

The Monico Site, Piccadilly Circus

in the City of Westminster

planning application no. 15/07092/FULL

Strategic planning application stage II referral

Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008.

The proposal

Full application for the demolition of existing buildings and demolition behind retained facades of 19 and 20 Denman Street; realignment of 4-6 Glasshouse Street, 1 Sherwood Street, 8 Glasshouse Street and 11-17 Shaftesbury Avenue facades; and retention of Piccadilly Circus advertising screens. Construction of a replacement six storey building (plus 6th floor mezzanine office) with three basement levels to create a mixed use scheme comprising office (Class B1) at part ground to sixth storey mezzanine; retail (Class A1, A2, A3) at part basement one, part ground and part first floor; up to seven residential units (Class C3) at part first floor, part second floor and part third floor; and plant and cycle storage within the basement. Associated works including mechanical plant within roof enclosure and loading facilities.

The applicant

The applicant is **Land Securities Victoria Properties Ltd**, the architect is **Fletcher Priest**, and the agent is **Jones Lang LaSalle**.

Strategic issues

Issues with respect to **housing, affordable housing, historic environment, urban design, inclusive design, transport, climate change** and **air quality** have been satisfactorily addressed since Stage One. The proposed mixed use development is supported in strategic planning terms.

The Council's decision

In this instance, Westminster Council has resolved to grant permission, subject to conditions and completion of a Section 106 agreement.

Recommendation

That 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 9 September 2015, the Mayor of London received documents from Westminster 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(b) and 1C(c) of the Schedule to the Order 2008:

- 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 *“Development which comprises or includes the erection of a building of (c) more than 30 metres high and is outside the City of London”.*

2 On 20 October 2015, the Mayor considered planning report D&P/3648/01, which stated that while the application is generally acceptable in strategic planning terms, the application did not yet comply with the London Plan, for the reasons set out in paragraph 74 of that report; but that the possible remedies set out in that paragraph could address these deficiencies. However, in addition the Mayor expressed great concern about the proposed loss of the facade of 2-4 Sherwood Street, a non-designated heritage asset. Consequently, the applicant was strongly advised to review the proposals with a view to incorporating this facade into the scheme.

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 (see below). On 8 December 2015, Westminster Council decided that it was minded to grant permission, subject to conditions and completion of a Section 106 agreement, and subsequently 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 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.

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

Update

5 At consultation stage, planning report D&P/3648/01 stated that that while the application is generally acceptable in strategic planning terms, it did not yet comply with the London Plan for the reasons set out in paragraph 74 of that report; but that the possible remedies set out in that paragraph could address these deficiencies:

- **Housing and affordable housing:** The re-provision of better quality housing on the site is welcomed; however the proposal involves the loss of the existing affordable housing with no re-provision, which is against London Plan policy. The applicant should therefore work with the Council to identify clear and timely re-provision, either on-site or on an alternative site. The applicant should provide clarification on its response to the policy requirement for housing in response to an uplift in office floorspace. The Council should provide its independent viability advice in respect of any requirements in relation to the uplift in office space, prior to the Stage Two referral.

- **Historic environment:** The impact on designated heritage assets is considered to be largely neutral, with some positive impacts; however, the demolition of 2-4 Sherwood Street will cause 'less than substantial' harm to the Soho Conservation Area, although this will be outweighed by the public benefits of the scheme. Although the loss of non-designated heritage asset is disappointing, it is recognised that the proposal as a whole retains all other facades of the buildings of merit, and its loss is outweighed by the public benefits arising from the scheme.
- **Urban design:** The layout, massing and design of the proposals are generally supported; however the removal of the arcaded passage raises concerns about pedestrian congestion. Detailed design should carefully consider the colour and design of the proposed ceramic tiles for the replacement 2-4 Sherwood Street; the massing and detailing of the proposed roof structure to the north-west of the site; and the design of the 'Rainbow Corner'.
- **Inclusive design:** The proposals generally reflect the principles of inclusive design. It is accepted that the inclusion of residential units in the retained historic buildings on Denman Street does not allow full access and no wheelchair accessible units are included. The inclusion of a platform lift does not provide equality of access and should be reconsidered.
- **Transport:** Section 106 mitigation will be required in relation to the absence of short stay cycle parking and the increased demand for Cycle Hire usage. The loss of the existing arcaded passage space cannot be supported on the basis of the information provided to date, and the analysis of existing and potential pedestrian comfort levels should be comprehensively reviewed and re-provided to TfL. A detailed delivery and servicing plan, construction logistics plan, and detailed travel plan should be secured by section 106 agreement or condition. Further discussion with TfL is required concerning the temporary construction pit lane on Shaftesbury Avenue.
- **Climate Change:** The applicant should provide further information to demonstrate how the building has been designed to avoid overheating and minimise cooling demand; provide sample SAP full calculation worksheets and BRUKL sheets; provide a drawing of the route of the heat network and a layout drawing of the energy centre; provide further information on the CHP; and provide further information on the biofuel technology proposed.
- **Air quality:** The site lies within an Air Quality Management Area (AQMA) and as the proposal includes a biomass boiler the applicant should provide an Air Quality Assessment, as required by London Plan Policy 7.14 'Improving Air Quality'.

6 However, in relation to the **historic environment**, as stated above, the Mayor expressed great concern about the proposed loss of the facade of 2-4 Sherwood Street, a non-designated heritage asset. Consequently, the applicant was strongly advised to review the proposals with a view to incorporating this facade into the scheme.

7 Since then, the applicant has responded to the matters raised in the Stage One report as set out below. The proposal has also been amended to replace the basement level D1 space with A1 retail space, and replace some of the A3 food and drink space with A1 retail space; however this does not raise any additional strategic issues.

Housing and affordable housing

8 The site currently includes 1,200 sq.m. (GIA) of residential floorspace, made up of 1,050 sq.m. of affordable floorspace and 150 sq.m. of market floorspace, which will be replaced by 370 sq.m. of market floorspace, a reduction of 830 sq.m. At Stage One, concerns were raised about

the loss of 830 sq.m. of residential floorspace, including all of the affordable housing, which is contrary to London Plan Policy 3.14 'Existing Housing', which resists the loss of housing without re-provision. The applicant had investigated the re-provision of all of the existing residential floorspace on-site; however this was discounted due to design limitations, including impacts on residential quality, as well as negative impacts on the viability of the commercial floorspace. The applicant also investigated re-provision of the floorspace within 0.5 miles of the site; however it concluded that none of these sites could be delivered in line with the development programme; to the required policy and quality requirements; and within financial viability requirements. However, the Stage One report advised the applicant to continue to work with the Council to identify clear and timely re-provision, either on-site or on an alternative site.

9 In response, the applicant offered to re-provide the affordable residential floorspace on a site to be identified within the vicinity of the site, to be secured through legal agreement. Normally this would form part of a land use swap proposal and the location, size, quality and internal arrangements of the new residential units would be assessed as part of the scheme; however as discussed above, the applicant has not been able to identify such a site in this case. Consequently, the draft Section 106 agreement secures the provision of at least 830 sq.m. of new off-site affordable housing, for which a planning application must be submitted prior to commencement of the Monico site scheme, and for which the residential units must have been completed prior to occupation of the Monico site. The draft section 106 agreement allows the applicant to identify sites within Westminster, should the applicant not have been able to identify a suitable site within the vicinity of the site. GLA officers consider that this appropriately secures a definite and timely delivery of replacement units, which is supported.

10 As stated at Stage One, London Plan Policy 4.3 'Mixed Use Development and Offices' requires that where development proposals increase office floorspace within the CAZ, they should include a mix of uses, including residential. Westminster City Council requires that where proposals increase the amount of commercial floorspace by 200 sq.m. or more, the provision of an equivalent amount of residential floorspace is required. Given that there is an uplift of 11,258 sq.m. of office floorspace, this would normally require an equal amount of residential floorspace. As discussed above, the applicant has made a case that additional residential space on-site is not appropriate or practical and has been unable to identify a donor site. The Council calculates that a payment in lieu for affordable housing in respect of this uplift in space would amount to £18,523,018. The applicant initially made an offer of £3,000,000 and submitted a viability assessment in support of this offer; however the Council's independent advisers found that a contribution of £4,832,000 would be viable. The applicant originally agreed to this sum; however following amendments to the scheme to reduce the amount of A3 space and increase A1 space, the applicant reduced the offer to £3,466,263, stating that the increase in A1 space reduced the viability of the scheme. The Council's Planning Applications Committee decided that this offer is acceptable and this sum (index linked) is secured within the draft section 106 agreement. In the context of London Plan Policy 3.12 'Negotiating Affordable Housing' requirement to secure the maximum reasonable amount of affordable housing, and taken together with the secured commitment to re-provide at least 830 sq.m. of affordable floorspace, GLA officers consider this contribution to be acceptable in this instance.

Historic environment and urban design

11 The Mayor's Stage One report concluded that the impact on designated heritage assets is largely neutral, with some positive impacts, although the demolition of the locally listed 2-4 Sherwood Street is considered to cause 'less than substantial' harm to the Soho Conservation Area. Furthermore, the report stated that although the loss of this non-designated heritage asset is regrettable, it is recognised that the proposal as a whole retains all other facades of the buildings of merit, and its loss is outweighed by the public benefits arising from the scheme,

including the high design quality, the provision of high quality new commercial space, improved public realm, new housing, and heritage benefits arising from the removal of unsightly buildings. However, as stated in the covering letter to the Stage One report, the Mayor expressed great concern about the proposed loss of the facade of 2-4 Sherwood Street, and consequently the applicant was strongly advised to review the proposals with a view to incorporating this facade into the scheme. It is noted that the Council's Committee Report did not include the views of the Mayor, which were stated in the Stage One covering letter. The Council should ensure that the views of the Mayor are fully considered in its Committee Reports.

12 It should be noted that the applicant was requested at pre-application stage to retain the facade of 2-4 Sherwood Street and provided justification to explain why it considered that this was not possible. In response to the Mayor's concerns expressed at Stage One, the applicant has again considered retention of this facade; however it states that it can only be incorporated into the new building by *"wholly compromising it, thus reducing its contribution"*. Furthermore, the applicant states that the 'stretching' proposed to some of the other facades on the site does not lend itself to the architecture of the existing building and thus its retention would need to be achieved by means of a separate 'flying facade', several metres in front of the real facade. This would be necessary to achieve consistent floor levels across the site; allow adequate daylight to enter the building; and screen the additional floors of the larger scheme, which would otherwise be prominent immediately above the facade. The applicant also points out that this would reduce the floorspace of the scheme, impacting viability. As stated in the Stage One report, although GLA officers consider this loss to be regrettable, the scheme does retain all other historic facades, and the loss is considered to be outweighed by the public benefits arising from the scheme. GLA officers consider that the applicant has reasonably considered options for retention and that these have been discounted for valid reasons.

13 Concerns were also expressed at Stage One about the quality of the proposed replacement facade of 2-4 Sherwood Street, which extends the ceramic cladding from the roof. This will clearly distinguish the new and historic elements, while giving the potential to relate to the local context, which includes ceramic elevations in both historic and contemporary buildings; however the early stage of design of the proposed ceramic tile, as well as the blue-grey colour, raised some concerns, particularly considering the loss of the existing historic facade. The Council's Committee Report also expressed concerns about the proposed replacement facade and consequently a condition has been applied for the new Sherwood Street facade, which secures approval of *"design development to enhance the degree of modelling and use of materials appropriate for this location and as a replacement for the existing building"*. GLA officers support this as an appropriate means of ensuring the quality of the new facade.

Inclusive design

14 At Stage One, concerns were raised about the inclusion of a platform lift to the sixth floor mezzanine level in relation to London Plan Policy 7.2 'An Inclusive Environment', which requires the highest standards of accessibility and inclusion, not just the minimum.

15 In response, the applicant has demonstrated that were a full passenger lift to be included to this level, it would introduce a lift over-run, which would be highly prominent in local views, which is not considered appropriate in townscape terms. It would also have an impact on Protected Vista of strategic view panorama 4A.2 from Primrose Hill to the Palace of Westminster, a Landmark Viewing Corridor, as identified in the Mayor's 'London View Management Framework' SPG. It is also noted that the latest Building Regulations allow *"new developments, where due to site constraints a passenger lift cannot be accommodated to provide access to persons with impaired mobility, have a lifting platform, of a type designed for the vertical height to be travelled"*. In these circumstances, a platform lift is considered appropriate

by the applicant's access advisor, particularly in light of improved industry standards to provide more robust and better operating platform lifts. Consequently, the inclusion of a platform lift serving a small part of the floorspace is acceptable on this occasion.

Transport

16 In regard to transport matters raised at Stage One, a Construction Logistics/Site Environmental Management Plan and Servicing Management Plan will be secured as requested. London Underground infrastructure protection will also be secured by condition. The development will require the relocation and replacement of bus stop infrastructure, including a new Landmark London bus shelter and a relocated bus stop flag-post sign, the costs for which will be borne by the applicant and are secured by section 106/278 agreement.

17 The Council's Committee Report and subsequent member's resolution does not address the requirement for a Travel Plan, nor does it address the concerns raised by TfL regarding the proposed partial closure of Shaftesbury Avenue for construction works. Furthermore, inadequate consideration had been given at that stage to the impact of the development upon the movement and safety of pedestrians, public transport users, cyclists and general traffic on Shaftesbury Avenue and through Piccadilly Circus as a whole. However, further discussions following the committee resolution have led to a revision of the Shaftesbury Avenue facade at ground floor level, reducing the depth of projecting piers by 0.3m. This, along with alterations to the pavement kerb line and a reduction in the width of a pedestrian crossing island, from 2.2m to between 1.8m and 2m wide, makes sufficient allowance for existing levels of pavement overcrowding not to be worsened, providing the required level of safety for pedestrians, public transport users, cyclists and general traffic. The revised floorplans and section drawings will be secured by condition, and thereafter any revision to that design will need to be referred back to the Mayor.

18 Following the revision to the ground floor facade, TfL do not consider it necessary to reduce the width of the pedestrian island to below 2m, and would support the City Council should they wish to modify this element of the revised scheme of highway works.

19 As a result of the recent revisions, notwithstanding the failure to fully address all matters raised at Stage One, the revisions to facade design and identification of public realm/highway design revisions are acceptable in relation to London Plan transport policies.

Climate change

20 At Stage One, the applicant was requested to provide evidence of how Policy 5.9 'Overheating and Cooling' has been addressed for each building use, to avoid overheating and minimise cooling demand. The applicant subsequently provided information on the measures taken to reduce the cooling demand; however this shows that solar gains are exceeded in a number of areas in the building, and in some cases significantly exceeded. The applicant was therefore requested to incorporate further passive measures in line with Policy 5.9, to reduce solar gains below Part L limits.

21 In response, the applicant has stated that the areas with solar gain issues are at the top of the building and will be subject to further design work. Furthermore, no evidence has been provided to demonstrate that the residential units are not at risk of overheating. At this stage of design development, it would normally be expected that any potential overheating issues would be resolved, since additional measures could impact on the energy performance or visual appearance and layout of the building. It is therefore regrettable that the applicant has not

resolved these issues. Consequently, the Council is requested to apply a condition to address this issue, with suggested wording as follows:

“Prior to commencement of the development, details shall be submitted to the local planning authority:

- Verifying that dynamic thermal modelling in line with CIBSE Guidance TM52 and TM49 has been undertaken (providing evidence of thermal modelling results);*
- Providing updated BRUKL documents demonstrating that solar gains are below relevant Part L limits;*
- Verifying that the London Plan cooling hierarchy has been followed and only providing comfort cooling where evidence demonstrates it is required.*

The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

REASON: To minimise overheating risk and reduce cooling energy demands in accordance with London Plan Policy 5.9.”

22 As requested at Stage One, the applicant has provided sample SAP calculation worksheets and BRUKL sheets to support the carbon savings claimed.

23 A site heat network is proposed and as requested at Stage One, the applicant has confirmed that all apartments and non-domestic building uses will be connected and provided drawings showing the route of the heat network and the layout of the energy centre.

24 A combined heat and power (CHP) unit is proposed as the lead heat source for the site heat network and having investigated the feasibility of a range of renewable energy technologies, the applicant is proposing to install a biodiesel 108kWth CHP. At Stage One, concern was raised that the size of the CHP is too large for the proposed development and the applicant was requested to review the size of the CHP in order to ensure the running time of the CHP is maximised. In response, the applicant has provided information on how the biodiesel CHP will draw from the thermal store, which will be loaded by the biodiesel CHP. The applicant has also stated that a buffer vessel will be sized during detailed design to ensure that the CHP can operate at maximum efficiency, rather than operating cyclically, which reduces efficiency. The Council is requested to apply a pre-commencement condition to require the applicant to demonstrate that the design of the energy centre ensures that the CHP will run optimally and that the predicted carbon emissions are met.

25 As requested at Stage One, the applicant has provided written confirmation from the potential biofuel supplier that the fuel can be supplied to the development.

26 Subject to the application of conditions and requirements set out above, the proposals are considered to meet the requirements of London Plan energy policy.

Air quality

27 The site lies within an Air Quality Management Area (AQMA) and as the proposal includes a biomass boiler, at Stage One the applicant was requested to provide an Air Quality Assessment, as required by London Plan Policy 7.14 ‘Improving Air Quality’. The Assessment confirms that particulate matter (PM₁₀) and nitrogen oxide (NO_x) emissions are found to be acceptable, and indeed lower than a natural gas CHP of similar output. Furthermore, it is noted that following consultation with the Council’s air quality technical specialist officer, it has been

agreed that detailed modelling of the CHP emissions would not be necessary. This is acceptable in this instance.

Response to consultation

28 Historic England made no objection; however it stated that cumulatively through the loss of one building and the alterations to the others, some harm will be caused to the Conservation Area, which requires clear and convincing justification. It also recommended further consideration of the proposals in views from Shaftesbury Avenue.

29 The Soho Society objected to the loss of residential floorspace and made other comments relating to the roof design, materials, and energy strategy.

30 Westminster Council publicised the applications by sending notifications to 309 neighbouring properties, as well as issuing site and press notices. The Council received 12 responses, with 7 objections (from 5 respondents).

31 The grounds for objection included:

- Loss of housing/affordable housing.
- Lack of additional housing floorspace in response to the increase in office space.
- Demolition/construction impacts on Piccadilly Theatre.
- Loss of light to neighbouring properties.
- Single aspect housing.
- Negative impacts of service entrance on pedestrian environment of Denman Street and access to Ham Yard car lift.
- Impact on historic streets.
- Excessive bulk and mass.
- Lack of district wide heating opportunity.
- Construction impacts on amenity and traffic.

32 Issues raised by objectors have been considered in this report, the Mayor's Stage One report, and the Council's Committee Report of 8 December 2015.

Draft Section 106 agreement

33 The following financial contributions are included in the draft Section 106 agreement:

- £3,466,263 towards the Council's affordable housing fund (index linked and payable upon commencement of the development).
- £1,719,217 as a Crossrail contribution.
- £110,000 towards the Council's scheme of improvements to Denman Street.
- Payment (sum to be confirmed) for the cost of necessary highway works, including the relocation of the bus stop, on Shaftesbury Avenue.
- Payment (sum to be confirmed) of the Council's monitoring costs.
- Payment (sum to be confirmed) of the Council's Environmental Inspectorate contribution.

34 The draft agreement also secures the re-provision of affordable housing floorspace as discussed above.

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

35 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 Stage One, therefore there is no sound planning reason for the Mayor to take over this application.

Legal considerations

36 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

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

38 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.

39 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

40 The matters raised at consultation stage, namely those relating to housing, affordable housing, historic environment, urban design, inclusive design, transport, climate change and air quality have been satisfactorily addressed. The proposed mixed use development is supported in strategic planning terms.

for further information, contact GLA Planning Unit (Development & Projects Team):

Stewart Murray, Assistant Director – Planning

020 7983 4271 email stewart.murray@london.gov.uk

Colin Wilson, Senior Manager – Development & Projects

020 7983 4783 email colin.wilson@london.gov.uk

Justin Carr, Strategic Planning Manager (Development & Projects)

020 7983 4895 email justin.carr@london.gov.uk

Martin Jones, Senior Strategic Planner, Case Officer

020 7983 6567 email martin.jones@london.gov.uk
