plan prior to the commencement of the use and a final Operation Management Plan within 6 months of commencement of the uses.

182 The applicant has also committed to making the auditorium available free of charge to the community for four sessions a month (where a 'session' is defined as a morning slot, afternoon slot or evening slot). This would be secured in the S106 agreement and is strongly supported, in line with social infrastructure policies 3.16 of the London Plan, Policy S1 of the Intend to Publish London Plan, Policy S34 of the Westminster's City Plan and Saved UDP Policy SOC1.

### **Community space**

183 Policy 3.16 of the London Plan and Policy S1 of the Intend to Publish London Plan encourage the provision of social infrastructure that addresses local or strategic needs. At a local level, Policy S3, which relates to the Paddington Opportunity Area, welcomes the provision of a range and mix of uses to support the economic and social regeneration of the area, including social and community facilities. Policy S34 of the Westminster's City Plan states that new social and community facilities will be encouraged throughout Westminster and will be provided on large scale development sites. Saved UDP Policy SOC1 also supports the provision of community facilities and the public use of private facilities on appropriate sites.

184 The application, prior to the Mayor calling it in, included a 150sqm dedicated space for local people to use free of charge for community-based events. This included the provision of

independent facilities (including toilets, kitchens and back of house space) within the 150sqm floorspace.

185 However, this was subsequently revised to connect the community space with the affordable workspace, to avoid the risk of the space remaining empty when not in use by the community. It is now proposed that the community would be allowed first refusal of slots until 2 weeks before, when availability of the space would be opened up to the affordable workspace occupiers. This change in the management of the space has led to a redesign of the community space, which now envisages the facilities to be shared with the affordable workspace, rather than independent as originally submitted. This also led to a consequent reduction in floorspace from 150sqm including facilities to 100sqm of net usable space.

186 As the Committee Report states, “given the location, scale and nature of the proposed development, new social and community facilities are encouraged [...] to support the economic and social regeneration of the area”. The report also stated that “while compared to the scale of the development as a whole, this is a small amount of floorspace, this space is welcomed”. Whilst the Council objected on the potential loss of the community space, it now maintains the same position that the provision is welcomed<sup>12</sup>. GLA officers agree and also support the proposed community space. The floorspace, access to the affordable workspace facilities and booking mechanism free of charge would be secured in the S106 agreement.

## **Public toilets**

187 Policy 7.5 of the London Plan and more specifically Policy S6 of the Intend to Publish London Plan support the provision of public toilets. Policy S6 states that large-scale developments that are open to the public should provide and secure the management of free publicly-accessible toilets suitable for a range of users and free ‘Changing Places’ toilets, to be available during opening hours. At a local level, UDP Saved Policy SOC 8 also aims to ensure that public toilets are accessible, safe and adequately distributed throughout Westminster.

188 The proposals include publicly accessible toilets on B1 and B2 levels, which would be the areas of the development most frequently used by the public. These include disabled toilets, however, there would be no provision of ‘Changing Places’ toilets designed in accordance with the guidance in British Standard BS8300-2:2018. It is therefore recommended that, notwithstanding the submitted drawings, details of the public toilets are secured to include the provision of a ‘Changing Places’ toilet and to secure an increase in the quantum, if this is required by the final mix of uses.

## **Conclusions**

189 The proposed office-led mixed-use building would complete the redevelopment of the Paddington Central estate within the Paddington Opportunity Area, delivering a significant amount of office floorspace (approx. 52,000 sqm), which would positively contribute towards the diversity of workspace and businesses within the CAZ and Opportunity Area. This would include a significant amount of affordable workspace (3,900 sqm), at an average discount of 50% of market rent.

190 The affordable housing contribution of £14,3 million would fall significantly below the £34 million required by planning policy, however, the viability information submitted with the

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<sup>12</sup> Subject to it being adequately secured in the S106. However, it should be noted that the Council maintains the view that the proposed public benefits would be insufficient to outweigh the harm caused by the proposals to heritage assets.

application has been thoroughly scrutinised and ensures that the maximum contribution towards affordable housing is secured.

191 The flexible uses within the development would contribute to the diversity of the mix of uses and vitality in the area and activate the base of the building. The provision of the community space would also be strongly supported.

192 Overall, the proposals would therefore accord with planning policy, as set out in London Plan Policies 2.10, 2.13, 3.11, 3.16, 4.2, 4.6, 7.5, Intend to Publish London Plan Policies SD1, SD4, SD5, E1, E2, E3, H4, HC5, HC6, S1, S6 of the Mayor's Intend to Publish London Plan, Westminster's City Plan Policies S1, S3, S6, S12, S20, S21, S22, S23, S24, S34 and UDP Saved Policies SS 11, TACE 4, TACE 5, PSPA 4, SOC 1, SOC 8.

## Heritage

193 This section assesses the impact of the proposal on heritage assets (including registered parks & gardens, conservation areas, listed buildings and non-designated heritage asset). The overall harm is subsequently assessed against the public benefits offered by the proposal in the final *Conclusion and planning balance* section.

194 The site is not located within a conservation area and does not include any listed buildings. There are however a number of heritage assets nearby and owing to the height and scale of the proposal the development has the potential to impact on their settings. A Townscape Heritage and Visual Impact Assessment (THVIA) has been submitted with the application within the Environmental Statement (ES) and tests the impacts of the proposal on the setting of surrounding heritage assets and townscape including views from neighbouring conservation areas and listed buildings. The THVIA assesses potential townscape impacts from agreed viewpoints that were selected in consultation with Westminster City Council officers. The THVIA has been updated following the amendments submitted in July 2020.

195 Verified views in accurate visual representations (AVRs) showing how the proposal would look from different locations, accurately merging the scheme into photos of the townscape have been submitted. The assessment considers the visual implications of the changes from these viewpoints and also considers the change compared to the extant consent. GLA officers concur that all key views have been considered, however, it should be acknowledged that the submitted representations are static and perceptions of the development would vary when moving around each location. Furthermore, whilst the views are AVRs, GLA officers recognise that the choice of lens used for the production of these images can distort the appearance of the view to the effect that the proposed development appears smaller in reality and acknowledge the objectives of the latest Landscape Institute guidance in this respect. Overall however GLA officers consider that the assessment is robust, coupled with site visits that are an important part of appreciating visual impact in any case. It is also noted that it is not possible to evaluate every single viewpoint from where the development may be seen, but the views selected are considered to be those most sensitive ones.

196 The THVIA within the ES has been independently reviewed by heritage consultants commissioned by the GLA, Turley, whose opinions are discussed throughout this section.

197 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the tests for dealing with heritage assets in planning decisions. In relation to listed buildings, all planning decisions should “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

198 The NPPF identifies that the extent and importance of the significance of the heritage asset is integral to assessing the potential impact, and therefore acceptability. The definition of significance in this context is the value of the heritage asset in relation to its heritage interest and this may be archaeological, architectural, cultural or historic. It may also derive from a heritage asset’s physical presence as part of the townscape or its setting.

199 The NPPF also states that, where a proposed development will lead to ‘substantial harm’ or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Where a development will lead to ‘less than substantial harm’, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

200 The *Barnwell Manor Wind Farm Energy Limited v East Northamptonshire District Council* confirmed that “Parliament in enacting section 66(1) did intend that the desirability of preserving

listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given ““considerable importance and weight” when the decision-maker carries out the balancing exercise.” The case also makes it clear that there is a strong presumption against granting planning permission that would harm the character and appearance of a conservation area.

201 London Plan Policy 7.8 and Policy HC1 of the Intend to Publish London Plan state that development affecting heritage assets and their setting should conserve their significance.

202 At a local level, Policy S11 of the Westminster’s City Plan aims to protect the Royal Parks, their settings and views from inappropriate development. Policy S25 of the City Plan promotes the conservation of Westminster’s extensive heritage assets. Policy S28 of the City Plan promotes exemplary standards of architecture and even imaginative modern architecture, provided that it respects Westminster’s heritage and local distinctiveness. Policy S37 of the City Plan aims to protect and enhance the character, appearance, heritage and landscape value of the Blue Ribbon Network and its setting.

203 UDP Saved Policy DES 1 aim to protect the character, urban grain, scale and hierarchy of existing buildings; the spaces between them; the character, scale and pattern of historic squares, streets, lanes, mews and passageways; the form, character and ecological value of parks, gardens and planned open spaces. UDP Saved Policy DES 3 states that high buildings will not be permitted where they would have an adverse impact the character and appearance of designated conservation areas or upon listed buildings and their settings or upon the views obtained from the Royal Parks, the Grand Union Canal and Regent’s Canal (among others).

204 UDP Saved Policy DES 9 aims to preserve or enhance the character or appearance of conservation areas and their settings. UDP Saved Policy DES 10 aims to protect and enhance listed buildings, their settings and those features of special architectural or historic interest that they possess. UDP Saved Policy DES 12 aims to preserve or enhance the appearance and integrity of open spaces and their settings. UDP Saved Policy DES 13 aims to safeguard or enhance the setting, important views of the Grand Union and Regent’s Canals. UDP Saved Policy DES 15 states that permission will not be granted for developments which would have an adverse effect upon important views of listed buildings, parks, the Grand Union and Regent’s Canals (among others).

## **Registered Parks & Gardens**

205 As mentioned in the site description, to the south of the site lie Hyde Park and Kensington Gardens, which are Grade I listed Registered Parks. In addition to the east of the site also lies Regent’s Park, which is also Grade I listed. A summary of the likely effects from the completed development on these parks is detailed below.

### Regent’s Park

206 The significance of Regent’s Park lies in its historic value as one of the most ambitious urban parks of the early 19th century and its key role in John Nash’s major improvement scheme for north-west London.

207 In the submitted views from Regent’s Park, the proposed building would either fall below the tree-line or project marginally above it, with existing and consented buildings being more prominent and distracting than the proposals. The proposed building would therefore preserve

208 the significance of Regent's Park and its overlapping conservation area designation, causing no harm.

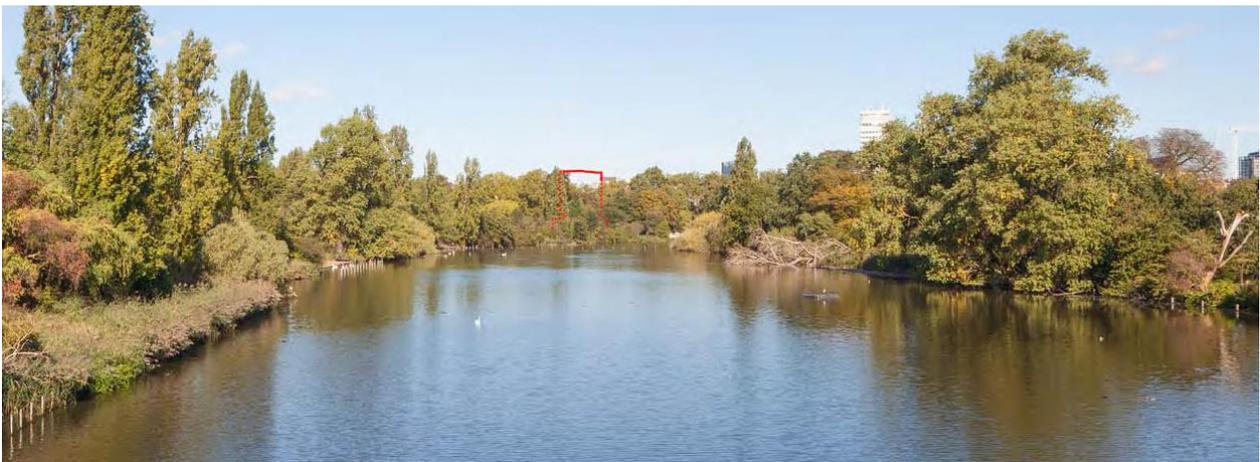
### Hyde Park and Kensington Gardens<sup>13</sup>

209 The significance of Kensington Gardens lies in its historic value as an important example of a substantial royal park, originating from late 17th century and associated with the Grade I listed Kensington Palace. The gardens evolved from the late 17th century as a private royal garden to become a large open public park from the early 19th century. Hyde Park is the eastern continuation of these gardens and parkland, and together forms part of a much larger sequence of Royal Parks within central London.

210 Hyde Park is dominated by its lake, and is well wooded, with many paths laid out as avenues alongside more winding routes and informal planting. Kensington Gardens has closer relationship with the palace, and also a more planned landscape character, with water features and a combination of winding paths and controlled avenues and vistas. The parks are now surrounded by an urban context and its diversity plays an important role in their value as now well-established urban parks.

211 In the submitted views of Hyde Park and Kensington Gardens, the proposals would cause a degree of harm to these assets' settings, particularly to the views from the Serpentine Bridge (5.1 and 5.2, see Figure 33 and Figure 34), which are considered to be the most sensitive views being affected by the development. Historic England commented that "given the layers of exceptionally significant landscape history found in this view, it should be treated as sensitive to change" and, whilst it is recognised that existing and consented schemes would add to the changing skyline, "it would not be beneficial to extend that harm any further".

212 The Council also reported that: "What makes the impact on the view of the current development particularly significant is that the building is positioned almost directly on axis with the alignment of the Long Water, thus very much introducing a prominent terminating point, which harmful erodes the surviving aesthetic landscape concept. The consented scheme<sup>14</sup> can also be seen in this view, but as a lower building it sits at approximately the tree top height rather than projecting prominently above it."



*Figure 33: View from Serpentine Bridge as implemented (View 5.2)*

<sup>13</sup> It should be noted that these parks fall within the Royal Parks Conservation Area (in Westminster City Council) and the Kensington Palace Conservation Area (in Kensington and Chelsea Council) and the impact of the proposals on the setting and significance of these conservation areas is discussed in the *Royal Parks Conservation Area* and *Kensington Palace Conservation Area* sections.

<sup>14</sup> The implemented permission is for 13 storeys (94.12m A.O.D.), while proposed building would be for 20 storeys (123.54m A.O.D.).



*Figure 34: View from Serpentine Bridge as proposed (View 5.2) with other consented schemes shown in wireline.*

213 It is furthermore noted that Historic England commented that in View 4 (see Figure 35), looking north from a central position within Kensington Gardens across the Round Pond, the "visibility of the proposed tall building represents a harmful departure from the presiding character of the view, neither sustaining nor enhancing the significance of the park and its setting."



*Figure 35: View from Kensington Gardens: looking north across the Round Pond (View 4)*

214 GLA officers agree that the existence of harmful building development in these views does not justify further harm. GLA officers also agree that the proposal would cause some harm to the significance of the Registered Parks by distracting from its parkland and landscape character. Nevertheless, it is also considered that the key historic visual relationships and defining landscape character would overall remain legible within these parks and, in the context of the larger designations of each of these registered parks and taken together as a whole, such harm to heritage significance would fall at the lower end of the scale of 'less than substantial' as defined by the NPPF for each of these designations.

### **Conservation Areas**

215 As mentioned in the site description, there are seven conservation areas within 1km of the site. In addition, further away to the south of the site also lie the Royal Parks Conservation Area and the Kensington Palace Conservation Area, which have been considered. The impact of the proposals on these conservation areas is summarised below.

## Royal Parks Conservation Area<sup>15</sup>

216 The significance of the Royal Parks Conservation Area is derived from its particular, historic interest and special architectural and picturesque qualities as a series of Royal Parks within central London. The part of this conservation area most relevant to the consideration of this application is Kensington Gardens and its continuation to the east of Hyde Park across West Carriage Drive. The significance of this area lies in its historic value as an important example of a substantial royal park originating from late 17th century and associated with the Grade I listed Kensington Palace at its western edge. More widely, the Royal Parks Conservation Area is also made up of Green Park and St James's Park. The Royal Parks are essentially the creation of the Picturesque landscaping tradition of the mid-18th to mid-19th century.

217 The proposed building would be visible in a number of longer distance views out from these two parks within the larger conservation area grouping and into their wider varied urban setting. The proposal would therefore have an impact on part of the setting of this conservation area.

218 The most affected areas would likely include the area around the south side of the Round Pond in Kensington Gardens, beyond the line into Hyde Park from the areas of the south side of the Serpentine Lake near to the bridge crossing and north of the lake, and also an area to the eastern side of Hyde Park. Within other large areas of these parks, and also the wider conservation area, views of proposed building would not be so readily gained.

219 As mentioned above in relation to the Registered Parks, whilst the sensitivity of some of these views is recognised, it is considered that the key historic visual relationships and defining landscape character would overall remain legible within these parks and, in the context of the conservation area as a whole, such harm to heritage significance would fall at the lowest end of the scale of 'less than substantial' as defined by the NPPF.

## Kensington Palace Conservation Area

220 The most significant elements of the Kensington Palace Conservation Area lie on its eastern side and include the tree-lined street of Kensington Palace Gardens. This includes grand houses standing well back from the road within a verdant setting and, beyond this, the Grade I listed Kensington Palace. Other parts of the conservation area have a more varied character.

221 Miller Hare prepared a Zone of Visual Influence for the scheme, which shows where the scheme will be visible from. This indicated that there would be some fleeting views of the proposals from this conservation area from mainly the back gardens of the embassies along Kensington Palace Gardens and the car park at the north end. It should also be noted that trees would also heavily screen views towards the proposal. Therefore, there would be an extremely limited visual impact on the quality or character of the views looking out from this conservation area and its significance would not be harmed by the proposal.

## Maida Vale Conservation Area

222 The Maida Vale Conservation Area is largely defined by its residential use. Its character is defined, towards the southern edge, by the Grand Union Canal and Regent's Canal, which

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<sup>15</sup> It should be noted that the impact of the proposals on the setting and significance of the Royal Parks as Grade I listed Registered Parks and Gardens is separately assessed under the *Hyde Park and Kensington Gardens* section.

determined the layout of the roads immediately adjacent to the waterways (Little Venice sub-area). The earlier phases of development mainly consist of avenues and crescents with secondary streets infilling between them. Development up to 1860's is principally brick and stuccoed villas and later development is predominantly made up of red brick mansion blocks. Nevertheless, the imposing stucco crescents are most notable. The tree lined streets and large private gardens give the area a leafy character. The significance of this conservation area is derived from the layout, form, character and appearance of the residential streets and spaces within it.

223 In terms of setting, the Maida Vale Conservation Area is experienced within a densely developed townscape. The remaining complementary townscape of the adjoining Paddington Green Conservation Area positively contributes to the significance of the Maida Vale Conservation Area, however, the larger scale and more modern buildings and infrastructure to the south of the conservation area detract from its significance.

224 The proposed building would be visible from the southernmost part of the conservation area, particularly the Little Venice sub-area, across the canals and their junction. The proposals would therefore have an impact on part of the setting of this conservation area.

225 A cohesive townscape of 19th century stuccoed villas face towards the canal junction as a distinctive feature or focus of the Little Venice sub-area, enjoying views of the waterspace and also providing a picturesque built edge or frame. The proposed building would become visible in views southwards across the water – from Blomfield Road and Warwick Avenue – as a prominent and taller presence on the skyline above other residential buildings in the middleground (albeit this may be partly screened by vegetation).

226 The Council committee report said that View 20 (see Figure 37) shows how the proposed building would introduce “a dramatic and harmful change in scale, at a point where the lower scale townscape to the west and north of the opportunity area lies immediately adjacent”. It also notes that the proposed building would “represent a departure from the prevailing heights and have a singular character and appearance, both in terms of its height, but also its architecture”.

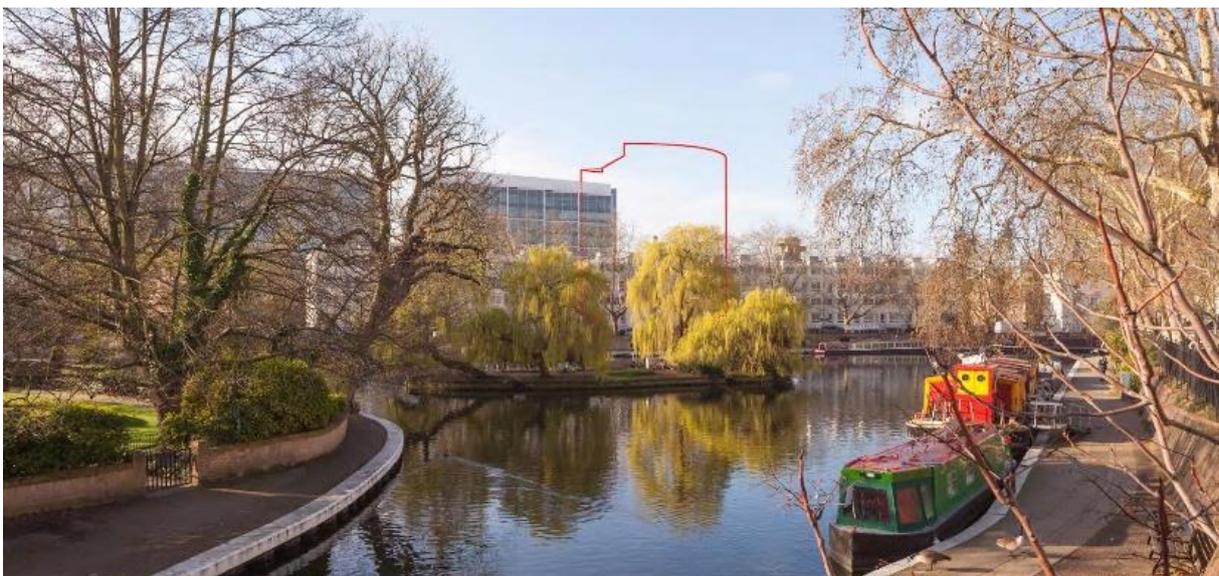


Figure 36: View from junction of Blomfield Road and Warwick Avenue as implemented (View 20)



Figure 37: View from junction of Blomfield Road and Warwick Avenue as proposed (View 20)

227 This is acknowledged, as the proposal's height and conspicuous design would draw the eye and distract from the visual experience of Little Venice and its picturesque composition of built form, greenery and waterscape<sup>16</sup>.

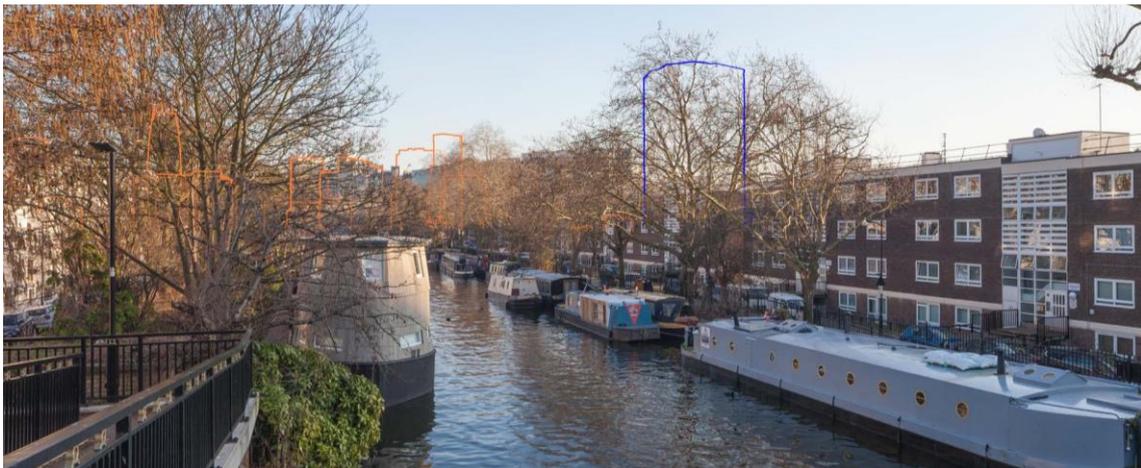


Figure 38: View from Canal Bridge at corner of Formosa Street and Blomfield Road (View 17)<sup>17</sup>.

228 It is also recognised that the proposal would also be visible within some particular views further to the north and within the townscape area, where street alignments and spacing allow. For example, view 14 (see Figure 39) indicates that the proposed building would appear as part of the more distant skyline in longer views looking out from the south end of Warrington Crescent, thus diminishing the prominence of the modernist spire of the unlisted St Saviours Church against the sky and compromising its silhouette, which constitutes a characteristic feature and local landmark of this part of the conservation area.

<sup>16</sup> It should be noted that the impact of the proposals on the setting and significance of the canal network as a non-designated heritage asset in its own right is separately assessed under the *Non-designated heritage assets* section.

<sup>17</sup> The proposal is outlined in blue, while consented schemes are shown in orange.



Figure 39: View of the proposal from Warrington Crescent (View 14)

229 Views 19 and 24 (discussed also in the *Listed buildings* section, when presenting the impact of the proposals on 14-20 and 21-26 Westbourne Terrace Road, see Figure 40 and Figure 45) also demonstrate the prominence that the proposed building would have over the historic townscape of this conservation area. Despite the visibility of no.4 Kingdom Street as a modern presence in these views, the contrast in scale and design manifested by the current proposals for no.5 would draw considerable attention and would thus diminish the visual primacy of the historic buildings.

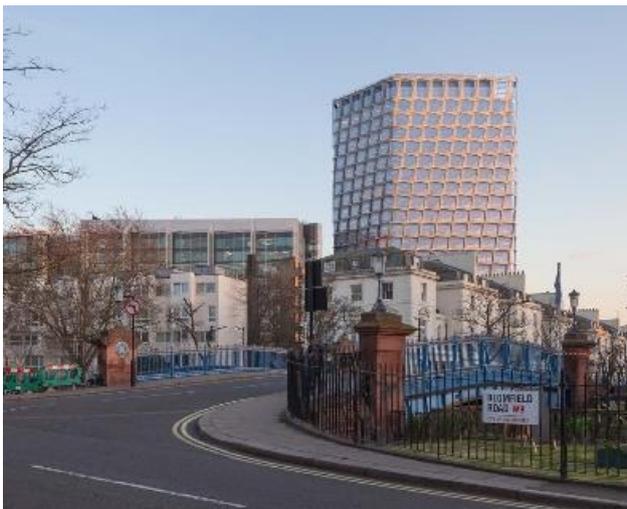


Figure 40: View of the proposal from the junction of Westbourne Terrace Road and Blomfield Road (View 19)



Figure 41: View of the implemented scheme from the junction of Westbourne Terrace Road and Blomfield Road

230 The proposal would therefore cause a degree of harm to the understanding and appreciation of the significance of the Maida Vale Conservation Area, as it would contribute to a further shift of the visual balance away from the historic and still intact parts of this townscape towards the emerging contemporary built character of Paddington Central. However, considering the scale of the proposed changes to the setting of the Conservation Area and their impact on the significance of the Conservation Area as a whole, the harm in this context would be 'less than substantial', as defined by the NPPF, and would fall at the lower end of that scale overall.

## Bayswater Conservation Area

231 Bayswater Conservation Area is predominantly residential, with the prevailing streets and squares of 19th century housing of a consistent scale and density. Mews are also part of the character of the area, as they offer a contrast in scale and a quiet haven from the bustle of the surrounding busy roads. The area has a coherent and generally harmonious architectural character, despite the fact that the area was developed over 70 years by different estates and speculators using different architects. This is derived from the formal planned layout of streets and squares, lined with groups of brick and stucco fronted terraces, in Neo-Classical or Italianate architectural styles. Its significance is derived from these characteristics.

232 In terms of setting, it should be noted that the Westbourne Conservation Area contributes positively to Bayswater Conservation Area's heritage significance, as they both form part of the 19th century residential expansion and rapid development of this area. Queensway Conservation Area differs from this shared townscape character with a much greater mix of uses and built form, and so contributes to Bayswater Conservation Area's significance to a lesser degree.

233 The proposed building would be visible in some shared views out to the north, thus affecting part of the setting of this conservation area. The proposal would likely be visible from a relatively limited part of the Conservation Area as a whole, primarily focused to viewing places along the length of the wider boulevard of Westbourne Terrace (that is orientated north-westwards to the application site), some parallel streets to this axis, and also from part of a number of other streets and garden squares within the northern part of this designated area.

234 Where visible, the proposed building would appear as a prominent modern structure within the background of this conservation area, which would further distract to a degree from the appreciation of Victorian Bayswater. The proposal would therefore contribute to a further shift of the visual balance away from the historic and still intact parts of this townscape towards the emerging contemporary built character of Paddington Central.

235 Nevertheless, the application scheme would be seen on the skyline within the context of other large scale and more modern blocks and it should also be noted that vegetation would contribute to partly screening the proposal. Considering the scale of the proposed changes to the setting of the conservation area and their impact on the significance of the conservation area as a whole, the harm in this context would be 'less than substantial', as defined by the NPPF, and would fall at the lowest end of that scale overall.



*Figure 42: View of the proposal from Westbourne Terrace, corner with Chilworth Street (View 29)*



*Figure 43: View of the proposal from the junction of Westbourne Terrace and Bishops Bridge Road (View 30)*

### Westbourne Conservation Area

236 The significance of the Westbourne Conservation Area is defined by the consistency of the 19th century and predominantly residential townscape, having been developed over 15 years. The area is made up of semi-detached and terrace housing of an Italianate style with stucco embellishment laid out in grid streets to create a complex network of streets. The character of the spaces represents the development of the area, which was built up by many individual builders without the influence of an estate holder.

237 The proposed building would likely be visible from only a limited part of this conservation area as a whole, as the distance, the complex street pattern and the orientation of this built up residential area generally constrains the number and extent of views out and towards the application site. Affected areas would largely be confined to viewing places along Westbourne Park Villas at the very north edge of the designated area (which directly addresses the railway infrastructure and elevated Westway over) and to a number of other streets and spaces within the northern part of Westbourne where the pattern and orientations of built development allows (such as Talbot Road, e.g. Figure 44).



*Figure 44: View from Talbot Road, junction with Caradoc Close (View 11)*

238 Where visible, the proposed building would appear on the far skyline, within the context of other larger scale and more modern commercial blocks within the Paddington Central

development. In addition, in summer the screening or filtering effects of mature street trees could have a marked effect on such views.

239 Therefore, overall, there would be a very limited visual impact on the quality or character of the many views looking out from this designated area, and the proposal would not detract from, or otherwise harm, the heritage significance of this conservation area.

#### Hallfield Estate Conservation Area

240 The Hallfield Estate was intended as a radical model for the Borough of Paddington's post-war re-housing programme and was visibly influenced by modernist architects. Its character is marked by its contrast to the surrounding Victorian townscape.

241 The proposed building would be visible in some views within the wider townscape setting of this estate and group of listed buildings, however, it would appear as part of the more distant skyline in longer views. In addition, the highly distinctive large scale, block form and patterned elevation of the conservation area's buildings and spaces would remain the dominant feature. Therefore, the proposal would not detract from, or otherwise harm, the heritage significance of this conservation area.

#### Paddington Green Conservation Area

242 Paddington Green, the adjacent churchyard and the former burial ground, St Mary's Gardens, are the surviving core of a historic village settlement, which is now located within a dense and varied urban townscape setting.

243 The proposed building would be largely screened in views from the area/streets around the remaining element of the historic village green, given the distance, intervening infrastructure and built form and the presence of mature trees within the central churchyard and wider space. Therefore, there would be little change to the quality or character of longer distance views of this area, and no harm would result from the proposal.

#### Queensway Conservation Area

244 Queensway Conservation Area is small and linear, focused on Queensway itself, which forms the primary route in the area. It has a wide range of buildings of various styles and ages, most dating from mid to late Victorian period and early to mid-20th century.

245 The proposed building would largely be screened in views from this conservation area. Furthermore, the principal north-south orientation of the spine street of Queensway also confines the most important views of this area away from the location of the application site. Therefore, there would be little change to shared views that contribute to the heritage significance of this area, and no harm would result from the proposal.

#### Pembridge Conservation Area

246 The Pembridge Conservation Area illustrates the expansion and prosperity of mid-Victorian Kensington and of the development of new trends in residential planning and changing tastes in domestic architectural styles and use of materials in this period.

247 The proposed building would likely be visible only from a very limited part of this conservation area as a whole, such as along the street line of Chepstow Villas, which is orientated towards the application site. Considering the distance and the screening/filtering

effects of trees, there would be an extremely limited visual impact on the quality or character of the views looking out from this conservation area. Therefore, its significance would not be harmed by the proposal.

### **Listed buildings**

248 The applicant has considered that the proposals would likely impact listed buildings within 500m from the application site. This is considered a reasonable and proportionate approach and these assets have been reviewed, with the addition of the listed Grade II\* Church of St Mary at Paddington Green, on the basis that this highly listed and also local landmark building falls only just outside the radius of the 500m study area.

249 Overall, it is considered that the change brought about by the proposal to most listed buildings' settings would not be so significant as to detract from the current understanding or appreciation of the heritage significance of these heritage assets. This is generally because of the distance, intervening built form, vegetation screening, topography, presence of modern buildings in the existing setting and the orientation of key views away of the assets looking away from the proposals. The impact of the proposals on most listed buildings would therefore be neutral.

250 However, the proposed building would cause a degree of harm to three groups of listed buildings and would better reveal the significance of one. These impacts are summarised below.

#### 14-20 and 21-26 Westbourne Terrace Road

251 This well-defined group of listed terraced houses are effectively part of the larger and grander planned townscape scheme commenced in the 1840s within Bayswater to the south across the tracks, albeit dating from the 1850s as a slightly later phase and also more modest overall in scale and design. They mark the transition into the Little Venice area with its newer and more picturesque character focused on the canal junction to the north. These houses are three storeys in height, stucco fronted, and each again follow a Neo-Classical/Italianate architectural style. This group is of architectural and historic interest in illustrating an expanding London in this period, and also the ambition of the middle classes through the design quality of this new Classically inspired residential quarter.

252 The proposed building would affect the character and appearance of part of the setting of this group of listed buildings. The proposed building would be visible alongside the upper parts of already existing commercial blocks within the Paddington Central campus, but would rise higher and have a more conspicuous design, which would lead it to have greater prominence and act as a new landmark for the area. This would therefore distract from the visual experience of the listed terrace lining the east side of Westbourne Terrace Road and would cause a degree of harm to the understanding and appreciation of the particular significance of these listed building groups (as demonstrated by Figure 40 and Figure 45). Overall, such harm to heritage significance would be 'less than substantial' for the purposes of the NPPF, and would fall at the lower end of that scale overall.



*Figure 45: View of the proposal from the junction of Delamere Street and Westbourne Terrace Road (View 24)*

### 34-45 Blomfield Road

253 These listed houses, which are located on the north-eastern side of the Browning's Pool, are integral to the larger planned and Neo-Classical residential townscape of the 19th century within Little Venice (and the Maida Vale Conservation Area) that was built following the completion of the Regents Canal and Grand Union Canal waterway. It is this part of its townscape setting which contributes most to the understanding and appreciation of its heritage significance. These houses are also stucco fronted and conforming to a Neo-Classical/Italianate architectural style and have architectural and historic interest in illustrating an expanding London in this period as well as the ambition of the middle classes through the design quality of this new Classically inspired residential quarter at Little Venice.

254 The proposed building would affect the character and appearance of part of the wider setting of this group of listed buildings. From Blomfield Road, wider and longer views look out and away from these listed buildings across the waterspace, which these houses were originally oriented to enjoy. The application site is located beyond it and the proposed building would be seen on the skyline above the roofline of the existing replacement post-war housing along the south side of the canal junction, albeit within the context of other larger scale and more modern commercial blocks of Paddington Central.

255 The appearance of an additional and more prominent modern building within the context of the listed buildings around the shared waterspace would further distract from the visual experience of these heritage assets. Overall, such a change would cause a minor degree of harm to the understanding and appreciation of the significance of 34-45 Blomfield Road. This would be 'less than substantial' for the purposes of the NPPF, and would fall at the lower end of that scale.

### 2-16 evens Warwick Avenue

256 These listed houses, located on the north-western side of the Browning's Pool, also form part of a larger planned townscape composition of picturesque effect within the local area of Little Venice, are stucco fronted confirming to a Neo-Classical/Italianate architectural style and have architectural and historic interest in illustrating an expanding London in this period as well as the ambition of the middle classes through the design quality of this new Classically inspired residential quarter at Little Venice.

257 The proposed building would affect the character and appearance of part of the wider setting of this group of listed buildings. The proposal would likely be visible from locations along Warwick Avenue, as it faces south-westwards across the Little Venice junction of the canals, and in the local context of these 19<sup>th</sup> century villas that are themselves orientated in this direction to enjoy the water. The proposed building would be seen on the skyline beyond this water, within the context of other larger scale and more modern commercial blocks of Paddington Central.

258 The appearance of an additional and more prominent taller modern building within the context of these listed buildings would further distract from the visual experience of these heritage assets, and further shift the visual balance towards the emerging contemporary townscape character of Paddington Central and away from the picturesque 19 Century residential townscape of Little Venice. Overall such a change would cause a minor degree of harm to the understanding and appreciation of the significance of 2-16 Warwick Avenue. This would be 'less than substantial' for the purposes of the NPPF, and would fall at the lowest end of that scale overall.

### Westbourne Bridge

259 This large road bridge dates from the early 20th century and was constructed as part of the wider complex of infrastructure related to the Great Western Railway and its terminus at Paddington to the south east. The significance of this listed structure derives from its historic association with the Great Western Railway, and also is of architectural and engineering / technological interest as an ambitious piece of infrastructure from this period.

260 The visually powerful presence of this bridge (given by its large scale and distinctive form) and also its positive relationship with the intertwined road and rail infrastructure of this location would be maintained by the proposal (as demonstrated in Figure 46). The significance of this heritage asset would therefore be preserved.



*Figure 46: View of the proposal from junction of Westbourne Terrace and Orsett Terrace (View 31)*

261 In addition to this, it should be considered that elements of the proposed development scheme would be directly related to this crossing of the railway line. The proposed creation of new public realm at the western end to Kingdom Street would improve the appearance of the area on the western side of the new building, and also animate spaces at multiple levels with new uses, activity, lighting and also art. This part of the application scheme would create new

and enhanced spaces from where the distinctive architecture and engineering of this listed bridge would be appreciated, and it would also improve physical connectivity to the west from this campus. This would better reveal the significance of this designated heritage asset and would therefore constitute a ‘heritage benefit’ as defined by NPPG.

### **Non-designated heritage assets**

262 The NPPG states that “Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets”.

263 It should be noted that Westminster City Council does not maintain a register of unlisted assets of local architectural or historic interest, nor explicitly referred to any non-designated heritage asset within the original Committee Report (dated 7 January 2020), which only made a reference to “Another heritage receptor of note” being “the canal network including Little Venice and the Paddington Branch of the Grand Junction Canal”.

264 However, the Council’s sub-committee report (dated 15 September 2020), drafted to respond to the Mayor of London’s consultation on the revised application documents, makes explicit reference to non-designated heritage assets and states: “As before, the proposals would affect the setting of a large number of designated and non-designated heritage assets, and also local and protected views from both short and longer distances”.

265 In light of the policy position that specifically recognises the character of the canal network (as discussed further in the *Design* section below), GLA officers consider that the canal itself could be considered as a non-designated heritage asset and the provisions of paragraph 197 of the NPPF would apply. This states: “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

266 As partly mentioned in the *Maida Vale Conservation Area* section<sup>18</sup>, the proposed building would have a visually distracting effect on the understanding and appreciation of the canal network. Although the robust utilitarian character of this historic infrastructure element would be little affected by a change within its wider and mixed townscape setting, some of the enjoyment of its picturesque qualities as part of the Little Venice residential area would be diminished. Therefore, the proposals would cause a minor degree of harm to the significance of this potential non-designated heritage asset.

### **Summary of impact on heritage assets**

267 The scale, massing and design of the proposals would result in harm to the following heritage assets:

- Hyde Park Less than substantial (Low)  
*Grade I listed Registered Park and Garden*

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<sup>18</sup> It should be noted that the impact of the proposals on the setting and significance of the canal network are also assessed as a component of the designated Maida Vale Conservation Area in the *Maida Vale Conservation Area* section.

- Kensington Gardens  
*Grade I listed Registered Park and Garden* Less than substantial (Low)
- Royal Parks Conservation Area Less than substantial (Very Low)
- Maida Vale Conservation Area Less than substantial (Low)
- Bayswater Conservation Area Less than substantial (Very Low)
- 14-20 and 21-26 Westbourne Terrace Road  
*Grade II listed buildings* Less than substantial (Low)
- 34-45 Blomfield Road  
*Grade II listed buildings* Less than substantial (Low)
- 2-16 evens Warwick Avenue,  
*Grade II listed buildings* Less than substantial (Very Low)
- Canal network  
*Non-designated heritage asset* Low

268 However, the proposals would also result in a heritage benefit to the Grade II listed Westbourne Bridge (as discussed in the *Westbourne Bridge* section), which significance would be better revealed by the improved physical connectivity of the area and the enhanced spaces from where the distinctive architecture and engineering of this listed bridge would be appreciated. Alternative schemes

### **Alternative schemes and avoiding harm**

269 Policy HC1 of the Intend to Publish London Plan states that development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process. Emerging Policy D9 states that “proposals resulting in harm will require clear and convincing justification, demonstrating that alternatives have been explored and that there are clear public benefits that outweigh that harm”.

270 It is recognised that a scheme of considerably lower height would avoid harm, as it would likely not appear as a prominent landmark in key views of heritage assets. Nevertheless, lower options would have a substantial impact on the delivery of public benefits, making most of them unviable, as is demonstrated by the viability assessment, which found the current proposals to be in deficit by £2.18 million<sup>19</sup>. This is also further evidenced by the fact that the extant consent does not offer any affordable workspace, the affordable housing contribution, community facilities or a level of other benefits that comes close to being commensurate with the current proposal.

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<sup>19</sup> The evidence relating to the office values assumes a valuation date of before the Covid-19 related lockdown. This is because limited transactional evidence is available from after this point. Given this and the prospect of changing market conditions moving forward, the results of the viability assessment exercises should be treated with some caution. GLA viability officers have undertaken sensitivity analysis to test the effects of potential changes in market conditions. If office rents were to fall and build costs increase, the viability deficit would increase. Viability would only improve in the event that office rents increased above construction cost inflation.

## Conclusions

271 The proposed building would cause less than substantial harm to the significance of a number of heritage assets surrounding the site (including Hyde Park and Kensington Gardens Registered Park, Royal Parks Conservation Area, Maida Vale Conservation Area, Bayswater Conservation Area, 14-20 and 21-26 Westbourne Terrace Road, 34-45 Blomfield Road, 2-16 evens Warwick Avenue and the non-designated canal network). The proposals would also better reveal the significance of the listed Westbourne Bridge, which is a heritage benefit of the scheme.

272 The adverse impacts on settings and significance is generally caused by the appearance of a new modern building of such height, massing and conspicuous design that would detract from the appreciation of some important views of these heritage assets.

273 It should be noted that whilst the Council and Historic England emphasised the wide range of impacts of the proposals would have on heritage assets and identified the harm caused as 'less than substantial', however, they did not specify at what point of the considerable spectrum of the 'less than substantial' the proposed harm would lie.

274 The present assessment has considered in more detail the degree of harm, which would be caused by the proposals to the understanding and appreciation of the significance of these heritage assets, and found it to generally fall at the low end of the scale of 'less than substantial' harm, as defined by the NPPF. Notwithstanding this, it is acknowledged that the widespread impacts of the proposals on a large number of heritage assets are significant and "great weight" should be given to the assets' conservation.

275 As the significance of a number of heritage assets would not be 'conserved', the application is considered to be contrary to Policy 7.8 of the London Plan and Policy HC1 of the Intend to Publish London Plan, Westminster's City Plan policies S11, S25, S26 and S37 and UDP saved policies DES 3, DES 9, DES 10, DES 12, DES 13 and DES 15.

276 This weighs considerably against the scheme. Nevertheless, it is noted that the NPPF paragraph 196 balance must also be carried out and this is discussed in the *Conclusion and planning balance* section of this report.

## Design

277 This section assesses the quality of the proposed design, in particular of its layout and public realm, height and massing, architectural quality and appearance, its impact on the London View Management Framework, its approach to fire safety, to designing out crime and to inclusive design. The proposals are described and illustrated in the *Details of the proposal* section.

278 The NPPF (at paragraph 124) states that good design is a key aspect of sustainable development and is indivisible from good planning. Paragraph 127 states that, in determining applications, great weight should be given to outstanding designs which help raise the standard of design more generally in the area. In achieving the Mayor's vision and objectives relating to neighbourhoods and architecture, chapter 7 of the London Plan and chapter 3 of the Mayor's Intend to Publish London Plan sets out a series of policies about the places and spaces in which Londoners live, work and visit. London Plan Policy 7.1 (Lifetime neighbourhoods) sets some overarching design principles for development in London as does Policy D4 of the Mayor's Intend to Publish London Plan (delivering good design). Other relevant design policies in this chapter include specific design requirements relating to: inclusive design (London Plan Policy 7.2/ Policy D5 of the Intend to Publish London Plan); designing out crime (London Plan Policy 7.3/ Policy D11 of the Intend to Publish London Plan); local character (London Plan Policy 7.4); public realm (London Plan Policy 7.5/ Policy D8 of the Intend to Publish London Plan); architecture (London Plan Policy 7.6); tall and large scale buildings (London Plan Policy 7.7 and Policy D9 of the Intend to Publish London Plan).

279 In terms of local policy, Policy S3 of Westminster's City Plan relates to the Paddington Opportunity Area. It supports public realm improvements to improve legibility and connectivity for pedestrians and cyclists and it says that only one site has been identified as suitable for a single landmark, high quality building, while in other locations within the Opportunity Area, the council considers that high buildings could not be accommodated without detriment to the surrounding townscape.

280 Policy S12 of the City Plan requires developments in the North Westminster Economic Development area to contribute to improving the physical connections with the Paddington Opportunity Area, addressing severance and poor local environment resulting from the Westway and Harrow Road. Policy S26 of the City Plan aims to protect strategic and local views from inappropriate development and states that Westminster is not generally appropriate for tall buildings (but also refers to Policy S3). Policy S28 of the City Plan states that development must incorporate exemplary standards of sustainable and inclusive urban design and architecture.

281 UDP Saved Policy DES 1 aims to promote the highest standards in the form and quality of new development in order to preserve or enhance the townscape of Westminster; to provide adequate access; to reduce crime and improve security. UDP Saved Policy DES 3 aims to ensure that high buildings protect and enhance Westminster's townscape and skyline. UDP Saved Policy DES 4 sets out considerations whereby new infill developments must have due regard to the prevailing character and quality of the surrounding townscape, and conform to or reflect urban design characteristics such as building lines, storey heights, massing, roof profiles and silhouettes of adjoining buildings, distinctive forms or architectural detailing prevalent in the local area, existence of set piece or significant building groups.

282 UDP Saved Policy DES 7 seeks to ensure the highest standards of design in all townscape details, including encouraging the provision of public artwork for suitable schemes of redevelopment. UDP Saved Policy DES 12 aims to preserve or enhance the appearance and integrity of open spaces and their settings, including protecting existing views out from parks.

UDP Saved Policy DES 13 and City Plan Policy S37 aim to safeguard or enhance the setting, important views of the Grand Union and Regent's Canals. UDP Saved Policy DES 15 states that permission will not be granted for developments which would have an adverse effect upon important views of listed buildings, parks, the Grand Union and Regent's Canals (among others).

283 The scheme has been considered at pre-application stage, during the initial Stage 1 consideration by the Mayor, and by the Council in reporting the application to Committee. The GLA Stage 1 and 2 response supported the broad layout principles and improvements to pedestrian and cycle permeability, the proposed massing and design. However, it is noted that Westminster City Council did not support the proposed massing and design, albeit it welcomed the public realm improvements.

### **Layout and public realm**

284 The layout principles are supported and have been informed by the wider masterplan work for the Kingdom Street area and by discussions with Westminster City Council. The resulting block configuration creates a legible sequence of public realm, improved pedestrian permeability, and active commercial frontages.

285 The creation of a new route across the site, linking Kingdom Street to Harrow Road, would be a very positive addition to the development, as it would significantly improve permeability within the surrounding area for pedestrians and cyclists.

286 The proposals would extend the existing landscape elements of Kingdom Square including soft landscape, paving, furniture, and lighting. In addition, a generous staircase and lifts would provide access to a public internal route through the site at B1 level, which would be publicly accessible between 6am-12am (to be secured in the S106 agreement). The applicant has analysed whether it would be possible to provide an external route to enable 24-hour access, however this was discounted due to issues such as wind tunnels and reduced safety and this is considered by GLA officers as an appropriate response to the constraints of the site.

287 The internal route, also referred to as the 'Public Garden', has been conceived as a multi-level atrium garden, with a series of cascading landscaped platforms dropping from Kingdom Street to B2 level. This would enable the space to be used as a route, but also as amenity space, with calmer seating areas and spaces to host performances and events. A detailed landscape scheme would be secured via condition to ensure this area delivers high quality areas of hard and soft landscaping. Retail units within the 'Public Garden' and in the eastern and western pavilions along the route would also support public activity and passive surveillance to this area.

288 Access to Harrow Road would be provided via a landscaped bridge referred to as the 'West Link'. The new route would include landscaping, planting, art and light installations to enhance the pedestrian experience. The proposed strategy and contributions towards public realm are strongly supported. As noted in the Council's Committee report, this enhanced permeability would also enable "Royal Oak Station to be a more realistic option for those commuting to and from Paddington Central".

289 A new cycle route is proposed between Kingdom Street and Harrow Road via a shared vehicle/cycle route at B1 level, linking to a designated cycle lane on the northern side of the development. In line with London Plan Policy, the applicant has demonstrated that servicing and vehicle movement that would take place at B1 level would be separated from the pedestrian and cycle routes in these areas.

290 The applicant also proposes to activate the lower-ground service road, which runs adjacent to the southern boundary, between the Box and the railway. This area would be used as an external spill-out from the Box, providing light, air and greenery to the uses. This is supported, as the applicant has confirmed that vehicle access would be very infrequent.

291 Overall, the proposals would provide a good sense of place, with a legible and safe environment for pedestrians and cyclists, which would significantly enhance permeability across the site and within the surrounding area. This was also supported by Westminster City Council. The proposals therefore accord with London Plan Policies 6.10, 7.4 and 7.5, Policies D4 and D8 of the Intend to Publish London Plan, Policies S3 and S12 of Westminster's City Plan and UDP Saved Policies DES 1 and DES 7.

### **Height and massing**

292 As mentioned above, Policy S3 of Westminster's City Plan states that only one site has been identified as suitable for a single landmark, high quality building, while in other locations within the Opportunity Area, the council considers that high buildings could not be accommodated without detriment to the surrounding townscape. However, it should also be noted that paragraph 3.14 of the supporting text for Policy S3 states in this respect that: *"The Opportunity Area has scope for the development of medium height large floorplate buildings in keeping with the larger buildings in the surrounding townscape. Permission has been granted for one significantly higher tall building of exceptional quality on Harrow Road between North Wharf Road and Harbet Road to act as a landmark for the Opportunity Area"* (at 1 Merchant Square, permitted at 42 storeys). The reasoned justification also reiterates this saying: *"The redevelopment of sites in the Paddington Opportunity Area has established a general height and scale for new buildings reflecting that of the higher buildings in the surrounding area. The location identified for the tall building set out in the policy allows for the creation of a landmark building, but without harm to the character of the surrounding townscape"*.

293 The Council's committee report furthermore notes that in the context of the Paddington Opportunity Area (POA) and the consented schemes, "the current proposal would in terms of its height be at the upper end of the large floorplate medium height buildings", even though "its location at the extreme western end of the opportunity area, allied to its height and bulk bring about specific townscape impacts."

294 Consented schemes include: the Paddington Triangle (21 storeys – 75.5m corresponding to 106.7m A.O.D.), 55-65 North Wharf Road (16 storeys – 69.3m corresponding to 99.1m A.O.D.), Merchant Square (15 to 42 storeys – 51-149.5m corresponding to 96.8-181.4m A.O.D.), North Wharf Gardens (20 storeys – 65.5m corresponding to 97.2m A.O.D.), Dudley House (22 storeys – 71.8m corresponding to 101.9m A.O.D.), Paddington Gateway (20 storeys – 90.5m corresponding to 112.6m A.O.D.) and the Paddington Cube (19 storeys - 74m corresponding to 102.7m A.O.D.).

295 As such, the Council considers the current proposals for 5 Kingdom Street not to be for a "tall building", in the context of Policy S3, but rather for a "medium height building", which would be compliant with the Policy in principle. This view is shared by GLA officers, who consider the proposals, in the context of the POA, to be for a medium height building, which is appropriate in principle in line with policy S3.

296 However, it is also acknowledged that a "tall building" is defined in the glossary of the Westminster's City Plan, as well as in UDP Saved Policy DES 3, as "a building significantly taller than its surroundings". Considering the application site's location at the western edge of the POA, it is recognised that the proposals would be significantly higher than the surroundings

outside the POA, to the north, south and east of the site, which contain many buildings of 3-5 storeys.

297 On this basis, notwithstanding the conclusions above in respect of Policy S3, GLA officers consider that the proposal, at 20 commercial storeys in height, could be considered a tall building when considering the development plan as a whole. Furthermore, given the location of the application site at the western edge of the POA, together with the proposal's height and bulk, the proposal would lead to specific townscape impacts outside of the POA. These impacts and the requirements of tall buildings policy are assessed below under London Plan Policy 7.7, Intend to Publish London Plan Policy D9, UDP Saved Policy DES 3 for tall/high buildings.

### Tall buildings policy

298 London Plan Policy 7.7 sets out requirements for tall buildings, which are broadly reflected and expanded in Policy D9 of the Intend to Publish London Plan, which goes further and states that development plans should define what is considered a tall building for specific localities and identify suitable locations. Development proposals with tall buildings should address visual impacts at different distances; aid legibility and wayfinding; have exemplary architecture and materials; avoid harm to heritage assets; preserve the Outstanding Universal Value of World Heritage Sites; protect and enhance the Thames; not cause adverse glare; and minimise light pollution. Functional impacts should consider internal and external design; servicing; entrance capacity; area and transport capacity; maximise benefits to the area; and not interfere with communications. Environmental impacts should consider wind, daylight, sunlight, and temperature; air movement (dispersal of pollutants); and noise creation. Cumulative impacts should also be considered.

299 UDP Saved Policy DES 3 states that high buildings will not be permitted where they would have an adverse impact upon heritage assets (which are discussed in the *Heritage* section), strategic views, upon the views obtained from the Royal Parks, the Grand Union Canal and Regent's Canal (among others), or where they would be incongruous with respect to the prevailing character of the area. It also sets out a number of design criteria that should be satisfied, if the development is permitted, which are further discussed below.

300 Policy 42 of the emerging Westminster's City Plan 2019-2040 states that tall buildings "may be acceptable within the Paddington Opportunity Areas, Victoria Opportunity Areas, Marylebone flyover / Edgware Road junction and the Housing Renewal Areas". The emerging policy requires developments significantly higher than their surroundings to demonstrate that building higher is the only way to make the most efficient use of the site and to satisfy the general principles that are set out in Part D of the Policy. It should be noted that the emerging plan, as mentioned in the *Relevant legislation, policies and guidance* section, carries limited weight.

### Tall building and massing analysis

#### UDP Saved Policy DES 3

##### *Part A: criteria for acceptability*

301 A(1) would not intrude upon strategic views (as defined by Policy DES 14) or upon the setting of the Palace of Westminster or upon the Westminster Abbey World Heritage Site - The proposed building would not intrude upon these views or assets' settings. The proposed building would be visible at the extreme right of the London Panorama from Primrose Hill (as discussed in the *London View Management Framework (LVMF)* section below), but would

preserve the viewer's ability to appreciate the Palace of Westminster. The proposals would therefore meet this criterion.

302 A(2) would not have an adverse impact upon the character and appearance of designated conservation areas or upon listed buildings and their settings or upon the views obtained from the London Squares, the Royal Parks, the Grand Union Canal, the Regent's Canal and the Thames Special Policy Area - The proposed building would be visible from the Royal Parks, however, it should be noted that it would be located at a considerable distance and its appearance in the skyline would be fairly modest in townscape terms, although not in heritage terms. Nevertheless, the proposed building would constitute a more prominent presence in some views from the Grand Union Canal and the Regent's Canal, given the greater proximity of the application site to these assets. Due to its large floorplate and height, which is greater than the neighbouring buildings in the Paddington Central estate, it is acknowledged that the proposals would have a minor adverse impact on these views. A full assessment of the impact of the proposals on the significance of surrounding heritage assets has been undertaken in the *Heritage* section of this report, which concluded that the proposals would cause less than substantial harm to a number of heritage assets. The proposals would therefore fail to meet this criterion.

303 A(3) would not be incongruous with respect to the prevailing character of the area within which it would be located - The design of the building was developed with the goal to create a "landmark building", as this was one of the design aspirations of the original masterplan of the Paddington Central estate (referred to in the *Relevant planning history* section, planning application ref: 97/06935/OUT). As such, the proposed design aims to create a degree of contrast with the surroundings and to draw attention, rather than to be a background building that blends in with the surroundings as a muted presence. This is not only given by the increased height, but also by the 'twisting' design, its greater solidity and the proposed terracotta cladding. These characteristics would be in keeping with the modern, mixed context of the Paddington Central estate, however, when perceived from the low-rise, predominantly historic surroundings, they would give the building a contrasting appearance with the domestic scale, materials and architectural detailing of the surroundings. This contrasting appearance would not, however, be "incongruous" in the context of the mixed character of the site's immediate context, which is the policy test, and the proposal would consequently meet this criterion.

*Consideration must also be given to the design criteria in Parts B and C to determine whether the proposal can be considered as an exception.*

*Part B: design criteria for exceptions (should satisfy most)*

304 B(1) the quality of architectural design embodied in the proposal would visibly contribute to the character of London as a 'world class' city - The proposed design was developed to high standards, with great attention being paid to the overall design (with the 'twisting' element and the increase in the solidity of facade modules from bottom to top), as well as to the details (like facing materials, windows reveals, rooflines, etc.). It is noted that the Council's committee report acknowledges that "considerable attention has been paid to the building's architecture and unquestionably a dynamic and landmark quality has been the result". GLA officers agree and the further amendments made by the applicant since the application was called in by the Deputy Mayor have continued this high standard of architecture. It is therefore considered that the proposals would meet this criterion.

305 B(2) enhance the long-distance skyline of Central London by their profile, aspect ratio and choice of facing and glazing materials - As mentioned above, the proposals' height and mass would not be dissimilar to other buildings in the POA. The facade's design would bring coherence to the irregular building form and aims to provide attractive views of the building from

all sides. The design would furthermore emphasise the ‘verticality’ of the building, which is welcomed, as some of the elevations are relatively broad. It would also present more solid sections and incorporates ‘warmer’ organic materials that reference historic aspects of the surrounding area. This supports a transition from the largely glazed facades of the rest of Kingdom Street, to the more historic character towards the west. Overall, the proposals are therefore considered to meet this criterion.

306 B(3) the relevant employment opportunities and housing capacity created by the proposal shall be within the existing or planned future capacity of the public transport and highway networks - The site records an excellent Public Transport Access Level (PTAL) of 6a, on a scale of 0-6b where 6b is the highest. Paddington Station is located approximately 450m south east of the site, while Royal Oak station is located around 500m to the west. The Elizabeth Line (Crossrail) will also serve Paddington station when it opens in future. The proposed employment opportunities would be well within the existing and future capacity of the public transport. As the transport assessment envisages the majority of trips to be made by public transport, walking and cycling (99.5%), it is considered unlikely that the proposals would give rise to significant highway concerns. The proposals would therefore meet this criterion.

307 B(4) the development shall provide a favourable mix of land use which would facilitate shorter journeys to work, energy conservation and support other sustainability objectives - As discussed in the *Land use principles* section, the proposed building would provide an acceptable mix of uses in this highly accessible location, along with enhanced pedestrian and cycle links. The proposed office space would contribute towards the diversity of workspace and businesses within the CAZ and Opportunity Area, while the flexible uses within the development would contribute towards the diversity of the mix of uses and vitality in the area. The proposed building would also promote sustainable travel modes and its design has been thoroughly considered to ensure that it is sustainable and minimises negative impacts on the environment (as discussed in the *Sustainability and climate change* section). The proposals would therefore meet this criterion.

*Part C: criteria for regeneration and detailed design (must satisfy all)*

308 C(1) define and landmark points of significant urban activity and accord with the scale and character of urban grain and street frontage lengths, existing open space, planting and other topographical features - As mentioned in the Council’s committee report, “the original masterplan for the campus, as evidenced by the consented scheme, always envisaged that the end building to the estate, then terminating Kingdom Street, would be taller than the other Kingdom Street buildings and in effect take the form of a western bookend to the estate and to the opportunity area”. It is therefore considered that the proposed building would define and landmark a point of significant urban activity. It would also accord with the scale and character of urban grain and street frontage lengths of the neighbouring medium-sized buildings within the Paddington Central estate, as well as with the existing open space, planting and other topographical features, as these relationships were coherently established in the approved masterplan. The proposals would therefore meet this criterion.

309 C(2) serve to enhance area accessibility and local pedestrian movement by design at ground level and by the provision of open space and active frontages at street level - C(3) secure an enhancement of the local public realm and publicly accessible areas by the provision of high quality landscaping treatment - As mentioned in the *Layout and public realm* section above, the proposals would significantly enhance area accessibility and local pedestrian movement, by connecting the Paddington Central estate to Harrow Road and the street network to the north of site. Public art, lighting and signage installations would signify the connectivity with presence under The Westway and in Kingdom Square. The eastern and western entrances would be marked by large scale fully glazed doors and would be further animated by the two pavilions. The ‘Public Garden’ would also be high quality inviting space, with a series of

cascading landscaped platforms dropping from Kingdom Street to B2 level, to provide access to the Box. The proposals are therefore considered to meet both C(2) and C(3) criteria.

310 C(4) minimise the effects of overshadowing and overlooking, especially within predominantly residential areas and avoid the effects of wind turbulence and other adverse microclimatic impact - The proposed building would negatively impact four properties on Westbourne Terrace Road in terms of overshadowing. However, as discussed in the *Overshadowing* section, the rest of the surroundings, including outdoor amenity areas, would experience negligible effects. Therefore, the overshadowing impacts would on balance be acceptable. Given the considerable separation between the proposed building and the residential properties nearby (provided by the Westway and the railway lines) the proposals would also not lead to an increase in overlooking. Lastly, the proposals would include design interventions to mitigate increases to windiness, which would ensure that wind conditions on the site are acceptable for intended use in all areas (as mentioned in the *Wind microclimate* section). Therefore, it is considered that the proposals would meet this criterion.

311 C(5) ensure that on-site vehicle parking provision and movement is restricted to underground areas as far as possible - The proposed development would provide only two Blue Badge parking bays at B1 level and would therefore comply with this criterion.

312 C(6) have no adverse impact upon telecommunications channels and air traffic control and movements - The proposed building's height or location would not have an adverse impact on air traffic control and movement. The applicant commissioned Pager Power to undertake A Television Interference Desk Based Report to assess any potential impact on TV signals. A condition is recommended to ensure a television interference reception measurement report is submitted prior to the occupation of the office space and that any required mitigation measures are subsequently implemented. The proposals would therefore meet this criterion.

#### London Plan Policy 7.7

313 The site would be located in the Paddington Opportunity Area and the CAZ (in line with Criterion C(a)). As discussed above, the proposed building would be contrasting in its appearance and scale to some of its surroundings, but not to the extent that it would have an adverse impact on local character generally, so it would comply with Criteria C(b) and (c), and it would relate well to its immediate context, particularly at street level.

314 The proposal would serve as landmark for the new development, aid wayfinding and enhance the skyline through high-quality architecture and materials (in line with Criteria C(d) and (e)). Active frontages would be provided, as well as new routes and spaces to enhance the permeability of the site (in line with Criteria C(f) and (g)). Whilst not on the upper floors, the 'Public Garden' would be provided as a publicly accessible area of the development (in line with Criterion C(h)). The scheme would make a significant contribution to local regeneration, through the provision of new employment floorspace and enhancements to the public realm (in line with Criteria C(i)). In accordance with the technical assessments discussed within this report and subject to mitigation recommended through conditions, the proposed tall buildings would not adversely affect the surroundings in terms of microclimate, wind turbulence, overshadowing, noise, reflected glare, aviation, navigation and telecommunication interference (in line with Criteria D(a)).

315 The proposed development would cause less than substantial harm to a number of heritage assets (as discussed in the *Heritage* section) and would have a minor adverse impact on some local views (as discussed above), so it would not fully comply with Criteria D(b) and E.

#### Intend to Publish London Plan Policy D9

316 The proposal would have an acceptable impact on long-range views and immediate views from the surrounding streets, given the context of the modern buildings of the POA. As noted above, the proposed building would be a conspicuous contrasting presence in the mid-range views from the surrounding neighbourhoods, however, overall it would make a positive contribution to the local townscape. Whilst the proposal would be a high-quality landmark for the City in a number of long-range views and would not adversely affect strategic views, there would be some impact on local views of the canal network and the adjacent conservation areas. The proposals, therefore, would not fully comply with Criterion 1a.

317 The proposed building would aid legibility and wayfinding (in line with Criterion 1b). The design and materials would be of an exemplary standard (in line with Criterion 1c). As mentioned in the *Heritage* section, the proposed building would cause less than substantial harm to a number of heritage assets. The implemented scheme would cause less harm to heritage assets, however, it would not provide a number of public benefits that have been included in the current scheme. The proposed public benefits are considered in the *Conclusion and planning balance* section of the report in line with the balancing act in Criterion 1d). No harm would result to World Heritage Sites and the site is not within the Thames Policy Area (in line with Criteria 1e and f). The reflective glare would be acceptable (with a few instances where minor adverse impacts would be expected for vehicle and train drivers and one instance of a moderate adverse impact) and internal/external lighting of the tall buildings would be controlled by condition (in line with Criteria 1g and h).

318 The building's construction detailing, materials and emergency routes, entrances and servicing have been addressed (in line with Criteria 2a, b and c). The capacity of the public transport network to accommodate the proposed development has been confirmed by TfL (in line with Criterion 2d). The regeneration benefits of the proposal, including economic activity and new jobs, are acknowledged (in line with Criterion 2f). The proposal would not interfere with aviation, telecommunication or solar energy generation (in line with Criteria 2g).

319 The environmental impacts of the proposed development, including cumulative impacts with surrounding consented and planned development has been considered in detail within the ES and ES addendum and, subject to mitigation recommended through conditions, the proposed tall buildings would not adversely affect the surroundings (in line with Criteria 3 and 4). Furthermore, the proposal would provide the 'Public Garden' as a publicly accessible area of the development (in line with Criterion D).

*Policy S42 of the Westminster's City Plan 2019-2040 (carrying limited weight)*

320 Policy S42 sets design principles/criteria under part D of the Policy, which are similar to UDP Saved Policy DES 3. As discussed above, the proposals would be proportionate to the role, function and importance of the location, in terms of height, scale, massing and form (Criterion D1). The proposals would achieve exceptional architectural quality and innovative and sustainable building design from all viewpoints and directions (Criterion D2). The proposals would create an attractive and legible streetscape that takes account of the use of the public realm for a variety of uses and includes active uses at ground floor level (Criterion D3).

321 As discussed above and in the *Heritage* section, the proposals would cause a minor degree of harm on valued townscapes, historic skylines and important views of heritage assets and would therefore fail to comply with Criterion D4.

322 The proposals would mitigate negative impacts on the microclimate and amenity of the site and surrounding area and avoid unacceptable impacts on aviation and telecommunications (Criteria D5 and D6). Criterion D7 would require the provision of publicly accessible viewing platforms at the roof of the building, for any exceptionally tall building, however, it does not provide a definition of what would constitute an exceptionally tall building. Considering the

assessment made on Policy S3 at the beginning of the *Height and massing* section, the proposals are not considered to be for an exceptionally tall building and this criterion is not considered to be applicable. Furthermore, extensive public access is proposed at the lower levels. As noted above, Part E of Policy S42 sets out locational principles where tall buildings may be acceptable and identifies the Paddington Opportunity Area as one of these locations.

### Summary of height and massing

323 The proposed building would be 7 storeys taller (123.54m A.O.D.) than the extant permission, which is for 13 storeys (94.12m A.O.D.). Although this is a notable increase in height, the development of a 20-storey building is acceptable in the emerging character and scale of development within a highly accessible part of an Opportunity Area and the CAZ. It would be of comparable height to a number of consented buildings in the POA and would fulfil the approved masterplan's ambition to provide a landmark building in this location of the Paddington Central estate. It would also meet numerous design criteria outlined in local and strategic policies, such as being of a high architectural quality, providing public realm enhancements, minimising microclimatic impacts and contributing to the regeneration of the area. However, it is acknowledged that the proposed building would cause less than substantial harm to heritage assets and have a minor adverse impact on local views, due to its height and deliberately 'eye-catching' design. Consequently, the proposals would not fully comply with UDP Saved Policies DES 3, DES 12, DES 13 and DES 15, Policies S26 and S37 of the Westminster City Plan, London Plan Policy 7.7 and Intend to Publish London Plan D9. This weighs against the scheme and is discussed further in the *Conclusion and planning balance* section of this report.

324 The detailed impact on heritage assets is considered separately in the *Heritage* section.

### **Architectural quality and appearance**

325 London Plan Policy 7.6 and Policy D3 of the Mayor's Intend to Publish London Plan require buildings to be of the highest architectural quality and comprise materials which complement rather than necessarily replicate local architectural character. At a local level, Policy S28 of the Westminster's City Plan and UDP Saved Policy DES 1 also require development to be of the highest standards of sustainable and inclusive urban design and architectural quality.

326 A unique and modern building is proposed, incorporating an external terracotta cladding with a well-developed facade treatment that animates the view of the building from different viewpoints. The facade design brings coherence to the irregular building form and allows the corners of the building to be turned, maximising usable/attractive floorspace, while emphasizing the verticality of the building. The facade design also involves more solid sections and incorporates warmer organic materials that reference historic aspects of the immediate surrounding area. This supports a transition from the largely glazed facades of the rest of Kingdom Street, to the more historic character towards the west. Whilst it is acknowledged that the proposed building would contrast with the surroundings and would be a conspicuous presence in the townscape with its twisting design and terracotta colour, it also has the potential to appear warmer and brighter than the neighbouring buildings in the POA. A high level of design detail was also provided in the application and this confirms a high-quality, practical and deliverable facade design.

327 Conditions are recommended to ensure a high-quality design, by requiring the retention of scheme architects, the submission of bay studies, the provision of full specifications and samples of the facing and hard landscaping materials and the submission of other design details.

## London View Management Framework (LVMF)

328 The Mayor has identified a list of strategic views within Table 7.1 of London Plan Policy 7.11 and Intend to Publish London Plan HC3, which include significant buildings or urban landscapes which help to define London at a strategic level. Policy 7.12 of the London Plan and Policy HC4 of the Mayor's Intend to Publish London Plan seek to protect these strategic views and require proposals to make a positive contribution to the composition of the views and their landmark elements. This is also reflected within Westminster City Plan's policy S26 and UDP Saved Policy DES 14 also aims to protect and enhance strategic views.

329 The proposed building would be visible at the extreme right of the London Panorama from Primrose Hill (which is identified in the London View Management Framework (LVMF) as View 4A.2, see Figure 47), sitting outside the viewing corridor and the wider setting consultation area. Given the distance from the focus of the view towards the Palace of Westminster, the proposal would preserve the viewer's ability to recognise and appreciate the strategic landmark and World Heritage Site in LVMF view 4A.2.



Figure 47: LVMF view 4A.2 - Primrose Hill: the summit (View 1 of the THVIA). The proposal is outlined in blue, while other consented schemes are outlined in orange.

### Fire safety

330 In line with Policy D12 of the Mayor's Intend to Publish London Plan, the is accompanied by a fire statement, prepared by a suitably qualified third party assessor, demonstrating how the development proposals would achieve the highest standards of fire safety, including details of materials, means of escape, fire safety features and means of access for fire service personnel.

331 Further to the above, Policy D5(B5) within the Mayor's Intend to Publish London Plan seeks to ensure that developments incorporate safe and dignified emergency evacuation for all building users. In accordance with it, the fire statement states that the proposals would provide one lift per core as a suitably sized fire evacuation lift, suitable to be used to evacuate people who require level access from the buildings.

332 The submitted fire statement would be secured via condition.

### Designing out crime

333 Policy 7.3 of the London Plan seeks to ensure that the principles of designing out crime are integrated in the design of new development to promote a sense of security without being overbearing or intimidating, which is reflected in Intend to Publish London Plan Policy D11. The criteria require new development to provide legible, convenient and well-maintained movement

routes and spaces which are well-overlooked and benefit from an appropriate level of activity, with private and communal spaces clearly defined to promote a sense of ownership. At a local level, Policy S29 of the Westminster's City Plan and UDP Saved Policy DES 1 state that development proposals should ensure that the need to secure a healthy and safe environment is addressed, including minimising opportunities for crime, including the risk of terrorism.

334 Toren Consulting have been appointed as Security Consultant for the project and a security section was included in the Design and Access Statement. This states that the project team has met with police security stakeholders, the Designing Out Crime Officer and Counter-Terrorism Security Advisor assigned to the site, to inform the Security Design Strategy. The proposals would provide active ground floor frontages that will encourage activity during the day, whilst at night the public realm would be well-lit. The maintenance plan for the public areas would be secured via S106 agreement.

335 Given the commercial nature of the proposed development and of the Paddington Central estate, further security measures are also being considered, including security staffing, video surveillance and hostile vehicle mitigation.

336 The proposals are acceptable with respect to designing out crime and comply with Policy 7.3 of the London Plan, Policy D11 of the Intend to Publish London Plan, Policy S29 of the Westminster's City Plan and UDP Saved Policy DES 1.

### **Inclusive design**

337 London Plan Policy 7.2 and Policy D5 of the Intend to Publish London Plan requires that all future development meets the highest standards of accessibility and inclusion, and that the design process has considered how everyone, including those with disabilities, older people, children and young people, will be able to use the places and spaces that are proposed. At a local level, Policy S28 of the Westminster's City Plan and UDP Saved Policy DES 1 encourage the highest standards of inclusive design.

338 David Bonnett Associates have been appointed by the applicant as Access Consultants. Chapter 6 of the Design and Access Statement focuses on the inclusive design measures within the public realm and buildings. This describes the access provisions using a journey around the proposed development and considers the requirements of all users (e.g. visitors, staff and the wider community), including people with mobility, visual and cognitive impairments, deaf people, older people, and small children.

339 Key inclusive design features like ramps and lifts are shown in the application drawings. The Design and Access Statement also details other provisions, including Blue Badge accessible parking spaces; larger, adapted cycle parking spaces; seats and resting places every 50m; non-slip, even level walking surfaces; and tonal contrasts between any structure that may protrude into the public area. In addition, other provisions would be further developed later in the design process, including the possible provision of mobility scooter parking; the possible provision of baby change facilities; and details of the means of addressing the change in level between the car park and the shuttle lifts and interior of B1 level.

340 The accessible car parking provision meets the requirements of the London Plan and Intend to Publish London Plan. A car park management plan, secured via condition, would set out measures to monitor and increase this provision, if necessary. A minimum of 5% of long-stay cycle parking and all short-stay parking will be designed to accommodate larger, adapted cycles or bicycles used by disabled cyclists, in line with the London Cycling Design Standards.

341 The proposal would achieve a high level of accessible and inclusive design and would comply with London Plan Policies 3.8, 7.2 and 7.6, Policies D5 and D7 of the Intend to Publish

London Plan, the Accessible London SPG, Policy S28 of the Westminster's City Plan and UDP Saved Policy DES 1.

## Conclusions

342 The proposals would create a legible sequence of public realm, improved permeability and active commercial frontages, which is strongly supported. The creation of a new route across the site, linking Kingdom Street to Harrow Road, would be a significant benefit of the proposals, as it would significantly improve permeability within the surrounding area for pedestrians and cyclists.

343 The proposed building would be significantly taller than the implemented permission, however, the development of a 20-storey building is seen as justifiable in the emerging character and scale of the Paddington Opportunity Area and the CAZ. Whilst it would not be fully compliant with the tall buildings policies, mainly because it would cause less than substantial harm to heritage assets and have a minor adverse impact on local views, it would meet numerous design criteria.

344 The proposed design was developed to high standards, with great attention being paid to the overall design (with the 'twisting' element and the increase in the solidity of facade modules from bottom to top), as well as to the details (like facing materials, windows reveals, rooflines, etc.), resulting in a dynamic building of landmark quality.

345 The proposed building would be visible at the extreme right of the London Panorama from Primrose Hill, but would preserve the viewer's ability to appreciate the Palace of Westminster. The proposals would also achieve the highest standards of fire safety, would promote a safe environment and would achieve a high level of accessible and inclusive design.

346 Overall, due to the impact of the height and conspicuous design of the proposals on a sensitive historic context, the proposals would not fully comply with tall building policies including London Plan Policy 7.7, Intend to Publish London Plan Policy D9 and UDP Saved Policy DES 3. There would also be a conflict with other local policies, including Policies S26 and S37 of the Westminster's City Plan and UDP Saved Policies DES 12, DES 13 and DES 15. However, the proposals would comply with Policies 7.2, 7.3, 7.4, 7.5 and 7.6 of the London Plan, Policies D3, D4, D5, D8, D11 and D12 of the Intend to Publish London Plan, Policies S3, S12 and S28 of the Westminster's City Plan, and UDP Saved Policies DES 1, DES 4, DES 7 and DES 14.

347 This would weigh against the scheme. Nevertheless, the overall planning balance must also be carried out and this is discussed in the *Conclusion and planning balance* section of this report.

## **Living conditions at neighbouring properties**

348 This section assesses the impact of the proposals on the living conditions at neighbouring properties, including impacts on daylight/sunlight, overshadowing, sense of enclosure and privacy, noise and light pollution.

349 A core principle of the NPPF is to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. London Plan Policy 7.6 and Policy D3 of the Intend to Publish London Plan state that the design of new buildings should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings in relation to privacy, overshadowing, wind and microclimate. London Plan Policy 7.15 and Policy D14 of the Intend to Publish London Plan seek to reduce and manage noise associated with development.

350 At a local level, Policy S29 of the Westminster's City Plan and UDP Saved Policy ENV 13 state that the Council will resist proposals that result in an unacceptable material loss of residential amenity.

351 Concerns were received from neighbouring residents within Westminster City Council's statutory consultation periods regarding the impact of the proposed development on sunlight and daylight, noise and light pollution. The Committee Report acknowledged that the harm arising from the development in terms of properties experiencing a loss of sunlight and daylight was beyond BRE recommendations and also raised that the submitted Daylight/Sunlight report failed to provide evidence of the cumulative impact of the proposals in combination with the Blomfield Mews scheme. However, after the revised submission, the new Committee Report, submitted in response to the consultation, acknowledged that these impacts of the proposal on daylight and sunlight would not be so significant as to justify a reason for refusal in this instance. The Council's Planning Committee however disagreed with this recommendation.

352 Following the recent revisions to the proposal, an additional round of neighbourhood consultation was undertaken by the GLA. Further concerns were raised by residents of loss of daylight/sunlight and overshadowing. The following assessment considers the impacts of the revised scheme on surrounding residential amenity and the cumulative impact of the proposal with the Blomfield Mews scheme.

### **Daylight and sunlight**

353 The applicant has originally submitted with the application a Daylight, Sunlight, Overshadowing and Solar Glare Assessment within Chapter 7 of Volume II of the Environmental Statement (ES), which considers the impact of the proposal upon existing nearby properties. A revised Daylight, Sunlight, Overshadowing and Solar Glare Assessment has also been subsequently submitted in July 2020 within Chapter 5 of Volume II of the revised Environmental Statement (ES), to reflect the amendments made to the scheme (i.e. the increase in height) and the cumulative impact with the Blomfield Mews scheme.

354 It should be noted that the two submitted assessments are not perfectly comparable, as they used two different models. The latest model was significantly more detailed than the original (as visible in Figure 48 and Figure 49) and this had a minor impact on the final daylight/sunlight results. For this reason, a comparative analysis between the two assessments has not been carried out in this section and the assessment provided here focuses solely on the results of the newest and more accurate Daylight, Sunlight, Overshadowing and Solar Glare Assessment submitted in July 2020.

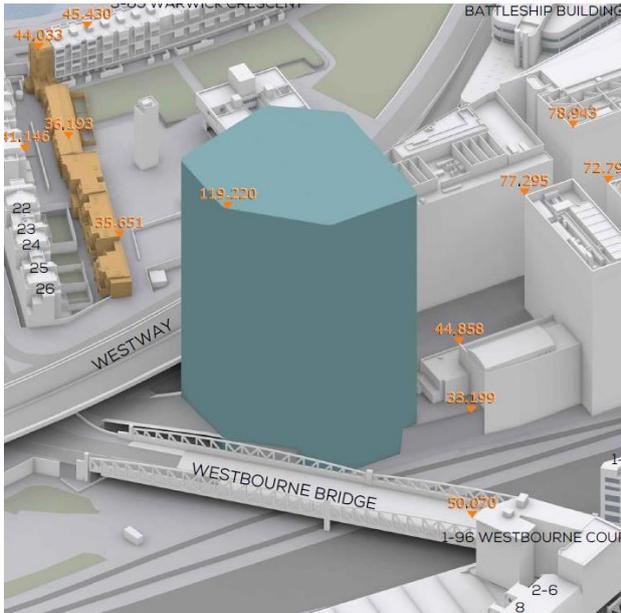


Figure 48: 3d model for original daylight and sunlight assessment (2019).

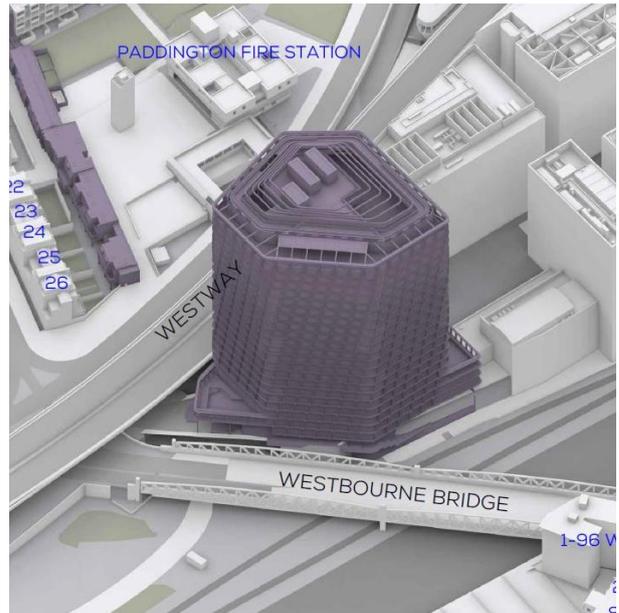


Figure 49: 3d model for latest daylight and sunlight assessment (2020).

355 The analyses are based on Building Research Establishment (BRE) Guidelines with specific reference to Vertical Sky Component (VSC) and No Sky Line (NSL) for assessing daylight and Annual Probable Sunlight Hours (APSH) for assessing sunlight. The BRE Guidance is intended for building designers, developers, consultants and local planning authorities. The advice it gives is not mandatory and should not be used as an instrument of planning policy. Of particular relevance, the Guidance states: *“This guide is a comprehensive revision of the 1991 edition of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice. It is purely advisory and the numerical target values within it may be varied to meet the needs of the development and its location.”*

356 When considering the BRE guidelines, it is important to note that paragraph 123 of the NPPF states that local authorities should take a flexible approach to policies and guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site.

357 Having regard to the flexible approach outlined in the NPPF the following target values have been used to assess the daylight and sunlight implications of the proposed scheme. These targets are considered to be reasonable daylight standards for the redevelopment of sites in urban locations:

- VSC: A retained 15% VSC level or within 20% of the existing baseline condition;
- NSL: 50% of the room area retained or within 20% of the existing baseline condition.

358 Given the location and surroundings, the residential properties with the potential to be most impacted as a result of the proposal are listed below:

### Daylight

359 The Vertical Sky Component Test (VSC) assesses the potential for daylight into a building by quantifying the amount of sky visible from within a room which is unobstructed by buildings and is measured from a centre point of a window. The maximum potential VSC if unobstructed is marginally under 40%. The BRE guidelines suggest that if the VSC is greater than 27%, sufficient skylight should reach the window in question. In terms of assessing the

impact of a proposed development, the BRE guidelines state that occupants of the existing building shall experience a materially noticeable reduction in the amount of skylight they receive where there the VSC with the development will be both less than 27% and less than 0.8 times its former value, with the guidelines suggesting that 'minor adverse impacts' would be expected where the level of reduction is between 20%-30%, 'moderate adverse impacts' would be expected where the level of reduction is between 30%-40%, and 'substantial adverse impacts' above 40%.

360 It should also be noted however that the 27% VSC recommended guideline is based on a low-density suburban housing model and in an urban environment it is recognised that VSC values in excess of 20% are considered as reasonably good, and that VSC values in the mid-teens are deemed acceptable.

361 The VSC was assessed for 812 residential windows serving 662 rooms around the site. The number of windows in compliance with the recommended BRE guidelines for VSC would be 647 (79.7%). Of the 20.3% of windows that would experience a loss of daylight, 12.9% would experience minor adverse impacts, 3.6% would experience moderate adverse impacts and 3.8% would experience substantial adverse impacts.

362 When the impact of the proposed development is assessed together with the approved schemes at 1A Sheldon Square and Blomfield Mews, the number of windows in compliance with the recommended BRE guidelines for VSC would be 631 (77.7%). Of the 22.3% of windows that would experience a loss of daylight, 14.3% would experience minor adverse impacts, 3.9% would experience moderate adverse impacts and 4.1% would experience substantial adverse impacts.

363 No-sky line (NSL) is a measure of the expected level of daylight penetration and distribution within a room, which is calculated by dividing those areas which can receive direct sunlight, from those which cannot. BRE guidelines state that if the no-sky line moves so that the area of the existing room which does receive direct skylight is reduced to less than 0.8 times its former value (reductions of 20% or more), then this will be noticeable to the occupants, and more of the room may appear poorly lit. It should be noted that consideration also needs to be given to the depths of single aspect rooms. If the room is greater than 5 metres deep, then an adverse infringement may be unavoidable.

364 The NSL was assessed for 662 rooms around the site. The number of rooms in compliance with the recommended BRE guidelines for NSL would be 609 (92%). Of the 8% of rooms that would experience a loss of daylight, 6.5% would experience minor adverse impacts, 1.4% would experience moderate adverse impacts and 0.2% would experience substantial adverse impacts.

365 When the impact of the proposed development is assessed together with the approved schemes at 1A Sheldon Square and Blomfield Mews, the number of rooms in compliance with the recommended BRE guidelines for NSL would be 603 (91.1%). Of the 8.9% of rooms that would experience a loss of daylight, 6.9% would experience minor adverse impacts, 1.7% would experience moderate adverse impacts and 0.3% would experience substantial adverse impacts.

366 Having regard for the findings of the VSC and NSL tests, the following properties would experience adverse impacts (from minor to substantial) to one or more windows and a summary of the impacts in the cumulative scenario is discussed as follows:

- Westbourne Terrace Road (nos. 1, 1a, 24-26): Nos. 1a, 24 and 26 are considered to experience moderate adverse impacts, while nos. 1 and 25 are considered to experience minor adverse impacts. Generally, most of the windows would retain VSC

levels in excess of 15% and very few windows would experience reductions in VSC levels to values below 15% as a consequence of the proposals. It is also noted that some windows have already very low existing VSC values, which result in a very high percentage change. With regards to NSL, most of the rooms would be fully compliant, with a few rooms experiencing alterations to NSL levels above 20% and only one room experiencing a reduction in NSL levels below 50% as a consequence of the proposals. It is acknowledged that no. 26 would be the most affected property in terms of VSC (albeit all rooms would be compliant for NSL), with only 3 windows out of 10 fully complying with BRE guidance. The Council noted in this respect that the most affected windows would be to kitchens and circulation spaces.

- Gloucester Terrace (nos. 172, 182-192): All these properties would experience minor adverse impacts for VSC and NSL. Between 60% and 90% of the windows would fully comply with BRE guidance, while the rest of the windows would experience minor adverse impacts. Generally, windows would retain levels in excess of 15%, unless VSC levels were lower as existing.
- Orsett Terrace (nos. 8, 10-14): These properties would experience minor adverse impacts for VSC and NSL. No. 8 Orsett Terrace would have most (89%) of the affected windows experiencing VSC losses between 20-29.9%, however, it should be noted that most of the existing values are particularly low and any reduction would result in high percentage losses. With regards to nos. 10-14, a large majority (86%) of the windows would comply with BRE's criteria for VSC and NSL. The affected windows already had low existing values for VSC, which result in a high percentage change.
- Warwick Crescent (nos. 3-65): These properties would experience minor adverse impacts for VSC and NSL. Most of the windows would comply with BRE's criteria (63% of the windows for VSC and 89% of the rooms for NSL). The affected windows already have low existing values, which result in a high percentage change, due to their location directly below balconies.
- Brewers Court (nos. 1-80): These properties would experience minor adverse impacts for VSC. Most of the windows would comply with BRE's criteria (60% of the windows for VSC and 99% of the rooms for NSL). It should also be noted that the affected windows have very low existing VSC, which are resulting in disproportionate percentage losses. The values of the absolute losses for all the affected windows are small and unlikely to be noticeable.
- Westbourne Court (nos. 1-96) and 140 Westbourne Terrace: These properties would experience minor adverse impacts for VSC and NSL. 53% of the windows would comply with BRE's criteria for VSC, while 72% for NSL. It is acknowledged that many windows would experience a minor adverse effect for VSC, however, it should also be noted that all of the affected windows would retain good levels of VSC for an urban environment, which are above 17%.
- Blomfield Villas (no. 2): These properties would experience minor adverse impacts for VSC and NSL. Most of the windows would comply with BRE's criteria (89% of the windows for VSC and 81% of the rooms for NSL). It is noted that all the affected windows and rooms are located below balconies, which reduce daylight availability. Windows and rooms that are not under a balcony are fully BRE compliant and therefore the effects are largely attributed to this building's architectural features.

367 Overall, where breaches in the guidance occurs, the technical assessment demonstrates that in most cases, this is due to either low existing values of daylight, which produce disproportionate percentage alterations. Overall, the retained levels of daylight are generally commensurate with a high-density urban environment.

## Sunlight

368 In relation to sunlight and overshadowing, the Daylight and Sunlight Assessment sets out an analysis of Average Probable Sunlight Hours (APSH) of windows which face the site and are located within 90° of due south (as per the application of the BRE Guidelines). A window may be adversely affected if a point at the centre of the window receives for the whole year less than 25% of the APSH, including at least 5% of the APSH during the winter months (September 21 to March 21) and less than 0.8 times its former sunlight hours during either period, and for existing neighbouring buildings, if there is a reduction in total APSH which is greater than 4%.

369 Having regard to the flexible approach outlined in the NPPF the following target values have been used to assess the daylight and sunlight implications of the proposed scheme. The target of 15% for annual APSH and no target for the winter months are considered to be reasonable for the redevelopment of sites in urban locations.

370 The annual and winter PSH were assessed for 280 rooms. The number of rooms, in the cumulative scenario, that would be in compliance with the recommended BRE guidelines for both annual and winter would be 244 (87.1%). However, it should be noted that the number of rooms that would be complying with BRE's criteria for annual PSH would be 256 (91.4%) and the number of those complying with BRE's criteria for winter PSH would be 254 (90.7%). This is because some rooms are affected only for annual PSH or winter PSH. It should be also highlighted that annual PSH is a more significant metric, as this encompasses the probable sunlight availability throughout the year, including winter hours.

371 In line with the Council's assessment, the most substantial impacts occur to the following properties and a summary of the impacts in the cumulative scenario is discussed as follows:

- 1A Westbourne Terrace Road: This property would experience moderate adverse impacts for annual and winter PSH. Most of the affected rooms would experience substantial adverse impacts, however, 70% of the rooms would meet BRE's criteria. It should also be noted that the negative impacts would be spread across each floor of this building and the unaffected rooms would retain very high levels of annual PSH.
- 22 Westbourne Terrace Road: This property would experience moderate adverse impacts, with only 20% meeting BRE's criteria for both annual and winter PSH. Most rooms would experience substantial adverse impacts for winter PSH, however, 80% of the rooms would meet BRE's criteria for annual PSH.
- 24 Westbourne Terrace Road: This property would experience moderate adverse impacts, with 50% meeting BRE's criteria for both annual and winter PSH. Most rooms would experience substantial adverse impacts for winter PSH, however, 60% of the rooms would meet BRE's criteria for winter PSH and 80% of the rooms would meet BRE's criteria for annual PSH.
- 25 Westbourne Terrace Road: This property would experience moderate adverse impacts for annual and winter PSH. Although the affected rooms would experience substantial adverse impacts, 70% of the rooms would meet the BRE's criteria for annual and winter PSH.
- 26 Westbourne Terrace Road: This property would experience moderate adverse impacts, with 50% meeting BRE's criteria for both annual and winter PSH. 50% of the rooms would fail to comply with BRE's criteria for annual PSH and most of these would experience substantial adverse impacts. It is nonetheless noted that most of the rooms would retain annual PSH levels above 15%.
- 23 Westbourne Terrace Road: This property would experience minor adverse impacts, with 100% meeting BRE's criteria for annual PSH and 80% meeting BRE's criteria for winter PSH. Although the affected rooms would experience substantial adverse impacts

for winter PSH, it should be noted that the property would retain high levels of annual PSH.

- 2 Blomfield Villas: This property would experience minor adverse impacts, with 88% meeting BRE's criteria for annual PSH and winter PSH. The affected rooms would experience moderate to substantial impacts, however, these are all located below balconies, which reduce sunlight availability. Rooms that are not under a balcony are fully BRE compliant and therefore the effects are largely attributed to this building's architectural features.

372 As noted by the Council, there would be some considerable losses of sunlight to windows located to the north of the site, which are partly to be expected given that currently there is currently no building on the site. The number of properties experiencing a loss of sunlight beyond BRE recommendation, including those experiencing substantial adverse impacts (in excess of 40%), is acknowledged by GLA officers as harm arising from the development. Notwithstanding this, the proportion of properties that fall within an acceptable level of impact for annual PSH (91.4%) is acceptable in light of the constrained urban setting.

#### Daylight and sunlight conclusion

373 The proposed development would achieve 77.7% compliance with BRE guidelines for VSC, 91.1% compliance with BRE guidelines for NSL and 91.4% compliance for APSH. Notwithstanding these high levels of compliance, officers acknowledge that the proposal would result in adverse impacts to daylight and sunlight levels to some surrounding properties (detailed above). The most significant of these impacts would be experienced by residents at Westbourne Terrace Road. Notwithstanding this, the retained levels of daylight and sunlight are generally in line with other schemes of a similar nature within an urban context.

374 Given the under-utilised character of the application site, the urban setting of the surrounding area and the higher density form of the proposed development, which is supported by London Plan, adopted and emerging local plan policies, some degree of change to existing daylight and sunlight conditions must be expected. In line with the NPPF, a degree of flexibility must be adopted in the application of BRE guidelines to optimise development capacity on urban sites in central London. On balance, GLA officers consider that the resultant harm to surrounding daylight and sunlight levels would not result in a conflict with the planning policies noted above and is acceptable.

#### **Overshadowing**

375 The applicant's ES and 2020 addendum document also looks at the impact of the scheme in terms of overshadowing to amenity and public spaces. The BRE Guidance suggests that where large buildings are proposed, it is useful and illustrative to plot a shadow plan to show the location of shadows at different times of the day and year. The path of the sun is tracked to determine where the sun would reach the ground and where ground would be overshadowed. BRE Guidance recommends that at least 50% of a garden or amenity area should receive at least 2 hours of sunlight at the Spring Equinox (21 March) to appear adequately sunlit, or else the area which receives 2 hours of direct sunlight on 21 March should not be reduced to less than 0.8 times its former value (i.e. reduced by more than 20%).

376 Two overshadowing assessments were undertaken as part of the applicant's ES: Sun Hours on Ground and Transient Overshadowing. The ES states that in terms of overshadowing of nearby amenity areas, once the proposed development is complete and operational, it is likely that there would be:

- one instance of a moderate adverse impact for the private garden associated with 25 Westbourne Terrace Road; and
- three instances of major adverse impact for the private gardens associated with nos. 22, 23 and 24 Westbourne Terrace Road.

377 The remaining outdoor amenity areas considered in the assessment, including other local private gardens, Westbourne Green Open Space, Kingdom Street and Little Venice Canal, are expected to experience negligible effects.

378 The number of properties experiencing adverse impacts in terms of overshadowing, including those experiencing substantial adverse impacts, is acknowledged by GLA officers as harm arising from the development. Notwithstanding this, considering the urban context of the site, GLA officers consider that the overshadowing impacts would not result in a conflict with the planning policies noted above and is acceptable.

### **Sense of enclosure and privacy**

379 The proposed building's massing is significant and would be prominent in views from some neighbouring properties. However, given the distance at which it would be placed and intervening highways and railway infrastructure, it would not lead to a harmful impact.

380 The proposed building would include the provision of a roof terrace and another terrace at mezzanine level adjacent to the Westway, although this would be at a high level and owing to its design would not allow direct views into neighbouring residential properties. Considering the distance separating the building from neighbouring properties (which is at least 47m, due to the Westway, Harrow Road and railway lines surrounding the site), it is considered that the proposals would not lead to a loss of privacy to neighbouring residents.

### **Noise**

381 London Plan Policy 7.15 and Policy D14 of the Intend to Publish London Plan state that development should manage noise to improve health and quality of life by avoiding significant adverse noise impacts on health and quality of life; mitigating and minimising existing and potential adverse noise impacts within the vicinity of new development; separating new noise sensitive development from major noise sources through the use of screening, internal layout, set back distances; and where this is not possible, adverse effects should be controlled and mitigated by incorporating good acoustic design principles. The Mayor's Environment Strategy aims to reduce the number of people adversely affected by noise and includes policies and proposals to support this aim. At a local level, Policy S32 of the Westminster's City Plan and UDP Saved Policies ENV 6 and ENV 7 aim to reduce noise pollution and protect noise sensitive receptors.

382 During the construction phase, there would inevitably be some abnormal noise caused to nearby residential properties caused by construction activities and vehicles. These impacts would be temporary, confined to normal working hours and can be controlled through the implementation of mitigation measures. Conditions are recommended to restrict the hours of noisy work, require the applicant to be bound by the Council's Code of Construction Practice and secure the submission of a Demolition and Construction Environmental Management and Logistics Plan.

383 As noted by the Council, during the operational phase, potential noise impacts from the development on existing neighbouring properties may be generated from the uses. To ensure

that these have no adverse impacts to any existing receptors, the following potential impacts are recommended to be conditioned:

- Hours of use of external terraces (restricted from 7.00 to 23.00); Hours of use of the proposed commercial uses (excluding the office use) as well as hours of servicing and delivery to the building (within the Operational Management Plan for such uses and within the Delivery, Servicing & Waste Management Plan);
- Internal activity noise from the proposed A1/A3/D1/D2/Sui generis uses;
- Submission of a noise assessment of the potential impact from D2 uses;
- Noise emitted by emergency plant and generators, as well as other plant and machinery.

### **Light pollution**

384 Policy 7.5 of the London Plan and Policy D8 of the Intend to Publish London Plan require developments to reduce light pollution from public realm proposals. Policy D9 of the Intend to Publish London Plan requires tall buildings to be designed to minimise light pollution from internal and external lighting. At a local level, UDP Saved Policy ENV 10 aim to reduce light pollution.

385 A condition is therefore recommended to secure the submission of a lighting strategy to ensure that the proposals would minimise light pollution and preserve good living conditions at neighbouring properties.

### **Neighbouring amenity impacts conclusion**

386 The assessment above has been based on the information provided by the applicant and analysis by Council officers and GLA officers. On balance, Westminster Council officers did not consider that amenity impacts would warrant the refusal of planning permission. However, it is acknowledged that the Committee members considered that the cumulative impact of the development along with that at Blomfield Mews would result in such a negative impact on the dwellings at Warwick Crescent and Westbourne Terrace Road so as to justify an additional recommendation for refusal.

387 Nevertheless, it is the view of GLA officers that, on balance, given the context and scale of impact, the proposal would not result in an unacceptable level of sunlight or daylight loss to neighbouring residential properties to warrant alteration to or rejection of the scheme. Furthermore, the development would not cause a harmful increase in sense of enclosure, nor an undue loss of privacy, and issues of noise and disturbance would be adequately mitigated through planning conditions. The impact of the proposals on the residential amenity of existing residents close to the site would be acceptable, and the proposals therefore comply with London Plan Policies 7.6 and 7.15, Policies D3 and D14 of the Intend to Publish London Plan, Policy S29 of the Westminster's City Plan and UDP Saved Policy ENV 10 and ENV 13.

## Sustainability and climate change

388 This section assesses the sustainability of the proposals, assessing the proposed energy strategy, flood risk and drainage mitigation, ecology and urban greening measures.

389 London Plan climate change policies, set out in chapter 5, collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, and to minimise carbon dioxide emissions. London Plan Policy 5.1 sets out the strategic approach to reducing carbon emissions in London, and Policy 5.2 sets out an energy hierarchy for assessing applications. Policy 5.2 sets a minimum target for carbon dioxide emissions reduction in new buildings of 35% beyond Part L of the Building Regulations (as amended 2013) for commercial buildings and zero-carbon for residential buildings. London Plan Policy 5.3 requires future developments to meet the highest standards of sustainable design and construction, and London Plan Policies 5.9-5.15 promote and support the most effective climate change adaptation measures including passive thermal regulation, urban greening, and water management.

390 Climate change policies within the Intend to Publish London Plan are set out in chapter 9 and require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, minimise carbon dioxide emissions and meet the highest standard of sustainable design. The policies go further than the current London Plan, setting more stringent standards regarding zero carbon for all development, air quality, greenhouse gas emissions, energy infrastructure, water infrastructure, waste and the support for the circular economy. Policy G5 states that all major development proposals should contribute to the greening of London. The Mayor's Sustainable Design & Construction SPG sets out how these policies should be implemented.

### Energy

391 London Plan Policies 5.1 and 5.2 of the London Plan require development proposals to minimise carbon dioxide emissions to meet the Mayor's targets, in accordance with the following energy hierarchy:

- Be lean: use less energy;
- Be clean: supply energy efficiently;
- Be green: use renewable energy.

392 Policy S12 of the Intend to Publish London Plan strengthens this requirement and introduces the following energy hierarchy:

- Be lean: use less energy and manage demand during operation;
- Be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly;
- Be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site;
- Be seen: monitor, verify and report on energy performance.

393 At a local level, Policy S39 of the Westminster City Plan requires major development to link to and extend existing heat and energy networks in the vicinity. Policy S40 of the Westminster City Plan requires all major development to maximise on-site renewable energy generation to achieve at least a 20% reduction in carbon dioxide emissions, and where feasible, towards zero carbon emissions.

394 The applicant has submitted an energy strategy for the site and is proposing to reduce carbon dioxide emissions by 44%, thereby exceeding the 2013 Building Regulations and the

London Plan and Intend to Publish London Plan target. In reporting the application at Stage 1, it was observed that the scheme followed the London Plan energy hierarchy, with a range of passive design features and demand reduction measures proposed, including a design air permeability of 3 m<sup>3</sup>/h.m<sup>2</sup> @50pa, heat recovery ventilation systems used throughout the building, as well as high efficiency office lighting of at least 110lm/W and daylight and automatic lighting controls.

395 Energy efficiency (Be Lean): The proposals would provide highly efficient building fabric properties with U-values and air permeability beyond the standards set out in Part L of the Building Regulations 2013, high-efficiency ventilation system with heat recovery, energy efficient light fittings, controls and metering. The proposals are sufficient to meet the Intend to Publish London Plan Target of a 15% reduction through energy efficiency measures for non-domestic buildings.

396 District heating (Be Clean): The potential for connection to nearby existing low carbon heat distribution networks was investigated and, based on the information shown in the London Heat Map (which was also confirmed by the Council), there are no existing district heating (DH) schemes in close proximity to the site. The proposed development would, however, be future-proofed to make allowance for a connection, should a low-carbon district heat network become available. An on-site combined heat and power (CHP) option was investigated, but discounted, as it would not deliver the lowest carbon dioxide emissions (given electrical grid decarbonisation) and it would not help to protect local air quality.

397 Renewable technology (Be Green): The applicant has investigated the feasibility of a range of renewable energy technologies and is proposing a heating/cooling system comprised of air and water source heat pumps (HP) in combination with hybrid air cooled chillers is proposed to provide heating cooling and domestic hot water (DHW) for the proposed development.

398 Managing Heat Risk: The proposals broadly follow the cooling hierarchy set out in the Intend to Publish London Plan and estimated development cooling demands are below the maximum permissible level required for major development.

399 Overall savings: Based on the energy assessment submitted, a reduction of 342 tonnes of CO<sub>2</sub> per year in regulated emissions is expected, compared to a 2013 Building Regulations compliant development, equivalent to an overall saving of 44%. The remaining deficit, up to zero carbon, would be made up through a payment to the Council's carbon offset fund. The proposals are therefore in compliance with London Plan and Intend to Publish London Plan and Council's policies on energy efficiency and carbon savings. Compliance with the energy assessment would be secured by condition.

## **Flood risk and drainage**

400 London Plan Policy 5.12 and Policy SI12 of the Intend to Publish London Plan seek to ensure that developments address flood risk and incorporate flood resilient design. London Plan Policy 5.13 and Policy SI13 of the Intend to Publish London Plan state that developments should use sustainable urban drainage systems (SUDS) and should ensure that surface water run-off is managed as close to its source as possible in line with the London Plan drainage hierarchy.

401 At a local level, Policy S30 of the Westminster City Plan states that all development proposals should take flood risk into account and new development should reduce the risk of flooding.

402 The site is in Flood Zone 1 and identified at risk of surface water flooding. A Flood Risk Assessment (FRA) has been submitted as required under the NPPF and considers the risk of flooding from a range of sources. When mitigation measures are considered, the residual flood risk to the site is low. The provision of flood resilience measures would be secured via condition.

403 The development is to be constructed with less vulnerable uses at ground level or below and the introduction of 'more vulnerable' uses (e.g. uses for health services, nurseries and educational establishments) should not be allowed without further consideration of the associated flood risk. As mentioned in the *Air quality* section, the applicant has stated that the D1 use would mainly be related to leisure/exhibition uses, however, the D1 use class would include more sensitive uses. This use of the space would therefore be secured via condition.

404 It is proposed to discharge surface water from this parcel unrestricted to the existing drainage system, which incorporates an attenuation tank and an overall pump discharge of 100l/s. Whilst Policy SI 13 requires development proposals to aim to achieve greenfield run-off rates and the proposed rate would be significantly higher than this, given the constraints imposed by building over an existing podium and relying upon an existing wider site drainage system, the proposals are considered in this instance to be acceptable. Compliance with the proposed drainage measures would be secured via condition.

405 Thames Water have also requested a number of conditions regarding water network upgrades, piling and construction within 5m of the water main.

406 Subject to the above mentioned conditions, the proposal accords with London Plan Policies 5.12 and 5.13, Policies SI12 and SI13 of the Intend to Publish London Plan, and Policy S30 of the Westminster City Plan.

### **Sustainability strategy**

407 The applicant has submitted a Sustainability Report for the site, which sets out a number of climate change adaptation measures proposed in the design and construction process. Where appropriate, the themes within the Sustainability Statement have been considered separately in this report. The remaining themes are considered as follows:

408 **BREEAM:** The applicant is targeting at least a BREEAM "excellent" rating and this commitment would be secured by condition.

409 **Water use demand:** The sustainability statement proposes that the non-residential components of the development would target a greater than 40% reduction in water consumption and scores of 3 on water measures, which is strongly supported. The selection of sanitary fittings would also be informed by products accredited or certified to robust water efficiency standards. The implementation of these measures would be secured by condition.

410 **Circular economy:** The applicant has set out several innovative circular economy commitments, including: the reuse of the existing piles and foundations; the potential to reuse the existing steel structure after the deconstruction of the deck; the retention of the West Link Bridge structure; an aim for the steel frame to be detailed for disassembly; use of underfloor ventilation, reducing ductwork requirements, providing flexibility for reconfiguration of the floorplate, and reducing overall use of steelwork in the structure. A condition is recommended to ensure submission of a revised circular economy statement including information on the proposed materials and on the waste produced by the proposals.

## **Urban greening and ecology**

411 London Plan Policies 5.10 and 7.21 seek to retain existing trees of value, or mitigate their loss, and require developments to incorporate urban greening measures. Policies G5 and G7 of the Intend to Publish London Plan go beyond the London Plan policies by embedding urban greening measures and retention of existing trees of quality into the planning process. As set out in Policy G5 the Mayor has developed a generic Urban Greening Factor model to assist boroughs and developers in determining the appropriate provision of urban greening for new developments. This is based on a review of green space factors in other cities. The factors outlined in Table 8.2 of the policy are a simplified measure of various benefits provided by soils, vegetation and water based on their potential for rainwater infiltration as a proxy to provide a range of benefits such as improved health, climate change adaption and biodiversity conservation.

412 London Plan Policy 7.19 and Policy G6 of the Intend to Publish London Plan require developments to make a positive contribution to the protection, enhancement and creation of biodiversity. Policy G7 seeks to ensure all developments protect and enhance the borough's natural environment and increase the quantity and quality of the borough's biodiversity.

413 At a local level, Policy S38 of the Westminster City Plan states that biodiversity and green infrastructure will be protected and enhanced throughout Westminster and opportunities to extend and create new wildlife habitat as part of development will be maximised. UDP Saved Policy ENV 4 aims to provide a greener city, by supporting opportunities for greening and tree planting, while preserving the special historic characteristics of conservation areas and listed buildings. It is noted that the site falls within a locally designated Area of Wildlife Deficiency.

414 The application site does not include any existing trees, and as set out in the ecological impact assessment by Lloyd Bore is of low ecological importance and does not support any protected species.

415 The proposals have sought to optimise the area of green infrastructure through the following features: an internal publicly accessible garden located within the building; publicly accessible hard and soft landscaped areas in Kingdom Square and at the entrance from Harrow Road; biodiverse living roofs at roof level; planted roof terrace amenity spaces; and planted yard spaces at the southern boundary of the Box, with areas of climber plants.

416 The proposed development would achieve a UGF of 0.29, which is close to the target for commercial development of 0.3 set by Policy G5 of the Intend to Publish London Plan. This is balanced with the functional constraints of the site including service access and new pedestrian linkages and the proposed UGF is therefore considered acceptable in this instance. The Sustainability Statement Addendum submitted in July 2020 sets out changes, including an increase in biodiverse green roof, additional planting along Kingdom Street, and vertical climbers at Level 19 of the building.

417 The proposal would accord with the policies mentioned above.

## **Conclusion on climate change and sustainability**

418 The proposed development would minimise carbon dioxide emissions to meet London Plan and draft London Plan targets and local policy regarding climate change. The development would not increase flood risk and would deliver sustainable urban drainage benefits over the existing situation at the site. The development has committed to achieve high standards in sustainable design and construction. In these respects, the development is in compliance with relevant planning policies regarding sustainability and adapting to climate change.

## Other environmental issues

419 This section assesses other environmental issues, such as air quality, noise, wind microclimate, waste and contaminated land.

### Air quality

420 Paragraph 181 of the NPPF states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, with further guidance provided in the Government's Planning Practice Guidance (PPG).

421 Policy 7.14 of the London Plan and Policy SI1 of the Intend to Publish London Plan state that London's air quality should be significantly improved and exposure to poor air quality reduced, especially for vulnerable people. Policy SI1 states that development proposals should not create unacceptable risk of high levels of exposure to poor air quality and should ensure design solutions are incorporated to prevent or minimise increased exposure to existing air pollution.

422 At a local level, Policy S31 of the Westminster's City Plan states that developments will minimise emissions of air pollution from both static and traffic generated sources and developments that include uses that are more vulnerable to air pollution (Air Quality Sensitive Receptors) will minimise the impact of poor air quality on occupants through the design of the building and appropriate technology. UDP Saved Policy ENV 5 also aims to reduce air pollution.

423 The impact of additional vehicle traffic on existing air quality has been assessed quantitatively, to include delivery and servicing vehicles, as it was requested by the Council. The conclusion that there would be no significant impact on existing air quality, including at the most sensitive receptors at Westbourne Terrace Road, is accepted.

424 An assessment of air quality conditions for future occupants has been carried out qualitatively, which has concluded that there would be no risk of exceedances of the 1-hour mean NO<sub>2</sub> and 24-hour mean PM<sub>10</sub> objectives, which apply to retail and leisure/community uses. This conclusion is accepted. However, the Council's Environmental Sciences officer raised that the D1 use class includes schools, medical centres and creches, which would be subject to the more stringent annual mean air quality objectives. The applicant has stated that the D1 use would mainly be related to leisure/exhibition uses and would include a small community space, which would remain acceptable in terms of the short-term air quality objectives. This use of the space would therefore be secured via condition.

425 The proposed development would be car-free and thus there would be very few private vehicle trips associated with its operation. The building would also be served with non-combustion sources for heating and hot water. The proposed development would therefore be air quality neutral, which is supported.

426 The development has been deemed a 'high risk' construction site during the demolition phase, and a 'medium risk' construction site during subsequent works. Conditions are recommended to ensure that an Air Quality and Dust Management Plan is submitted prior to commencement and that construction plant complies with the Non-Road Mobile Machinery (NRMM) Low Emission Zone standards for the Central Activities Zone and Opportunity Areas.

427 Subject to the recommended conditions, the application would comply with the requirements of the NPPF, Policy 7.14 of the London Plan, Policy SI1 of the Intend to Publish London Plan, Policy S31 of the Westminster's City Plan and UDP Saved Policy ENV 5.

## **Waste**

428 London Plan Policy 5.17 requires adequate provision for waste and recycling storage and collection and Policy 5.18 requires applicants to produce site waste management plans to arrange for the efficient handling of construction, excavation and demolition waste and materials. Policy SI7 of the Intend to Publish London Plan seeks to reduce waste and increase material reuse and recycling and promotes a circular economy. The policy also sets several waste targets including a strategic target of zero biodegradable waste or recyclable waste to landfill by 2026. At a local level, Policy S44 of the Westminster City Plan require the minimisation of waste, the increase in the re-use, recycling and composting of waste, and the reduction in the amount of waste disposed at landfill. UDP Saved Policy ENV 12 requires developments to provide sufficient waste storage and recycling facilities.

429 Waste storage would be provided at B3 level and waste servicing is proposed on site. A Waste Management Strategy was submitted with the application, detailing waste estimates and how they would meet the proposed storage capacity. However, given that there are a number of aspects that would not be fully in line with the Council's waste storage requirement, as noted by the Council, the submission of waste and recycling store details would be secured by condition.

## **Contaminated land**

430 London Plan Policy 5.21 and UDP Saved Policy ENV 8 support the remediation of contaminated sites and bringing contaminated land back into beneficial use.

431 The historic uses of the application site include a goods yard. Therefore, as requested by the Council, a condition is recommended to ensure that a detailed site investigation to find out if the building or land are contaminated with dangerous material.

## **Wind microclimate**

432 London Plan Policy 7.7 and Policy D9 of the Intend to Publish London Plan state that tall buildings should not affect their surrounding adversely in terms of (amongst other things) microclimate and wind turbulence. The Mayor's Sustainable Design and Construction SPG identifies the Lawson Criteria as a means for identifying suitability of wind conditions. UDP Saved Policy DES 3 also states that high buildings should avoid the effects of wind turbulence and other adverse microclimatic impact.

433 The applicant's ES and ES addendum assess the likely impacts of the proposed development on wind and microclimate, in terms of pedestrian comfort and safety. Wind tunnel tests were undertaken to assess and quantify the pedestrian level wind microclimate at the site against the Lawson Comfort Criteria.

434 In the presence of the proposed development, wind conditions within the offsite existing Kingdom Street area would remain similar to existing, with some marginal increases to windiness in a number of locations. However, with embedded design interventions to mitigate these increases to windiness, wind conditions on the site are acceptable for intended use in all areas, as all residual effects assessed would be either Negligible or Minor Beneficial.

435 These design/mitigation interventions would include: a 2.5m solid parapet along the perimeter of cycling route on the north side of the proposed development; localised hedging on the West Link; solid parapets of various heights, particularly along the western and south western perimeter of the upper roof terrace at level 19; denser landscaping or a roof pergola on the 1F terrace, western mezzanine terrace and 19F terrace; and planting between Nos. 4 and 5 Kingdom Street.

436 Nevertheless, as advised in the ES, a condition is also recommended to ensure that additional wind tunnel testing is undertaken to confirm the detail and effectiveness of the final mitigation and secure its implementation. Subject to this condition, the proposals would be compliant with the policies mentioned above.

### **Noise (excluding impact on neighbouring residential properties)**

437 London Plan Policy 7.15 and Policy D14 of the Intend to Publish London Plan state that development should manage noise to improve health and quality of life by avoiding significant adverse noise impacts on health and quality of life; mitigating and minimising existing and potential adverse noise impacts within the vicinity of new development; separating new noise sensitive development from major noise sources through the use of screening, internal layout, set back distances; and where this is not possible, adverse effects should be controlled and mitigated by incorporating good acoustic design principles. The Mayor's Environment Strategy aims to reduce the number of people adversely affected by noise and includes policies and proposals to support this aim. At a local level, Policy S32 of the Westminster's City Plan and UDP Saved Policies ENV 6 and ENV 7 aim to reduce noise pollution and protect noise sensitive receptors.

438 The application site is located in an area where existing background noise levels are high and exceed WHO Guideline Levels (55dB daytime and 45dB nighttime). An assessment of air bourn noise intrusion has been provided assuming an office as a final end use. However, as the Council noted, the application includes other uses that may potentially be more sensitive. Therefore, the submission of an acoustic report demonstrating that high external noise can be mitigated for the most sensitive use would be secured via condition.

439 Furthermore, vibration levels from the tube/rail lines also must be taken into account for the proposed development. This has been assessed and meets the presented criteria for office use, however, it fails to meet the criteria for D1 use types. As suggested by the Council, the submission of an acoustic report demonstrating that the design and structure of the development would be of such standard that it will protect D1 use types within the building from noise and vibration would be secured via condition.

440 Subject to the above conditions, the proposals would comply with the policies mentioned above.

## Transport

441 Chapter 9 of the NPPF sets out the Government's aim to promote the use of sustainable modes of transport. When considering the transport implications of development proposals, the NPPF states that decision-makers should ensure that site specific opportunities available to promote sustainable transport modes have been taken up; safe and suitable access to site would be achieved for all users; and any significant impacts from development on transport network (in terms of capacity or congestion) or highways safety can be mitigated to an acceptable degree. Paragraph 109 of the NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or where residual cumulative impacts on the road network would be severe. Paragraph 110 of the NPPF sets out additional criteria which should be addressed which includes pedestrian, cycle and inclusive access.

442 London Plan Policy 6.1 sets out a strategic approach for transport in London. This includes the aim to encourage patterns of development that reduce the need to travel, especially by car, through the use of maximum car parking standards; seeking to improve the capacity and accessibility of public transport, walking and cycling, including step free access; encouraging shifts to more sustainable modes of travel and improving the public realm and street space management to promote sustainable travel. Policy 6.3 states that the impact of development proposals on transport capacity and network should be fully assessed and not adversely affect safety, with schemes appropriately phased where transport capacity is insufficient to allow for the expected trip generation. Other relevant transport policies are Policies 6.7, 6.9, 6.10, 6.11, 6.13 and 6.14 which cover buses, walking and cycling, traffic congestion parking and freight. Policy 8.2 of the London Plan sets out the Mayor's priorities for planning obligations and states public transport improvements should be given the highest importance, alongside affordable housing.

443 The Mayor's Transport Strategy (2018) (MTS) seeks to promote sustainable mode shift, reduce road congestion, improve air quality and assist in the development of attractive, healthy and active places. The MTS aims to ensure that by 2041, 95% of trips in Central London will be made on foot, by cycle or by public transport. Policy T1 of the intend to publish London Plan requires development proposals to support this overarching aim, as do a range of other policies in the Mayor's Intend to Publish London Plan on 'Healthy Streets' (Policy T2), cycling (Policy T5), parking (Policy T6, T6.1-T6.5), deliveries and servicing and construction (T7) and funding necessary transport mitigation measures (Policy T9). Policy T4 of the intend to publish London Plan requires transport impacts to be assessed and mitigated and avoid road danger.

444 At a local level, Policy S3 of the Westminster's City Plan sets out the aspiration for the development of the Paddington Opportunity Area. It is considered that developments would be supported by public realm improvements to improve legibility and connectivity for pedestrians within and to/from the area, and enhanced integration between all modes of public transport; improvements to the cycle network and facilities including the provision of a north/south route to improve accessibility within and to/from the Opportunity Area; provision of new public open space, including green space and play areas across the area; as well as enhancement to rail links and Crossrail (Elizabeth Line) when it opens.

445 Policy S41 of the City Plan requires development to prioritise pedestrian movement and the creation of a convenient, attractive and safe pedestrian environment, with emphasis in areas with high pedestrian volumes or peaks and provide infrastructure/ facilities to encourage sustainable travel behaviour. Policy S42 of the City Plan requires servicing and deliveries will be managed in such a way that minimises adverse impacts and servicing needs will be fully met within the site. Policy S43 states that the Council would support improvements to public

realm, pedestrian and cycle movements, as well as wayfinding, cycle parking and cycle hire within the City of Westminster area.

446 In terms of saved policies, the Westminster Unitary Development Plan (UDP) Chapter 4 - Transport, also sets out general transport policies, standards and requirements for developments within the City of Westminster.

447 The main transport issues are: trip generation and mode split, vehicle access and parking, taxi pick up/drop off, cycle parking and facilities, vision zero and healthy streets approach, delivery and servicing, demolition and construction management, travel plan and infrastructure safeguarding.

### **Trip generation and mode split**

448 The applicant's latest trip generation and mode share assessment set out in the Transport Assessment and the addendum (July 2020) predicts that the development would generate a total of 1,540 two-way persons trips during the morning peak and 1,263 during the evening peak, with the majority of trips expected to be made by public transport (86%), walking (9%) and cycling (4.5%). In total, the TA forecasts 16,692 daily persons trips to be generated across all modes, of which 13,578 persons trip would be by public transport, 1,415 by foot, and 705 by bikes. The assessment of the likely trip generation and mode split is considered acceptable. Given that most trips would be made by sustainable modes, it is unlikely that the proposals would give rise to significant highway concerns. Moreover, given the range of public transport options in the Paddington area, including the forthcoming Elizabeth line, it is not considered likely that these proposals would give rise to public transport capacity concerns.

449 The Council initially raised some concerns about possible congestion caused by events in the Box. However, the proposed new route for pedestrians and cyclists connecting Harrow Road to Paddington Central would enable crowds to be better dispersed, namely to public transport services at Royal Oak, Warwick Avenue, Harrow Road, and to Paddington (via both the Westbourne Bridge and through Paddington Central).

### **Vehicle access and parking**

450 London Plan policy 6.13 and policy T6.2 and Table 10.4 of the IPT set out the principle of restricting car parking, with office developments within the CAZ and Inner London being 'Car free'.

451 As such, no new car parking is proposed with these proposals. The existing shared car park (for both 4 and 5 Kingdom Street), which is at B1 level would be reconfigured in connection with this development. This includes demolishing part of the existing car park and reducing the current provision of 27 spaces to retain a total of 14 spaces, including 3 spaces for the mobility impaired. Given the site's excellent accessibility, this reduction is consistent with the principle of restricting parking. It should be noted that two of the accessible parking spaces would be allocated for the 5 Kingdom Street development, and therefore the development would effectively be "car-free", in accordance with Policy T6.2 of Intend to Publish London Plan.

452 Currently, there is a site wide Car Parking Management Plan regulating car parking activity within the Paddington Central site. A revised Car Parking Management Plan to cover the allocation of disabled parking spaces for the proposed development would be secured via S106.

## **Taxi pick up/drop off**

453 In order to accommodate potential demand from the proposed Box uses, which are predicted to generate 30 two-way taxi trips, a pick up/drop off zone with three spaces would be provided at B3 level, to be accessed from the service road connected to Harrow Road gyratory. This would be acceptable, in line UDP Saved Policy TRANS 7. Access to these spaces would be controlled by site security and management.

## **Cycle parking and facilities**

454 New development should take every opportunity to overcome the barriers to cycling and the provision of good quality, well located cycle parking is an essential element of this. The proposal would require a site wide total of 730 long-stay cycle spaces. The spaces are mainly to be located at B1 level, which would be directly accessible from Kingdom Street and the Harrow Road. Although flexible uses are sought for some of the building, the cycle parking requirement is based on the office use within the Box (i.e. the affordable workspace).

455 For visitors, 226 short stay spaces would be required and they would be located within the public realm, at Kingdom Street and Harrow Road, which would meet the Intend to Publish London Plan standards.

456 For the office element, the applicant proposes to offset the provision of 5% of the 730 required spaces by providing 37 lockers for folding bikes. The Intend to Publish London Plan notes that the provision of space for folding bicycles is generally not an acceptable alternative to conventional cycle parking. An exception may be applied in office developments in the CAZ, where the location of rail termini lends itself to greater levels of folding bicycle use. Given the close proximity of Paddington Station and the 35% rail mode share for office use, it is considered that this approach would be reasonable. On balance, the proposed cycle parking provision meets the policy objectives of Policy S41 of the Westminster's City Plan, Policy 6.9 of the London Plan and Policy T5 of the Intend to Publish London Plan.

457 The provision of end of journey facilities for employees, such as showers and lockers, are also included. The submission of the cycle parking layout, including all complimentary facilities, would be secured by condition and should meet the requirements in the London Cycle Design Standards (LCDS). This includes at least 5% of spaces suitable for larger bikes, convenient access, provision of showers and changing facilities for employees.

## **Vision Zero and Healthy Streets**

### Walking and cycling infrastructure

458 New development should take every opportunity to overcome the barriers to cycling. The applicant has undertaken an Active Travel Zone Assessment (ATZ), in accordance with TfL's updated Transport assessment guidance and Policy T2 of the Intend to Publish London Plan, and has set out how the proposals would support the Mayor's Healthy Streets and Vision Zero (relating to highway safety) approach.

459 The ATZ assessment demonstrates that the following pedestrian and vehicular routes require provision or enhancement:

- Kingdom Street is currently a cul-de-sac. The creation of a pedestrian and cycle route would link Harrow Road and Paddington.
- The junction with the Harrow Road and Westbourne Bridge, where the pedestrian and cycle link through the site would merge.

- Between the site and Paddington Station, signage (finger posts) is necessary to complement the existing signage. The applicant has agreed £4,500 towards wayfinding.
- Westbourne Bridge is a key link to the west of the site, which requires enhancement. The applicant has agreed £20,000 towards a study of the physical condition of the and the ways it can be enhanced.

460 These improvements and contributions would be secured via S106 agreement.

### Cycle hire

461 The nearest existing cycle docking station at Orsett Terrace has limited capacity to accommodate the additional demand arising from this development and the Council considers that the expansion of this docking station would not be feasible. The applicant would therefore be required to contribute £187,000 towards the delivery of a new docking station, which location is to be agreed by TfL. This would be secured in the S106.

### Public Realm

462 The proposed public realm improvements are welcomed by the Council, as they would improve permeability of the site and would provide high-quality pedestrian and cycling environment, supporting the Mayor's Healthy Streets agenda. The creation of a new route from Harrow Road to Paddington Central for both pedestrians and cyclists would support the increased activity associated with the development and be consistent with Policies 6.9, 6.10 of the London Plan, Policies T2, T3, T5 of the Intend to Publish London Plan, Policy S41 of the Westminster's City Plan and UDP Saved Policy TRANS3. It is expected that the new route would be privately managed and public access through the site between 6am – 12am daily would be secured via S106.

463 The applicant has provided preliminary proposals for the highway surrounding the development, which are broadly acceptable and would be subject to a post planning detailed highway design process. While third party funded public realm improvements are welcomed, it is expected that the final detailed design would enable all highway users to be accommodated and not a single development proposal. The contribution towards works in the public highway would be secured via S106.

### **Delivery and Servicing**

464 The applicant has estimated that the proposal would generate 105 daily servicing trips (95 light goods vehicles and 10 heavy goods vehicles). In line with Policy T7 of the Intend to Publish London Plan and UDP Saved Policy TRANS 20, a framework Delivery, Servicing & Waste Management Plan (DSWP) has been submitted to outline the delivery/servicing and waste strategy that would support the proposals. The final DSWP would be secured condition to provide a detailed strategy to regulate and manage servicing and delivery activities for the development.

465 At B3 level, on the western side of the building, four loading bays for vehicles up to 12m in length would be provided for the office and commercial land use of the proposal. Egress for these vehicles would be along the same route. Whilst the service ramp off of the Harrow Rad gyratory is currently one-way, it is confirmed that a S278 agreement between the Council and British Land has been recently signed for highway works to enable the service ramp to operate as two-way. The proposed vehicular access arrangements are therefore considered acceptable in order manage on site freight.

466 The proposal would also result in changes to the servicing arrangements for the adjacent Novotel at 3 Kingdom Street. Servicing currently taking place at the service area at Harrow Road level would be removed and the proposed servicing would take place at the service road at B3 Level near the taxi pick up/drop off bays, thanks to the introduction of a new goods lift to connect with the Ground Floor level of the Novotel. Access to these spaces would be controlled by site security and management and it is envisaged that they would mainly be in use during late evenings. Although demand would unlikely occur at the same time, deliveries to the Novotel would be managed to ensure that they do not coincide with the use of the taxi pick-up/drop off area. The applicant has provided swept paths to show that a 7.5t goods vehicle could safely access the loading bays and this is deemed acceptable.

### **Demolition and Construction**

467 An Outline Construction Environmental Management Plan (CEMP) has been submitted as part of the planning application. This provides details on the proposed construction methodology, phasing, access routes as well as estimates on likely construction vehicle numbers and how these will be managed. It is expected that a detailed (CEMP) and Construction Logistics Plan (CLP) would be prepared in line with TfL Construction Logistics Plan guidance. The submission of a combined Demolition and Construction Environmental Management and Logistics Plan prior to commencement would be secured by condition.

468 The final sign off of this plan is likely to be subject to highway modelling and may require mitigation, including restrictions on peak hour movements and daily vehicle caps, in order to manage the impact on the local and strategic road network. In addition, the applicant shall obtain prior approval from Crossrail for its construction arrangement and methodology, to ensure that the rail infrastructure would not be adversely impacted.

### **Travel Plan**

469 A Framework Travel Plan has been submitted to support the proposals. Although the Council does not consider a travel plan necessary for car free development in such a location, a workplace travel plan could include an ambitious cycle mode shift target. This would help to meet the Mayor's Healthy Streets aspiration for sustainable travel. The detailed Travel Plan would therefore be secured by S106 agreement, in line with Policy 6.3 of the London Plan and Policy T4 of the Intend to Publish London Plan.

### **Infrastructure safeguarding**

470 The 'Box' was built as part of the outline permission for the Paddington Central estate and it was safeguarded for use by Crossrail for storage purposes during the construction process. However, it would revert back to the landowners upon completion of the Crossrail works in Paddington, making it thus available for the proposed development, even though it should be noted that the construction and opening of the line is taking longer than planned and this will delay the release of this part of the site.

471 The applicant is to enter into a property agreement with Crossrail Limited to safeguard Crossrail Infrastructure and access right, with access route via the northern edge of the site to the Old Oak Portal west of the site in particular. This access route needs to be retained for use by Crossrail for maintenance and emergency access purpose for the Old Oak Portal, therefore unlimited access right by Crossrail at all times must be secured.

472 Since the proposal would be constructed at an existing structure above the Crossrail line, approval must be obtained by Crossrail in terms of construction methodology as well as design details, to ensure that the Crossrail infrastructure would not be adversely impacted.

473 The site is in proximity to London Underground Infrastructure, which poses a risk on this infrastructure. A condition is therefore recommended to secure the submission of a design and method statement in consultation with London Underground.

### **Conclusion on Transport Matters**

474 The proposed development would provide a new route to connect the street network between Paddington and Harrow Road. This is a positive aspect of the scheme which enhances active travel opportunities. The generally car free nature of the proposal would encourage sustainable travel behaviour by both employees and visitors, which is assisted by high quality public realm in the surrounding area. Subject to the transport mitigation measures being secured, the application supports and complies with the transport policies in the London Plan, the Intend to Publish London Plan, the Westminster's City Plan and the Unitary Development Plan, as well as the Mayor's Transport Strategy.

## Mitigating the impact of the development through planning obligations

475 Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a section 106 planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are statutory tests.

476 The NPPF states that “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”

477 At the regional level, London Plan Policy 8.2 sets out the Mayor’s priorities for planning obligations, and states that affordable housing; supporting the funding of Crossrail where this is appropriate; and other public transport improvements should be given the highest importance.

478 Policy S33 of the Westminster’s City Plan states that when negotiating planning obligations, the council will secure the mitigation of the directly related impacts of development; ensure the development complies with policy requirements within the development plan; and, if appropriate, seek the provision or contributions for supporting infrastructure. Westminster’s Planning Obligations Section 106 SPG (2008) and Draft Supplementary Planning Document – The Use of Planning Obligations and Other Planning Mechanisms (2015) provide further guidance on how the Council will secure planning obligations, where these are necessary to mitigate the impacts of development.

479 Pursuant to the consideration within the previous sections of this report, and in line with the policy context set out above, GLA officers propose to secure several planning obligations required to appropriately mitigate the impact of this development, which are set out in the *Section 106 Legal agreement* section. GLA officers consider that the obligations in the Section 106 agreement meet the tests in Regulation 122 of the CIL Regulations 2010 as amended in 2019 as they either will not be spent on “infrastructure” as defined in the regulations or will be sufficiently narrowly described in the section 106 agreement. A full list of the obligations is provided in the *Section 106 Legal agreement* section, and where appropriate there is detailed consideration given in the relevant topic section of the report. Where appropriate, GLA officers have provided an additional commentary below to support the consideration within this report and to inform the detailed drafting of a section 106 agreement.

### Affordable housing contribution

480 As discussed in the *Mixed-use development* section of this report, Policy S1 of the Westminster’s City Plan requires developments within Core CAZ, the Named Streets, and Opportunity Areas, which includes net additional B1 office floorspace, to provide residential floorspace or an equivalent payment in lieu equivalent to the net additional B1 office floorspace less 30% of the existing building floorspace. In accordance with this policy, the section 106 agreement would secure a financial contribution of £14.3 million, which is considered to be the maximum reasonable.

## Affordable workspace

481 As discussed in the *Affordable workspace* section of the report, the proposals would offer 3,900 sqm of affordable workspace as a benefit to the scheme, in line with Policy E3 of the Intend to Publish London Plan (which is not subject to the Direction by the Secretary of State), Policy S3 of the Westminster's City Plan and emerging Policy 14 of the City Plan 2019-2040. The section 106 agreement would secure the average market price (all-inclusive) of comparable co-working spaces in the Paddington area to which arrangement of discounts from 10% to 100% would be applied.

482 The applicant is also proposing to set up an Affordable Workspace Fund, including initial investment of £50,000, which would also be secured in the S106. This is a benefit which has been taken into account in determining the application, and also supports the affordable workspace, and it is therefore necessary to secure it through a planning obligation.

## Transport

483 As discussed in the *Transport* section of the report, the following transport obligations would be secured by legal agreement:

- £930,000 towards the highway improvements at the junction with the Harrow Road and Westbourne Bridge, to improve conditions for pedestrians and cyclists and promote sustainable travel.
- Works in the public highway and on land in private ownership required to complete the 'West Link', to connect Kingdom Street with Harrow Road, to improve conditions for pedestrians and cyclists and promote sustainable travel.
- £187,000 toward delivering a new cycle hire docking station in the vicinity of the site, to mitigate against the likely impact from the increase in trips associated with the development (exact location to be agreed).
- £4,500 towards legible London signage, to mitigate against the uplift in pedestrian trips and assist wayfinding.
- £20,000 towards a study of the physical condition of the Westbourne Bridge and the ways it can be enhanced, to promote sustainable travel.
- Commercial Travel Plan, to promote sustainable travel.
- Travel Plan Monitoring Contribution, to ensure that the Council and/or TfL can implement the Travel Plan.
- Construction management plan being secured, and associated monitoring, to mitigate the impacts of construction activity.

## Other obligations

- As discussed in the *Layout and public realm* section of the report, the proposals would provide a new pedestrian and cycle link between Harrow Road and Kingdom Street with associated new 'Public Garden' under the main building, for which delivery management and public access (between 06:00 and 24:00) would be secured within S106. The proposals would also include the provision and maintenance of public art on site to the value of £1,000,000. These public realm improvements would be in line in line with Policies S3 and S33 of the Westminster's City Plan and the Westminster's Planning Obligations Section 106 SPG (2008).

- As discussed in the *Community space* section of the report, the proposals would provide 100sqm community and education space, open to local community groups to book for free (with facilities shared with the affordable workspace). As discussed in the *Auditorium* section of the report, the applicant would also provide community access free of charge to the 250 Auditorium, comprising of 4 sessions per month (each session comprising either a morning, afternoon or evening). These community benefits would be in line with social infrastructure policies and Policy S33 of the Westminster's City Plan and the Westminster's Planning Obligations Section 106 SPG (2008).
- A financial contribution of £2,136,726 towards Westminster's Employment and Skills Fund and an Employment and Skills Plan, in line with Policy S33 of the Westminster's City Plan and the Westminster's Planning Obligations Section 106 SPG (2008).
- Carbon off-set payment (if implemented energy strategy does not achieve net zero carbon on completion).
- The costs to the Council of monitoring and enforcing the section 106 legal agreement would be secured.

## Legal considerations

484 Under the arrangements set out in Article 7 of the Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Mayor is the Local Planning Authority (LPA) for the purposes of determining this planning application ref: 19/03673/FULL.

485 Section 35 of the Greater London Authority Act 2007 inserts section 2F into the Town and Country Planning Act 1990 a requirement that for applications the Mayor takes over, the Mayor must give the applicants and the LPA the opportunity to make oral representations at a hearing. He is also required to publish a document setting out:

- who else may make oral representations;
- the procedures to be followed at the hearing; and,
- arrangements for identifying information, which must be agreed by persons making representations.

486 The details of the above are set out in the Mayor's Procedure for Representation Hearings and Interim Hearings Procedure for Covid-19 which reflects, as far as is practicable, current best practice for speaking at planning committee amongst borough councils.

487 In carrying out his duties in relation to the determination of this application, the Mayor must have regard to a number of statutory provisions. Listed below are some of the most important provisions for this application.

488 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that in dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to the application;
- b) Any local finance considerations, so far as material to the application; and
- c) Any other material consideration.

489 Section 70(4) defines "local finance consideration" as:

- a) A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- b) Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

490 In this context "grants" might include the Government's "New Homes Bonus" - a grant paid by Central Government to local councils for increasing the number of homes and their use.

491 These issues are material planning considerations when determining planning applications or planning appeals.

492 Furthermore, in determining any planning application and connected application, the Mayor is required by section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the application in accordance with the Development Plan (i.e. the London Plan and the adopted Westminster's City Plan and saved UDP Policies) unless material considerations indicate otherwise.

493 Other guidance, which has been formally adopted by Westminster City Council and the GLA (e.g. Supplementary Planning Documents and Supplementary Planning Guidance), will

also be material considerations of some weight (where relevant). Those that are relevant to this application are detailed in this Representation Hearing report.

494 Officers are satisfied that the current report to the Mayor has had regard to the relevant provision of the Development Plan. The proposed section 106 package has been set out and complies with the relevant statutory tests, adequately mitigates the impact of the development and provides necessary infrastructure improvements.

495 As regards to the Community Infrastructure Levy (CIL) considerations, the Mayoral CIL payment associated with this development is estimated to be up to £11,763,424, whilst the Westminster's CIL payment is estimated to be £11,465,797.

496 In accordance with his statutory duty in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Mayor shall have special regard to the desirability of preserving Listed Buildings, their settings and any features of special architectural or historic interest which they possess. These matters have been addressed within earlier sections of the report.

497 Where the Mayor takes over an application, he becomes responsible for the section 106 legal agreement, although he is required to consult the relevant borough. In this instance, there has been a lawyer led meeting to discuss the section 106 content, and it has progressed on a number of key issues. Both the Mayor and the borough are given powers to enforce planning obligations.

498 When determining these planning applications, the Mayor is under a duty to take account of the provisions of the Human Rights Act 1998 as they relate to the development proposal and the conflicting interests of the applicants and any third party affected by, or opposing, the application, in reaching his decision. Planning decisions on the use of land can only be taken in line with the Town and Country Planning Acts and decided in accordance with the development plan unless material considerations indicate otherwise.

499 The key Articles to be aware of include the following:

- (a) Article 6 - Right to a fair trial: In the determination of his civil rights and obligations... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- (b) Article 8 - Right to respect for private and family life: Everyone has the right to respect for his private and family life, his home and his correspondence.
- (c) Article 1 of the First Protocol - Protection of property: Every person is entitled to the peaceful enjoyment of his possessions.

500 It should be noted, however, that most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted i.e. necessary to do so to give effect to the Town and Country Planning Acts and in the interests of such matters as public safety, national economic well-being and protection of health, amenity of the community etc. In this case this Representation Hearing report sets out how this application accords with the Development Plan.

501 Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a section 106 planning obligation may only constitute a reason for granting planning permission for the development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These are now statutory tests.

502 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Mayor as Local Planning Authority), that the Mayor as a public authority shall amongst other duties have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

503 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

504 Officers are satisfied that the application material and officers' assessment has taken into account the equality and human rights issues referred to above. Particular matters of consideration have included provision of accessible buildings and parking bays, and the protection of neighbouring residential amenity.

## Conclusion and planning balance

505 As detailed above Section 38(6) of the Planning and Compensation Act 2004 requires matters to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

506 When assessing the planning application, the Mayor is required to give full consideration to the provisions of the development plan and all other material considerations. He is also required to consider the likely significant environmental effects of the development and be satisfied that the importance of the predicted effects and the scope for reducing them, are perfectly understood. The Mayor is required to determine the application in accordance with the development plan unless material considerations indicate otherwise.

507 As mentioned in the *Principal planning issues* section, this report assessed the following planning issues in respective sections:

- *Land use principles* (including office-led development and associated mixed uses);
- *Heritage* (including the setting of registered parks and gardens, conservation areas, listed buildings and non-designated heritage assets);
- *Design* (including layout and public realm, height and massing, architectural quality and appearance, LVMF, fire safety, designing out crime and inclusive design);
- *Living conditions at neighbouring properties* (including daylight and sunlight, overshadowing, sense of enclosure and privacy, noise and light pollution);
- *Sustainability and climate change* (including energy, flood risk and drainage, urban greening and ecology);
- *Other environmental issues* (including air quality, noise, wind microclimate, waste and contaminated land);
- *Transport* (including trip generation and mode split, vehicle and access parking, taxi pick up/drop off, cycle parking and facilities, vision zero and healthy streets, delivery and servicing, demolition and construction, travel plan, and infrastructure safeguarding); and
- *Mitigating the impact of the development through planning obligations.*

508 Whilst the application complies with most relevant planning policies at national, regional and local level, it conflicts with a number of planning policies that were identified in the *Heritage* and *Design* sections. These are therefore discussed below.

### Heritage balance

509 The proposed building would cause less than substantial harm to the significance of a number of heritage assets surrounding the site (including Hyde Park and Kensington Gardens Registered Park, Royal Parks Conservation Area, Maida Vale Conservation Area, Bayswater Conservation Area, 14-20 and 21-26 Westbourne Terrace Road, 34-45 Blomfield Road, 2-16 evens Warwick Avenue and the non-designated canal network). The proposals would also better reveal the significance of the listed Westbourne Bridge, which is a heritage benefit of the scheme.

510 The adverse impacts on settings is generally caused by the appearance of a new modern building of such height, massing and conspicuous design that would detract from the appreciation of some important views from or within these heritage assets. Such change would

therefore cause a minor degree of harm to the understanding and appreciation of the heritage significance of these assets, which would generally fall at the low end of the scale of the ‘less than substantial’ harm, as defined by the NPPF.

511 As the significance of a number of heritage assets would not be ‘conserved’, the application would be contrary to Policies 7.7 and 7.8 of the London Plan, Policies D9 and HC1 of the Intend to Publish London Plan (albeit it is noted that this does not form part of the statutory development plan), Westminster’s City Plan policies S11, S25, S26 and S37 and UDP saved policies DES 3, DES 9, DES 10, DES 12, DES 13 and DES 15. There is no balancing act built into any of these policies.

512 Paragraph 193 of the NPPF says: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

513 However, paragraph 196 of the NPPF also states: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.*

514 The proposals would provide the following public benefits, which would weigh in favour of the scheme:

<ul style="list-style-type: none"> <li>▪ £14,300,000 payment in lieu towards the Council’s affordable housing fund.</li> </ul>	<i>Significant weight</i>
<ul style="list-style-type: none"> <li>▪ 3,900sqm of affordable workspace for the lifetime of the building, rented at no more than 50% of average market rents of similar co-working spaces and associated provision of an Affordable Workspace Fund, including initial investment of £50,000.</li> </ul>	<i>Significant weight</i>
<ul style="list-style-type: none"> <li>▪ Provision of pedestrian and cycle link between Harrow Road and Kingdom Street with new privately managed ‘public spaces’ under the main building and associated financial contributions of £930,000 towards the highways improvements at the junction with the Harrow Road and Westbourne Bridge and of £1,000,000 towards Public Art on site.</li> </ul>	<i>Significant weight</i>
<ul style="list-style-type: none"> <li>▪ 100sqm community and education space, open to local community groups to book for free, and community access to the 250 Auditorium, comprising of 4 sessions per month (each session comprising either a morning, afternoon or evening).</li> </ul>	<i>Moderate weight</i>
<ul style="list-style-type: none"> <li>▪ CIL payments of £11,465,797 to Westminster and £11,763,424 to the Mayor of London.</li> </ul>	<i>Moderate weight</i>
<ul style="list-style-type: none"> <li>▪ £2,136,726 towards Westminster’s Employment and Skills Fund.</li> </ul>	<i>Moderate weight</i>
<ul style="list-style-type: none"> <li>▪ £187,000 towards cycle hire docking station.</li> </ul>	<i>Limited weight</i>
<ul style="list-style-type: none"> <li>▪ £20,000 towards a study of the physical condition of the Westbourne Bridge and the ways it can be enhanced.</li> </ul>	<i>Limited weight</i>
<ul style="list-style-type: none"> <li>▪ £4,500 towards legible London signage.</li> </ul>	<i>Limited weight</i>

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|--|-----------------------|
| <ul style="list-style-type: none"> <li>Provision of 3,390 sqm of flexible uses (A3/D1/D2/Sui generis) and 738 sqm of auditorium, which would contribute to the diversity of the mix of uses and vitality in the area.</li> </ul> | <i>Limited weight</i> |
|--|-----------------------|

515 It should be noted that the implemented permission for a building of lesser visual impact would not provide any of the above benefits, but only:

- £813,400 (index linked, corresponding to £1,386,617.24 at current rate) payment towards Westminster’s Social and Community Fund.

516 In addition, the current proposals would support the creation of 3,890–5,086 gross direct operational FTE jobs once the development is fully operational, mainly through the office use, while the extant permission supported 1,923–2,404. The proposals would therefore offer an increase of 1,967–2,682 jobs and this is also afforded *moderate weight* in favour of the proposals.

517 Considerable weight and importance must be attached to the harm caused by the proposals to surrounding heritage assets in any balancing exercise. However, considering the extent of the harm that would be caused, which would be ‘less than substantial’ at the low end of the scale, and the public benefits outlined above, it is concluded that the public benefits delivered by the scheme would clearly and convincingly outweigh the harm. The balancing exercise under paragraph 196 of the Framework is therefore favourable to the proposals and, despite the policy conflicts outlined above, the proposals would be acceptable in terms of impact on heritage assets.

### Overall planning balance

518 The proposed building would be significantly taller than the implemented permission and of its surroundings and would lead to less than substantial harm to heritage assets and a minor adverse impact on local views. This is generally because the proposed building would appear in mid-range views from surrounding areas as a conspicuous contrasting presence, which would adversely affect local views from and within conservation areas and the canal network.

519 There would also be harm to neighbouring amenity by reason of impact on daylight and sunlight and overshadowing, albeit not to the extent that there would be a conflict with policy.

520 Consequently, as noted above the proposals would not fully comply with Policy 7.7 and 7.8 of the London Plan, Policies D9 and HC1 of the Intend to Publish London Plan (albeit that this does not form part of the statutory development plan), Policies S11, S25, S26 and S37 of the Westminster’s City Plan and UDP Saved Policies DES 3, DES 9, DES 10, DES 12, DES 13 and DES 15.

521 Nevertheless, it should be acknowledged that the development of a 20-storey building is acceptable in the emerging character and scale of the Paddington Opportunity Area and the CAZ. In addition, the proposed design was developed to high standards, with great attention being paid both to the overall design and to the details, resulting in a dynamic building of landmark quality.

522 It should also be noted that a conflict with some development plan policies does not necessarily mean that there is an overall conflict with the development plan as a whole, as it is acknowledged that different parts of the development plan pull in different directions. GLA officers have considered the whole of the development plan and consider that, overall, the proposals would accord with it.

523 It is important to note that, given the less than substantial harm to heritage assets and minor nature of the adverse impacts on local views and the canal network, and the significant benefits outlined in the *Heritage balance* section, the combination of heritage harm and impact on views and the canal is considered to be significantly and clearly outweighed by the proposed public benefits of the scheme. This balance would therefore amount to a material consideration of sufficient weight that it could indicate that, even if it was concluded that there was an overall conflict with the development plan, the application should be determined other than in accordance with the policies outlined above.

## Conclusions

524 This report has considered the material planning issues associated with the proposed development in conjunction with all relevant national, regional and local planning policy, and has found that the proposed development is acceptable in terms of land use principles, heritage, design, living conditions at neighbouring properties, sustainability, climate change and other environmental issues, transport, and mitigating the impact of development through planning obligations and conditions. When considered overall, the development complies with the development plan and there are no material considerations that indicate that planning permission should not be granted. Accordingly, the recommendations set out at the beginning of this report are proposed.

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## Drawing numbers and documents

<b>1. Site</b>	
Site Location Plan - Box Level	606_07_001 P2
Site Location Plan - Lower Ground Level	606_07_002 P2
Site Location Plan - Ground Level	606_07_003 P2
Site Location Plan - All levels	606_07_004 P2
Existing Box Level Demolition Plan	606_07_010 P2
Existing Lower Ground Level Demolition Plan	606_07_011 P2
Existing Ground Level Demolition Plan	606_07_012 P2
Existing Demolition Sections	606_07_013 P2
<b>2. Plans</b>	
Proposed Lower Box Level Plan	606_07_100 P2
Proposed Upper Box Level Plan	606_07_101 P2
Proposed Lower Ground Level Plan	606_07_102 P2
Proposed Ground Level Plan	606_07_103 P2
Proposed Mezzanine Plan	606_07_104 P2
Proposed Level 01 Plan	606_07_105 P2
Proposed Typical Lower Office Level Plan	606_07_111 P2
Proposed Typical Upper Office Level Plan	606_07_119 P2
Proposed Level 19 Plan	606_07_123 P2
Proposed Roof Plan	606_07_124 P2
<b>3. Elevations</b>	
Existing Context Elevation - North	606_07_200 P2
Existing Context Elevation - West	606_07_201 P2
Existing Context Elevation - South	606_07_202 P2
Existing Context Elevation - East	606_07_203 P2
Existing Context Section - Kingdom Street	606_07_204 P2
Proposed Context Elevation - North	606_07_205 P2
Proposed Context Elevation - West	606_07_206 P2
Proposed Context Elevation - South	606_07_207 P2
Proposed Context Elevation - East	606_07_208 P2
Proposed Context Section - Kingdom Street	606_07_209 P2
Proposed North Elevation	606_07_210 P2
Proposed North Elevation - No Westway	606_07_211 P2

Proposed East Elevation	606_07_212 P2
Proposed East Elevation - No Buildings	606_07_213 P2
Proposed South Elevation	606_07_214 P2
Proposed West Elevation	606_07_215 P2
Proposed West Elevation - No Bridges	606_07_216 P2
<b>4. Sections</b>	
Proposed Section AA	606_07_300 P2
Proposed Section BB	606_07_301 P2
Proposed Section CC	606_07_302 P2
<b>5. Bay Studies</b>	
Bay Study - Lower Levels South	606_07_400 P2
Bay Study - Typical Levels South	606_07_401 P2
Bay Study - Upper Levels South	606_07_402 P2
Bay Study - Upper Levels North	606_07_403 P2
Bay Study - Kingdom Square Pavilion	606_07_404 P2
Bay Study - West Link Pavilion	606_07_405 P2
Bay Study - The Plinth	606_07_406 P2
Bay Study - Plinth At South West	606_07_407 P2
Bay Study - Plinth At North	606_07_408 P2
<b>6. Phasing Plan</b>	
Phasing Plan – Box Levels	606_07_020 P1

<b>May 2019 Documents (original planning application submission)</b>	<b>July 2020 Documents (amendments to planning application)</b>	<b>October 2020 (Addendum/Subsequent Submission to GLA)</b>
Planning Statement	Planning Statement	
Design and Access Statement	Design and Access Statement	
Covering Letter	Covering Letter	
CIL Form	CIL Form	
Energy Assessment	Energy Assessment	
Operational Management Framework	Operational Management Framework	
Sustainability Statement	Sustainability Statement Addendum	
Office Market Assessment		
Residential Site Search Assessment		
Statement of Community Involvement		
Maximising the Positive Impacts of Development		
Financial Viability Assessment	Financial Viability Assessment	
Television Interference Desk Based Report		
	Fire Statement	Fire Statement (Rev 1)

Environmental Impact Assessment	Addendum including: Environmental Statement Vol I, II	
Townscape, Heritage & Visual Impact Assessment	Townscape, Heritage & Visual Impact Assessment Addendum	
EIA Scoping Report		
Scoping Opinion and Subsequent Correspondence		
Historic Environment (Archaeological) Assessment		
Phase I Environmental Assessment - Ground Conditions and Contamination		
Transport Assessment	Transport Assessment Addendum	
Travel Plan		
Delivery, Servicing and Waste Management Plan	Delivery, Servicing and Waste Management Plan Addendum	
Flood Risk Assessment (inc drainage)		
Westminster SUDS proforma		
Ecological Impact Assessment		
Air Quality Assessment	Air Quality Assessment Addendum	
Noise and Vibration Impact Assessment	Noise and Vibration Impact Assessment Addendum	
Outline Construction Environmental Management Plan		
Socio-Economics - Significance Thresholds		
Socio-Economics - Baseline Data		
	Transboundary Economic Baseline Data	