### 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street, and 30 Gloucester Place
in the City of Westminster
planning application no. 16/11376/FULL

#### Strategic planning application stage II referral

#### The proposal
Demolition of the existing buildings at 19-35 Baker Street, 88-110 George Street, 69-71 Blandford Street; extension and change of use of the first floor from office to residential at 30 Gloucester Place; redevelopment to create a mixed use scheme providing offices, retail, and up to 51 residential units, within buildings of up to ten storeys; and creation of a new central, publically accessible courtyard and route connecting Baker Street and Gloucester Place.

#### The applicant
The applicant is Portman Investments (Baker Street) Ltd, and the architect is Hopkins.

#### Key dates
- Pre-application meetings: 5 April and 9 September 2016
- Stage I Report: 30 January 2017
- Committee Meetings: 16 May 2017 and 14 November 2017

#### Strategic issues summary

**Principle of development:** The uses proposed on this under-utilised Central Activities Zone site are supported in line with London Plan and draft London Plan policies.

**Affordable housing:** Equivalent to 34% on-site (18% on-site units, in the form of 10 discount market rent units, with rent levels considerably below London Living Rent levels, together with a payment of £10M). Early and late stage viability reviews have been secured and the offer is supported in line with the London Plan, the draft London Plan, and the Mayor’s Affordable Housing and Viability SPG.

**Urban design:** The height, layout, massing and architecture of the proposal is supported, and residential quality is generally good given the constraints of the site. Impacts on neighbouring residential amenity are limited, and are not significant enough to outweigh wider benefits.

**Transport and climate change** issues have been agreed.

#### The Council’s decision
In this instance, City of Westminster Council has resolved to grant permission, subject to conditions and agreement of a section 106 agreement.

#### Recommendation
That City of Westminster Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal or direct that he is to be the local planning authority.
Context

1. On 20 December 2016, 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. This was referred to the Mayor under Categories 1B and 1C(c) of the Schedule to the 2008 Order:

   - **1B** “Development (other than development which only comprises the provision of houses, flats, or houses and flats) which comprises or includes the erection of a building or buildings (b) in Central London (other than the City of London) and with a total floorspace of more than 20,000 square metres.”
   
   - **1C(c)** “Development which comprises or includes the erection of a building that is more than 30 metres high and is outside the City of London.”

2. On 30 January 2017, the Mayor considered planning report D&P/3935/01, and subsequently advised Westminster City Council that the application did not yet comply with the London Plan, for the reasons set out in paragraph 60 of the above-mentioned report (attached); but that the possible remedies set out in that paragraph could address these deficiencies.

3. A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report. Since then, further information has been provided in response to the Mayor’s concerns and the application has been amended (see below).

4. On 14 November 2017, the City of Westminster Council decided that it was minded to grant permission, subject to conditions and agreement of a section 106 agreement, for the revised application, and on 7 February 2019 it advised the Mayor of this decision. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008, the Mayor may allow the draft decision to proceed unchanged, direct Westminster City Council under Article 6 to refuse the application, or issue a direction to the Council under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application. The Mayor has until 20 February 2019 to notify the Council of his decision and to issue any direction.

Consultation stage issues summary

5. At consultation stage, Westminster City Council was advised that the application did not yet comply with the London Plan for the reasons set out below:

   - **Mixed use and employment**: The proposals involve a significant uplift in office space. Subject to confirmation of the affordable housing provision and proposed PIL through viability review, the amount of residential floorspace on-site is acceptable.

   - **Affordable housing**: 17% (by habitable room) on-site, without grant, in the form of 10 intermediate rent units, together with a payment of £5M towards Westminster’s affordable housing fund supported by a financial viability assessment. The provision of ten on-site affordable units, together with the financial payment will be subject to the outcome of the Council’s independent viability review, in discussion with GLA officers. In view of the small number of affordable units, the provision of a single tenure is also likely to be acceptable. The applicant should provide an indication (with method of calculation) of the number of units that the payment could provide off-site. Rent levels will be considerably below London Living Rent levels, which should be secured in the section 106 agreement.
Inclusive design: The Council should secure M4(2) and M4(3) requirements by condition.

Transport: Car parking should be reduced and short-stay cycle spaces increased, or the applicant may enter into a section 106 agreement to provide the shortfall in the surrounding area. The location of cyclist changing facilities and details of the shared access for cycle parking and car parking from George Street should be clarified. A financial contribution of £54k is requested through the section 106 agreement for the provision/extension of a docking station. A travel plan, delivery and servicing plan and construction logistics plan (CLP) should all be secured on any consent.

Climate change: The domestic buildings are required to meet the zero carbon target and the remaining regulated CO$_2$ emissions should be met through a contribution to the Council’s offset fund. The shortfall in CO$_2$ reductions from the non-domestic buildings, should be met off-site. Further detail should be provided on the applicant’s overheating analysis for building D, and the site heat network.

6 The decision on this case, and the reasons will be made available on the GLA’s website www.london.gov.uk.

Strategic planning policy and guidance update

7 The following draft policy and guidance are now material considerations:

- The draft London Plan 2017 and the Mayor’s Minor Suggested Changes, which should be taken into account on the basis explained in the NPPF.
- In August 2017, the Mayor published his Affordable Housing and Viability Supplementary Planning Guidance. This must now be read subject to the decision in R(McCarthy & Stone) v. Mayor of London, in which the High Court granted a declaration that references in the SPG to late stage review were unlawful, to the extent that late stage review is recommended in all cases, irrespective of the time which is likely to be taken before a scheme is built out.

Application update

8 Since consultation stage, GLA officers have engaged in discussions with the applicant, the Council and TfL officers with a view to addressing the above matters. Furthermore, as part of Westminster City Council’s draft decision on the case, various planning conditions and obligations have been proposed to address the above concerns and ensure that the development is acceptable in planning terms.

9 Furthermore, the Council’s Planning Sub-Committee requested the applicant to reconsider the height and design of the upper levels of the building; the encroachment of the building onto Baker Street and George Street; servicing arrangements; and the distribution of Use Class A1 and A3 units. In response, the Baker Street building has been amended as follows:

- A reduction in height of 1 metre.
- Lowering the top of the street facade by 3.38 metres.
- Changes to the base of the building, joining the ground floor and first floor levels within a two storey frame.
- The top two floors coming slightly forward to the street facades.
The applicant also proposed to undertake modifications to the Baker Street Two-Way project during the final phase of construction; and proposed a minimum of 1,168 sq.m. retail and a maximum of 2,724 sq.m. restaurant floorspace. These changes do not raise any additional strategic issues.

Principle of development

The applicant is proposing an office-led mixed use development, with floorspace as below.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Floorspace (sq.m. GIA)</th>
<th>Uplift</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Existing</td>
<td>Proposed</td>
</tr>
<tr>
<td>Office (B1)</td>
<td>10,674</td>
<td>28,012</td>
</tr>
<tr>
<td>Residential (C3)</td>
<td>4,182</td>
<td>8,772</td>
</tr>
<tr>
<td>Retail (A1-A4)</td>
<td>4,074</td>
<td>3,823</td>
</tr>
<tr>
<td>Total</td>
<td>18,930</td>
<td>40,607</td>
</tr>
</tbody>
</table>

At consultation stage, the uses proposed were supported in line with London Plan policies on the Central Activities Zone (CAZ), mixed use development and offices.

The draft London Plan provides further support for the proposed uses in Policy SD4, including the intensification of office functions; public realm improvements; and enhancement of the vitality and viability of CAZ retail clusters. Although both the existing uses on the site, and the proposed uses, include residential; GLA officers do not consider the location to be a predominantly residential (as stated in some objections), particularly due to its close proximity to Baker Street, which is designated as CAZ frontage in the London Plan, (and CAZ retail cluster in the draft London Plan); however, the residential uses proposed are proportionate and located so as to relate well to adjacent residential uses. Policy SD5 of the draft London Plan provides further support for the proposals, identifying that offices and other CAZ functions should be given greater weight relative to residential development in the commercial parts of Marylebone. In addition to the local need identified in the Mayor’s Stage I report, the draft London Plan also identifies projected growth in demand for office space of 59% in the CAZ (and Northern Isle of Dogs) between 2016 and 2041, and Westminster City Council’s City Plan 2019-2040 (consultation draft 2018) identifies that more than 570,000 sq.m. of office stock has been lost since 2005, with a requirement for 850,000 sq.m. of new space up to 2041.

As noted at consultation stage, the proposals will lead to a small reduction in retail space, with active retail frontage maximised along the Baker Street CAZ frontage/retail cluster. Although the proposed courtyard retail uses extend into the site beyond the boundary of the CAZ frontage/retail cluster, this allows active uses to be incorporated beside the new publicly accessible route through the site and is supported. Partly in response to objections from neighbouring residents, the draft decision notice proposes to secure by condition a minimum of 1,168 sq.m. of Class A1 retail floorspace and a maximum of 2,724 sq.m. of Class A3 restaurant floorspace; some of the units for Class A1 retail use only; and submission of a retail strategy prior to occupation. These measures are supported.

The uses proposals are therefore supported in line with the London Plan and the draft London Plan.
Affordable housing.

16  The proposal includes the following housing, compared to that existing (not including the 8 existing units on the second and third floors of the Gloucester Place block, which will be retained with no internal works proposed):

<table>
<thead>
<tr>
<th></th>
<th>Existing (short term lets)</th>
<th>Existing (assured shorthold tenancy)</th>
<th>Proposed affordable (intermediate rent)</th>
<th>Proposed market</th>
<th>Total Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>18</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1 Bed</td>
<td>18</td>
<td>1</td>
<td>5</td>
<td>18</td>
<td>23 (45%)</td>
</tr>
<tr>
<td>2 Bed</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>14</td>
<td>19 (37%)</td>
</tr>
<tr>
<td>3 Bed</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>9 (18%)</td>
</tr>
<tr>
<td>Total</td>
<td>36</td>
<td>2</td>
<td>10</td>
<td>41</td>
<td>51</td>
</tr>
</tbody>
</table>

(18% on site)

17  At consultation stage, the application proposed 18% (by habitable room) affordable housing on-site (corrected from 17% as stated in the Stage I report), without grant, in the form of 10 discount market (intermediate) rent units, which Westminster City Council’s Planning Committee resolved to approve. The 10 affordable units will be provided by converting the second floor office space in the Gloucester Place building. It was acknowledged at consultation stage that further on-site affordable housing could only be provided with the addition of another access core to the proposed George Street building, which would result in inefficient layouts for a relatively small number of affordable units.

18  Westminster has a policy which requires a quantum of residential floorspace in mixed use developments which are located in the CAZ. This has to be provided in accordance with a cascade which is set out in City Plan Policy S1C. Where a scheme has a shortfall of floorspace which cannot be provided on or off site the final stage of the ‘cascade’ requires that an appropriate payment be made to the Affordable Housing Fund. In this case, the applicant offered an initial payment of £5M and as a result of concerns regarding the relatively low level of affordable housing has agreed a further payment of £5M making a total contribution of £10M towards affordable housing in addition to the 10 homes provided on site. The applicant has confirmed that this can be achieved by undertaking a rationalisation of the specification to achieve greater efficiencies in design, manufacture, construction cost, and programme; while still delivering a development of a high standard.

19  GLA officers calculate that the £10M contribution, together with the on-site discount market rent units, would result in an equivalent affordable housing proportion of approximately 34% on-site. Furthermore, it is recognised that off-site provision is likely to result in more affordable housing than could be provided on this high value site. Owing to the viability position and the greater provision of affordable housing that can be provided off-site, the offer of 10 on-site intermediate rent units and a £10M is supported.

20  The discount market rent units have rents set at moderate levels and will be affordable to those on Westminster’s intermediate housing waiting list. These are secured in the draft section 106 agreement at a rent of £181 per week for the one-beds, and £202 per week for the two-
beds (inclusive of service charges). This compares to London Living Rent ward benchmarks of £310 per week for a one-bed unit and £344 for a two-bed unit.

21 The proposal falls short of the 35% threshold set out in the Affordable Housing and Viability SPG and the emerging London Plan. For developments that are likely to be completed in the short term, a late stage review would not be consistent with the London Plan; however, late stage review is required under Policy H6 of the draft London Plan. This is a material consideration, which is considered to outweigh any conflict with the London Plan in this respect, and to be consistent with the overall London Plan objective of seeking the maximum reasonable amount of affordable housing. A late stage review is particularly needed in this case as the on-site tenure is all intermediate, a payment towards affordable housing is involved, and there is potential for significant changes in costs and values over the course of the development. The applicant had initially resisted a late stage review; however, after lengthy negotiations between GLA officers, the applicant, and the Council, early and late stage viability reviews have been secured in the draft section 106 agreement. Negotiations have also secured an unredacted version of the applicant’s FVA, which has been published on Westminster City Council’s website.

Urban design and historic environment

22 At consultation stage, the height, layout, massing and architecture of the proposal was supported, and residential quality was generally considered to be good given the constraints of the site. In terms of the historic environment, GLA officers considered that no harm will be caused to the significance of the Grade II listed 30 Gloucester Place building, nor to the significance or the setting of the Portman Estate Conservation Area.

23 The Council’s Planning Sub-Committee subsequently requested the applicant to reconsider the height and design of the upper levels of the Baker Street building. In response, the height was reduced by one metre; the street facade lowered by 3.38 metres; elevations amended; and the top two floors moved slightly forwards. GLA officers consider the changes to be minimal; however, the reduction in massing at upper levels does reduce the impact of the proposed building on its surroundings, as shown in the applicant’s Townscape, Visual and Heritage Assessment Addendum. GLA officers remain of the view that no harm will be caused to the significance of the Grade II listed 30 Gloucester Place building, nor to the significance or the setting of the Portman Estate Conservation Area.

24 Objections received by the GLA include amenity impacts on nine residential properties on Blandford Street. These are rigorously assessed in the application materials and the Council’s Committee Reports. Any losses to daylight and sunlight are not considered to result in a material and substantial loss of amenity. In terms of sense of enclosure, the houses currently overlook an open car park, and development close to the boundary wall would result in greater enclosure to the ground floor rooms of the existing houses; however, this increase in bulk and mass is not considered to be great enough to adversely impact on living conditions of the houses. The proposed residential on George Street (Building D) is approximately 30 metres away from the existing residential properties in Blandford Street, which is a greater distance than the usual street width in the area, and greater than the 18–21 metres separation distance suggested in the Mayor’s Housing SPG. While the courtyard retail buildings will be in closer proximity, these are single storey. Given this, GLA officers consider that the existing residential properties would not experience unacceptable overlooking, loss of privacy, or undue noise disturbance. Overall, impacts on neighbouring residential amenity are limited, and are not significant enough to outweigh the wider benefits of the scheme.

25 The design of the proposals is therefore supported in line with the London Plan and the draft London Plan.
Transport

26 Concerns raised at consultation stage in relation to cycle parking have been addressed through the imposition of a condition. The delivery and servicing plan and construction management plan have also been secured by condition and the travel plan submitted. The servicing arrangements for the site are acceptable.

27 The request for the new pedestrian courtyard route to be publicly accessible 24 hours per day has not been secured; however, in view of the concerns raised by neighbouring residents about security and amenity, this is acceptable.

28 It is regrettable that the Council has not secured the requested contribution of £54,000 for the extension of cycle hire capacity in the area; however, given the other material benefits of the scheme, this is accepted in this case.

29 The residential car parking ratio of 0.5 spaces per unit is within current London Plan standards; and as the application was submitted before publication of the draft London Plan, is accepted in this case.

30 Concerning the encroachment of the building onto the pavement in Baker Street and George Street, which is also the ground for a number of objections, TfL Pedestrian Comfort Guidance for footway widths states that for high flows of pedestrians, such as Baker Street, a minimum footpath width of 5.3 metres is recommended, and up to 5.6 metres is proposed, with a very small area achieving 5.2 metres. Guidance for footway widths for low flows of pedestrians, such as George Street, recommends a minimum footway width of 2.9 metres, and a generous 4-4.6 metres is proposed. These widths are therefore acceptable.

Climate change

31 The applicant has provided the additional information requested at consultation stage relating to overheating, and the site heat network. Based on the energy assessment submitted, a saving of 30% reduction in regulated carbon dioxide emissions from the non-domestic element, and a 24% reduction from the residential element is expected. London Plan Policy 5.2 and Policy SI2 of the draft London Plan require 35% savings for the non-domestic element and zero carbon for the domestic buildings; however, it is accepted that all possible measures have been explored to make the proposed scheme as energy efficient as possible. The shortfall will be met through a financial contribution to the Council’s carbon offsetting fund of £145,800 for the residential element, and £84,780 for the non-residential element, which is secured in the draft section106 agreement.

Response to consultation

Responses to Westminster City Council

32 In addition to inviting comments from statutory consultees and publishing all the relevant documents on the Council’s planning register, Westminster City Council carried out a public consultation with local residents, businesses and institutions. The Council publicised the application by notifying 358 neighbouring properties, placing site notices and publishing notices in the local press. A further consultation was undertaken after the scheme was amended and a total of 15 responses were received, including 12 objections (including an objection on behalf of 7 residential properties), with reasons for objection summarised below:

• The applicant has failed to materially respond to the four grounds for deferral.
• Excessive height.
• Reduction in the pavement width on Baker Street/George Street.
• Servicing arrangements are flawed and unworkable.
• Introduction of retail and restaurant units to the centre of the site is against policy.
• Impact on residential amenity from publicly accessible space and retail and restaurant floorspace.
• Impact on outlook, overlooking, daylight and sunlight.
• Housing quality.
• Low level of affordable housing.
• Inadequate levels of housing in response to mixed use policy.
• Loss of trees.
• Safety concerns have not been addressed.

33 The following organisations also issued responses to the consultations:

• **Historic England:** Objection (to revised scheme), on grounds that the proposed building will cause some harm to the character of the Portman Estate Conservation Area and the setting of a number of listed terrace houses within the Conservation Area.

• **Marylebone Association:** No objections but concerns about impact on neighbours, height and massing of Building C, and level of affordable housing.

**Responses to the Greater London Authority**

34 An objection has been received from Greater London Assembly Member Andrew Dismore, on grounds that the application proposes less than 20% affordable housing, with no review mechanism to capture any uplift; the application will lead to an encroachment onto the public footway on Baker Street; and the height and mass are unacceptable and would lead to a visually intrusive aspect.

35 Objections have also been received by GLA officers from two residents of Blandford Street, indicating that the objections are shared by residents of 73-89 Blandford Street. These objections focused on the extent of commercial uses proposed on the site, the scale of the building, the impact on residential amenity and security of 73-89 Blandford Street, servicing arrangements, and encroachment onto the Baker Street footway.

36 Further representations were made by a resident of Blandford Street to the Mayor of London; The Deputy Mayor for Planning, Regeneration and Skills; and the Deputy Mayor for Housing, highlighting the lack of affordable (social) housing, and Westminster City Council’s handling of the application.

37 Westminster City Councillor Paul Dimoldenberg also made representations to the Deputy Mayor for Planning, Regeneration and Skills, highlighting local residents’ objections, as well as raising concerns about the level of affordable housing and the lack of viability review mechanisms.

38 Issues raised by objectors have been considered in this report, the Mayor’s Stage I report, and the Council’s committee reports of 16 May 2017 and 14 November 2017. The Council has proposed various planning obligations and conditions in response. Having had regard to these, GLA officers are satisfied that the statutory and non-statutory responses to the public consultation process do not raise any material planning issues of strategic importance that have not already been considered in this report, or consultation stage report D&P/3935/01.
Draft Section 106 agreement

39 The section 106 agreement will include the following provisions:

- Affordable housing as set out above, comprising 10 discount market rent units (at a rent of £181 per week for the one-beds, £202 per week for the two-beds, inclusive of service charges), together with a payment of £10M, with early and late stage viability review mechanisms;
- £1,465,499 Crossrail contribution;
- £145,800 carbon off-set contribution for the residential element and £84,780 for the non-residential element;
- £30,000 towards of off-site tree planting on George Street, Gloucester Place and Blandford Street.

Article 7: Direction that the Mayor is to be the local planning authority

40 Under Article 7 of the Order, the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance, the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at consultation stage, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

41 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008, the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. He also has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application. The Mayor may also leave the decision to the local authority. In directing refusal, the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice. If the Mayor decides to direct that he is to be the local planning authority, he must have regard to the matters set out in Article 7(3) and set out his reasons in the direction.

Financial considerations

42 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. National Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.

43 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

44 Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for
determining any reserved matters applications (unless he directs the Council to do so) and
determining any approval of details (unless the Council agrees to do so).

**Conclusion**

45 The strategic issues raised at consultation stage regarding mixed use and employment;
affordable housing; inclusive design; transport; and climate change, have been appropriately
addressed, and conditions and section 106 obligations secured, and as such, the application
complies with the London Plan and the draft London Plan and there are no sound reasons for the
Mayor to intervene in this particular case.

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