

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPLICATION CALLED IN BY SECRETARY OF STATE

456-472 OXFORD STREET, LONDON W1C 1AP

LPA APPLICATION REF: 21/04502/FUL

PINS APPEAL REF: APP/X5990/V/22/3301508

STATEMENT OF CASE BY SAVE BRITAIN'S HERITAGE

11 August 2022

Introduction

1. SAVE Britain's Heritage ("SAVE") submitted written objections to the planning application for the redevelopment of 456-472 Oxford Street on 22nd November 2021. It urged the City of Westminster to refuse planning permission for the proposed development on the basis of (1) unacceptable harm to heritage assets and (2) unsustainability. SAVE regretted the City of Westminster Planning Committee resolution on 23rd November 2021 to approve the application. In January 2022 SAVE published a report commissioned from Simon Sturgis concerning the comparative carbon efficiency of retrofit and new build. SAVE wrote on 18th May 2022 to request that the application be subject to further scrutiny and welcomes the Secretary of State's decision on 20th June 2022 to call in the matter for Public Inquiry.

2. SAVE has a long track-record of campaigning to protect Britain's historic environment and has consistently highlighted the threat that large scale demolition poses in sustainability and carbon terms. SAVE is not a statutory consultee and receives no government funding. Given its limited resources, SAVE selects very carefully the cases it chooses to comment on, and those it decides to pursue at Public Inquiry. However, such is the national as well as local importance of this case that SAVE has applied for, and been granted, Rule 6 status so that it can put its case in full to the Inquiry.

The Proposal

3. The scheme proposes the demolition of three buildings on the site for the construction of a ground plus nine storey mixed use development (Use Class E) comprising retail, café/restaurant, office and gym, as well as a new pedestrian arcade, public realm and associated works. Full details of the scheme are contained in the Applicant's Planning Statement.

Matters under consideration

4. The Secretary of State's letter on 20th June 2022 refers to the following matters for particular consideration:

- A) The extent to which the proposed development is consistent with Government policies for conserving and enhancing the historic environment (Chapter 16 of the National Planning Policy Framework 2021);
- B) The extent to which the proposed development is consistent with the development plan for the area: and
- C) Any other matters the Inspector considers relevant.

Documents on which SAVE proposes to rely

The Historic Environment

5. SAVE will refer to the following legislation, national and local policies, guidance and other documents concerning the protection of the historic environment:

- Planning (Listed Buildings and Conservation Areas) Act 1990
- National Planning Policy Framework (NPPF) 2021, particularly Section 12 Achieving Well-designed Places, and Section 16, Conserving and Enhancing the Historic Environment
- National Planning Policy Guidance
- English Heritage Conservation Principles, Policies and Guidance 2008, reissued by Historic England 2015
- Historic Environment Good Practice in Planning Advice Note 3: The Setting of Heritage Assets [2nd Edition 2017]
- The London Plan 2021 Chapter 3 Design, and Chapter 7, Heritage and Culture
- Westminster City Plan 2019-2040 - Policies 38, 39 and 40 [April 2021]
- Westminster City Council (WCC) Supplementary Planning Guidance for Mayfair, Stratford Place and Portman Estate Conservation Areas (see dates below)

SAVE will also refer to the following documents related to assessing the heritage impacts of the scheme:

- Extract from Survey of London Volume 53 Chapter [11 April 2020]
- Twentieth Century Society Application for Listing of Orchard House [23 April 2021]
- Alan Powers: Orchard House, Oxford Street; Comments on the Design submitted with Twentieth Century Society Listing Application April [2021]
- Letter dated 26th October 2021 from Historic England to Westminster City Council
- Historic England Listing Advice Report 15th November 2021
- Letter dated 22nd November 2021 from SAVE Britain's Heritage to WCC
- Westminster City Council Planning Officer Report to Planning Committee [10 November 2021]
- WCC Mayfair Conservation Area Directory [1998]
- WCC Stratford Place Conservation Area Audit [June 2008]
- WCC Portman Estate Conservation Area Audit [March 2003]
- Departing Stores: Emporia at Risk; SAVE Britain's Heritage [April 2022]
- Letter dated 18th May 2022 from SAVE Britain's Heritage to Secretary of State
- Marylebone Association Newsletter December 2021

Sustainability and Climate Change

6. SAVE will rely on the following pieces of legislation and local, London, national and international policies and guidance documents:

United Nations Greenhouse Gas Protocol Paris 2015 and subsequent.

Climate Change Act [2008]

COP26 UK Government Commitments [2021]

Industrial Decarbonisation Strategy [2021]

Committee on Climate Change 6th Carbon Budget [2020]

Net Zero Strategy: Build Back Greener [2021]

House of Commons Library: Net Zero in the UK [2019]

National Planning Policy Framework Chapter 14 Meeting the challenge of climate change, flooding and coastal change July [2021]

The London Plan 2021 energy and carbon policies including:

Policy S12 – Whole Life Carbon [2021-2022]

Policy S17 – The Circular Economy [2021-2022]

Greater London Authority (GLA) Sustainable Design & Construction Supplementary Planning Guidance (SPG) [2014]

GLA Whole Life-Cycle Carbon Assessments Supplementary Planning Guidance [March 2022]

London Environment Strategy [2018]

Westminster City Plan 2019-2040 Policy 36 (B) [April 2021]

Westminster City Council Environmental Supplementary Planning Document [2022]

WCC Climate Emergency Declaration [2019]

WCC Public Commitments on Climate Change and Net Zero and Climate Emergency Action Plan: [2018-2022]

Environmental Audit Select Committee – Building to Net Zero: Costing Carbon in Construction May [2022]

Her Majesty's Government – Construction Playbook [2020]

GLA The Climate Emergency: Extreme weather and emissions [2020]

London Energy Transformation Initiative Climate Emergency Design Guide and associated reports [2020-2022]

Royal Institute of British Architects Climate Challenge [2019]

Building Research Establishment Environmental Assessment Method: BREEAM [2018]

United Kingdom Green Building Council (UKGBC) Roadmap [2021]

Climate Change Committee Joint Recommendations Report to Parliament [2021]

Royal Institute of Chartered Surveyors (RICS) Professional Statement on Whole Life Carbon [2017]

Chartered Institution of Building Services Engineers (CIBSE), TM54: Evaluating operational energy performance of buildings at the design stage, 2013 [2022 revision]

CIBSE, TM65: embodied carbon in building services: a calculation methodology [2020]

CIBSE energy benchmarks, online resource [Current 2022]

UKGBC Advancing Net Zero and associated reports [2019-2022]

Net Zero Programme: looking beyond carbon emissions [11 May 2022] (Government Property Agency)

Moncaster et al, Widening understanding of low embodied impact buildings: Results and recommendations from 80 multi-national quantitative and qualitative case studies, Journal of Cleaner Production [2019]

ARUP “Net Zero Carbon Buildings: Three Steps to Take Now”

World Business Council for Sustainable Development (WBCSD), supported by Arup, Net zero buildings: where do we stand?

Westminster Property Association – Zero Carbon Westminster [2020]

Architects Declare [Current 2022]

Engineers Declare [Current 2022]

Marks and Spencer Plan A and revisions [Current 2022]

M&S Website and Sustainability statements and commitments [Current 2022]

Arup Website: Sustainability statements and commitments [Current 2022]

Pilbrow and Partners: Sustainability statements with reference to M&S as reported in Architects' Journal (AJ) and national press.

Targeting Zero Carbon Report by Simon Sturgis for SAVE Britain's Heritage *Why a comprehensive retrofit is more carbon efficient than the proposed new build* [20 January 2022]

Subsequent Response by Fred Pilbrow to the SAVE Carbon Report [4 April 2022]

Assessment of Heritage Assets and their Significance

7. SAVE will assess the heritage significance of various heritage assets affected by the proposals. These include the following designated heritage assets:

- Selfridge's Grade II*
- 10 Portman Street Grade II
- 24-29 North Audley Street Grade II
- Mayfair Conservation Area
- Portman Estate Conservation Area
- Stratford Place Conservation Area

and the following non-designated heritage assets:

- Orchard House, Oxford Street
- 11-25 Granville Place
- 7-9 Portman Street
- 1-7 Portman Mews South
- Hesketh House, 43-45 Portman Square

Impact of the proposals on the Heritage Assets

8. SAVE will argue that the proposed development will have a harmful impact on the historic environment of this part of Oxford Street and its surrounding area. SAVE will argue that the proposals have a negative effect on the significance of designated and non-designated heritage assets. SAVE's evidence will explain that the Westminster City Council Planning Officer's Committee Report undervalues the significance of these heritage assets and underestimates the harm resulting from the proposals.

9. The proposal involves the complete destruction of an important non-designated heritage asset, namely Orchard House. In addition, its loss combined with the impact of the proposed new building, by reason of its scale, mass, bulk and design will cause less-than-substantial harm to the setting of several heritage assets. SAVE considers that the cumulative effect of harm to these designated heritage assets is significant, and is a matter which must be given great weight in accordance with national policy, when applying the balance under paragraph 202 of the NPPF (see below). SAVE will argue that the proposals are in conflict with national, GLA and local planning policies and supplementary planning guidance for the historic environment.

Assessment of Public Benefits

10. SAVE notes that various benefits are claimed to be achieved by the proposed development, as set out in the Applicant's Planning Statement and the WCC Planning Officer's Committee Report. These include improved retail floorspace, new office floorspace, improvements to Hesketh House, permeability through the site and improved public realm, and the regeneration of Oxford Street. SAVE's evidence will set out how these matters can be achieved in alternative ways which cause less harm to heritage assets (and less harm more generally).

Balancing the Harm against Public Benefits

11. NPPF paragraph 202 requires that development proposals which cause either substantial or less than substantial harm to designated heritage assets require a balance to be struck between harm to those assets and the public benefits of the proposal. The NPPF also requires in paragraph 199 that great weight should be given to the designated assets' 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. It will be SAVE's case that the public benefits of the scheme do not outweigh the impact on the designated heritage assets. In relation to the non-designated heritage assets, SAVE will apply the balanced judgement required by paragraph 203 of the NPPF.

Climate Change and Sustainability

12. For the reasons set out in the Targeting Zero report dated January 2022, SAVE will advance the case that the Whole Life Carbon (WLC) assessment report submitted by the Applicant is inadequate to justify demolition and re-build as opposed to a comprehensive retrofit of the existing building. The retrofit example used as a comparison in the WLC assessment represents an option that is clearly substandard in comparison to the new build option, with respect to the reduction of carbon emissions. The Applicant's WLC assessment report does not adequately explore the potential carbon savings which could be achieved through a more comprehensive retrofit of the existing building.

13. In addition, the Applicant's WLC assessment relies on assumptions which risk significantly underestimating the future emissions of the new build scheme. As a result, the Applicant's report cannot be relied upon as evidence that the proposals would offer carbon benefits in the long term.

14. The Applicant's Circular Economy report does not mention the most circular option which is retention and reuse of the existing buildings. Information provided by the Applicant after the planning application does confirm that significant reductions in operational energy and carbon could be achieved through a comprehensive retrofit. This is supported by evidence from industry and academia, which suggests that a comprehensive retrofit of the existing building would be more carbon efficient than the proposed demolition and construction of a new building.

15. SAVE's evidence will set out how the scheme is inconsistent with national, London and local policy and guidance regarding the prioritisation of retrofit, climate change, whole life carbon assessments, Net Zero and the circular economy. It is also contrary to industry guidance and key declarations, namely Plan A, Architects Declare and Engineers Declare. SAVE's evidence will address the Applicant's evidence that the proposal will save carbon over time and will argue that the Applicant's approach does not follow best practice guidance nor appropriately consider alternative retrofit options.

16. SAVE considers that there are potentially viable alternative scenarios for the site which would involve retention and adaptation of the majority of the existing fabric. This might include internal alterations and extensions to provide increased floor space and/or flexibility. Such alternative scenarios have not been adequately explored by the Applicant.

Planning Balance and Conclusion

17. SAVE considers that the proposals cause a significant level of less-than-substantial harm to the significance of designated heritage assets, and the unnecessary destruction of a significant non-designated heritage asset.

18. SAVE considers that the harm to heritage assets does not outweigh the public benefits that are purported to be generated, and that these benefits could in large part be achieved by reuse, adaptation, alteration and extension of the existing buildings.

19. SAVE considers that the proposals are inconsistent with Government, GLA and Westminster City Council climate and Net Zero policies, intent and statements, and the UK's transition to a zero-carbon economy. Retention and retrofit should be preferred as an appropriate response to the climate crisis.

20. Overall, although the scheme complies with a number of development plan policies, the conflicts with policies relating to heritage and climate change/sustainability result in the scheme failing to accord with the development plan as a whole. While there are benefits to the scheme, the planning balance overall weighs against the proposal on account of the harms identified above. There are no material considerations to justify a departure from the development plan in this case.

21. The Secretary of State is requested to refuse the application.