

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 21 February 2023	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> Bayswater	
<b>Subject of Report</b>	<b>The Colonnades, 34 Porchester Square, London, W2 6AP</b>		
<b>Proposal</b>	Details of plan indicating a clear and unobstructed route for pedestrians of The Colonnades to access the residential waste and recyclable storage within the service yard of The Colonnades pursuant to condition 32 of planning permission dated 06 October 2022 (RN: 21/04074/FULL)		
<b>Agent</b>	Hanna Corney		
<b>On behalf of</b>	Hanna Corney		
<b>Registered Number</b>	22/07920/ADFULL	<b>Date amended/ completed</b>	24 November 2022
<b>Date Application Received</b>	22 November 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Bayswater		
<b>Neighbourhood Plan</b>	Not applicable		

## 1. RECOMMENDATION

Approve details

## 2. SUMMARY & KEY CONSIDERATIONS

A new and revised operation and management plan of the servicing area at The Colonnades was resolved to be granted at Planning Sub-Committee on 21 June 2022 and formally approved on 6 October 2022 (following the completion of a deed of variation). This plan was approved as part of application 21/04074/FULL for:

“Variation of condition 12 of planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and appeal reference APP/X5990/W/17/3168220) which in itself varied conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop’s Bridge Road elevations to infill existing colonnade and

create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. *NAMELY, amendments to wording of condition 12 to allow the review of the operation and management of the servicing area at the Colonnades and to reflect current delivery and servicing arrangements*".

A copy of the committee report and minutes are included in the background papers. In addition to this new operation and management plan, two new conditions were added to the decision notice relating to the installation of acoustic matting (Condition 31) and the submission of a plan showing a pedestrian route to the refuse storage (Condition 32).

This current approval of details application seeks to discharge Condition 32.

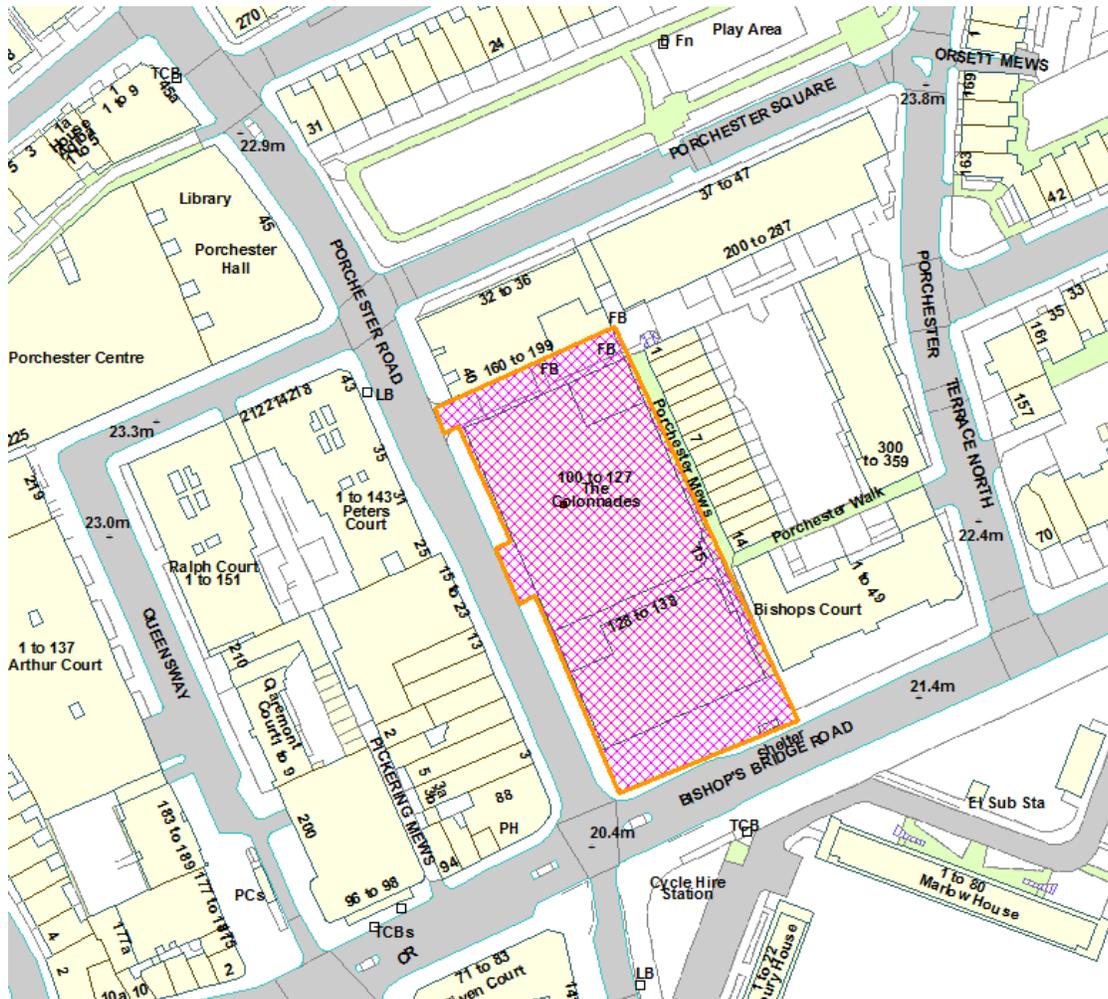
Condition 32 states:

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

The proposed plan was submitted within the time frame as set out in the condition and ward councillors and 298 residents of The Colonnades were consulted. The residents in The Colonnades wrote to the case officer to advise that consultation letters were not received. The case officer wrote to the key objector and issued a further letter of consultation by email (this email is also contained within the background papers). Councillor Sullivan has requested that this approval of details application be reported to Sub-Committee. The South East Residents Association and five residents object to this proposed route as set in Section 5.1 of this report.

The submitted plan is considered acceptable and shows that a clear and unobstructed route to the existing refuse store and meets the requirements of Condition 32. Therefore, it is recommended that this approval of details application be approved.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Street View of The Colonnades



**Service Yard, Porchester Road in the distance**



**Undercroft area and photos of refuse facilities**



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### COUNCILLOR SULLIVAN

Requests that the application be presented to the planning committee.

Councillor Sullivan also comments that the route will not be sufficiently unobstructed through the use of only yellow paint; and that an assessment of actual vehicle movements should be made taking into consideration this designated area. Physical segregation would achieve an unobstructed and safe route. Comment is further made that there are no details as to how 'accessible' the route is in terms of its width; level access; whether this is sufficiently lit and whether this is suitable for those with visual impairments.

#### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION( SEBRA)

Originally forwarded an objector's email. This was followed up by a further objection on the grounds that there should be a safer enclosed route for the residents of the Colonnades to access the refuse and recycling big bins in covered area to rear of service yard for the Colonnades commercial units. SEBRA are not convinced that the open yellow crossed hatched walkway will give the necessary protection to the residents going to and from the bins.

#### BAYSWATER RESIDENTS ASSOCIATION

No response received.

#### PLANNING ENFORCEMENT TEAM

Content to see plan submitted within prescribed time. No comment to make on the merits of the proposals.

#### HIGHWAYS PLANNING MANAGER:

Any response to reported verbally.

#### WASTE PROJECT OFFICER

Any response to reported verbally.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 298

Total No. of replies: 5

No. of objections: 5

No. in support: 0

Five objections received on the following grounds:

- The plan goes against the Planning Inspectorates decision of December 2021
- The plan only shows a route inside the service yard and no detail on access routes for residents to that; and is therefore the plan is incomplete
- The new route will have to be accessed by residents using public footways and require access to multiple locked gates – this means that residents may as well

use the on street public waste and recycling facilities, which is contrary to the previous Planning Inspectors advice

- The dimensions of the gate are not given
- The marking of paint on the floor is not sufficient and does not protect residents safely
- Does the route allow able bodied and wheelchair users to access their bins
- Residents should not have to wear high visibility outerwear when using the route
- The route as shown would impact the turning circle and swept path analysis as submitted in the original planning application
- Why has this application been submitted in this manner and not as part of the application 21/040741/FULL?

Other:

- No neighbour notification letters were received by residents in The Colonnades
- An objection has been made to the committee proceedings of 28 June 2022
- Noise from the scissor lift
- Noise from the service yard

PRESS NOTICE/ SITE NOTICE:

Not required.

## **5.2 Applicant's Pre-Application Community Engagement**

The Ward Councillor and objectors have confirmed that the applicant met with them on multiple occasions to discuss the proposed plans. It should be noted that both the ward councillor and one objector does state that the concerns raised have not been addressed within the submission.

## **6. WESTMINSTER'S DEVELOPMENT PLAN**

### **6.1 City Plan 2019-2040 & London Plan**

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

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **6.2 Neighbourhood Planning**

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

### 6.3 National Policy & Guidance

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

## 7. BACKGROUND INFORMATION

### 7.1 The Application Site

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

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

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

### 7.2 Recent Relevant History

#### **21/04074/FULL**

Variation of condition 12 of planning permission granted on appeal dated 23 June 2017 (RN: 16/09313/FULL and appeal reference APP/X5990/W/17/3168220) which in itself varied conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. **NAMELY, amendments to wording of condition 12 to allow the review of the operation and management of the servicing area at the Colonnades and to reflect current delivery and servicing arrangements. Addition of Conditions 31 and 32 relating to the acoustic matting and pedestrian clear route plan.**

Application Permitted 6 October 2022

#### **13/12442/FULL**

Permission was granted in October 2014 for the reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents

to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works.

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

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

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

#### **14/12071/ADFULL**

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

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

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

#### **15/02293/ADFULL**

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

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

#### **Appeal APP/X5990/W/17/3168220**

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

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

as Unit 4, Bishop's Quarter, Bishop's Bridge Road).

### **Appeal APP/X5990/W/21/3277361**

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

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

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

The Planning Inspectors decision notice is contained within the background papers of accompanied with this report.

### **Enforcement History**

As detailed in the committee report of 28 June 2022, the Planning Enforcement Team has investigated various breaches of condition associated with the Colonnades and planning permission 16/09313/FULL since May 2020 including the breach of condition 12 and the Service Management Plan (SMP) approved under reference: 14/12071/ADFULL.

The City Council (Planning Enforcement or Public Protection and Licensing Team) has not received any complaints or evidence of a breach reported since the new SMP was approved.

## **8. THE PROPOSAL**

Condition 32 of permission 21/04074/FULL states:

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

The applicant therefore had to submit a plan to comply with this condition. In response to the objectors query as to the purpose of a new application to provide this, an application of this nature is referred to as an approval of details and has to be made independently

of the earlier approval.

The plan submitted shows that a new resident gate, 1.2m wide\* is to be incorporated into the existing full height black gates which leads from the service yard to the communal walkway of The Colonnades, known as Porchester Mews. The plan is annotated to say that the gate will have a pin code. The gate leads to a new yellow painted route from Porchester Mews to the existing refuse area, running parallel with the existing walls of the substation.

\*The gate measures 1.2m when scaled from the drawing. One objection was received on the ground of lack of dimensions on the plan. A drawing does not have to have the written dimensions on it so long as the drawings are to scale.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

Not relevant.

### **9.2 Environment & Sustainability**

Not relevant.

### **9.3 Biodiversity & Greening**

Not relevant.

### **9.4 Townscape, Design & Heritage Impact**

Not relevant.

### **9.5 Residential Amenity**

Not relevant.

### **9.6 Servicing and Waste & Recycling Storage**

As listed above a number of objections have been received to the plan submitted.

One objection is on the grounds that the plan proposes a route solely within the service yard and does not show where this comes from with The Colonnades itself, and therefore the plan does not comply with the condition.

Given the history of the site, the numerous planning applications submitted and that it is assumed that residents who live in the Colonnades are acquainted with the service yard, officers consider that the plan is clear in where it is proposing a route from. It is annotated to show Porchester Mews and the key makes it explicitly clear that a new gate is proposed from within the gated and communal walkway. Officers consider it appropriate to accept this plan as a valid submission in order to discharge this planning condition.

The objectors state that the proposed plan goes against an appeal decision by the Planning Inspectorates decision of December 2021 (application 20/205767/FULL and Appeal APP/X5990/W/21/3277361). This appeal was against the City Council's refusal to remove Condition 25 of an earlier permission which in effect would not allow any residents access to the communal refuse and recycling stores in the undercroft of the servicing yard. This appeal was dismissed and residents can still use the waste storage provision sited to the rear of the service yard, under the undercroft. The appeal decision notice is included in the background papers.

It is assumed that the objector considers this proposed route contrary, as the Inspector references using a lift from within 100 block of The Colonnades directly above the refuse and recycling undercroft area. Officers have been informed that this is a porters/ goods lift, rather than the residential lift to floors. There are a number of routes from The Colonnades to the service yard; however, the Planning Inspector did not explicitly state how residents should access this waste store and therefore the proposed route is to be assessed on its own merits. As a point to note here, the residential element of The Colonnades is owned/ managed by a different company to that of the commercial premises, which does impact on who has control over what areas in the development. Should the new residential management company allow access to this lift, then residents could use this route. The route proposed under this application comes from the communal gated walkway, Porchester Mews and this would serve every resident in The Colonnades far more appropriately and is therefore in principle considered acceptable.

The objectors consider the new route to be unacceptable as this will have to be accessed by residents using public footways and require access to multiple locked gates meaning that residents may use the on street public waste and recycling facilities, which again is contrary to the previous Planning Inspector's advice.

The proposed route does mean that users of the refuse and recycling facilities will have to exit the building either from the entrance/ exit in the lower ground floor of Block 200 (for those residents in Blocks 100, 200 and 300) or the front door to the houses and the mews and navigate one or two locked gates, depending on where they reside in the building. These are not within public footways as suggested but are communal pathways, gated with The Colonnades, solely for the use by The Colonnades residents. Access via gates is not considered objectionable and these security measures are a common occurrence in gated developments and modern developments. It must here be remembered that refuse and recycling (save for boxes/packaging) is collected frequently from each residential unit, with residents bagging their refuse and recycling in their individual refuse store outside of their flat front door between 21.00 and 07.00 and then porters collect this daily between 07.00 and 09.00, except Christmas Day and New Year's Day. The frequency in which residents will be using the refuse and recycling facilities in the undercroft of the service yard is not assumed to be significant and this proposed route is considered acceptable.

Objections have been made on the grounds that the marking of paint on the floor is not sufficient and does not protect residents safely from vehicles in the service yard, some noting that the route would in fact be hindered by the turning circle and swept path analysis as submitted and approved in application 21/04074/FULL.

It is acknowledged that the route is marked only in paint. The applicant was asked why a barrier or intermittent bollards could be sited on outer edge of the route demarcation area. At the time of writing, no firm response had been given to this point, and it is assumed that any physical barrier on the outer edge of route demarcation could potentially reduce the servicing area and potentially impact on the swept paths of servicing vehicles. The applicant has advised that they will review their position on a barrier prior to committee and any update will therefore be provided by officers. However, at 1.2m wide for the most part the swept paths do not appear to be affected. For clarity, the applicant has been asked to overlay the proposed route over the swept path plans but at the time of writing these plans had not been received. As secured under the most recent servicing and management plan (approved under application 21/04074/FULL) a facilities manager is on site between 07.00 and 19.00 daily to ensure that all deliveries to, and refuse collection for, The Colonnade shopping arcade is undertaken within the service yard. They will also ensure the service yard is kept clear of obstructions at all times. The adherence to this part of the servicing management plan will ensure that a resident is not in harms way should a delivery be occurring when they want to access the refuse and recycling facilities. Again, it must be remembered the frequency as to use of the refuse and recycling in the service yard, given the existing refuse collection arrangement in place. Coupled with the fact that residents have the right now without any formal route to use the refuse and recycling areas in the service yard, the proposals are considered to strikes a fair balance in terms of provision of a route and safety.

A further objection raises the issue accessibility to all and asks does the route allow able bodied and wheelchair users to access their bins. If there are any wheelchair users wanting to use the refuse and recycling in the service yard, then if access can be gained to the communal areas of The Colonnades, where they live, access can be gained to the bins. As a point to note however, at this time there does not appear to be level access to the 100 or 200 block of The Colonnades from Porchester Square. The gate opening is 1.2m wide and this is sufficient for a wheel chair user, which requires 0.9m. In terms of those who are visually impaired, the proposed route results in no worse a situation than if the route to the refuse and recycling area was proposed through the lift in the building into the service yard as vehicles are still allowed to use the undercroft area for servicing and turning.

As a final point, one of the objectors notes that residents should not have to wear high visibility outerwear when using the route. Whilst the residents concerns about their safety are well understood, it is considered that this painted designated route offers is appropriate and provide a clear and unobstructed route which the Condition sought to provide.

## **9.7 Economy including Employment & Skills**

Not relevant.

## **9.8 Other Considerations**

### Neighbour Notification

Objections have been received on the grounds that no neighbour notification letters were received by residents in The Colonnades. The case officer wrote to the objector (a copy

of which is in the background papers) advising that the letters had been issued and the City Council was sorry that these appear to not have been received. Despite officers having received an objection to the proposals from the objector prior to being advised that the residents had not received their neighbour notification letter, a further letter of consultation was emailed. It is considered that the level of consultation undertaken in association with this approval of details application is acceptable.

#### Committee 28 June 2022

An objection has been made to the committee proceedings of 28 June 2022. This is not relevant in the determination of this approval of details application, but it should be noted that the City Council did receive a complaint regarding the committee proceedings and the City Council's Director of Law responded.

#### Noise from the scissor lift

The issue of noise from the scissor lift was addressed and discussed at length in the published committee report and at the committee itself. Officers are not aware of any further complaints since June 2022 to the Planning Enforcement Team or Council's Public Protection & Licensing Noise Team.

#### Noise from the service yard

Again, the issue of noise from the service yard was addressed and discussed at length in the published committee report and at the committee itself. Officers in Planning Enforcement are not aware of any further complaints since June 2022 to the Planning Enforcement Team or Council's Public Protection & Licensing Noise Team.

### **9.9 Environmental Impact Assessment**

Not relevant.

### **9.10 Planning Obligations & Pre-Commencement Conditions**

Not relevant.

### **10. Conclusion**

The plan is considered acceptable and shows a clear and unobstructed route for pedestrians from The Colonnades to the refuse area and therefore it is recommended to discharge this condition.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)

11. KEY DRAWINGS

Proposed Plan

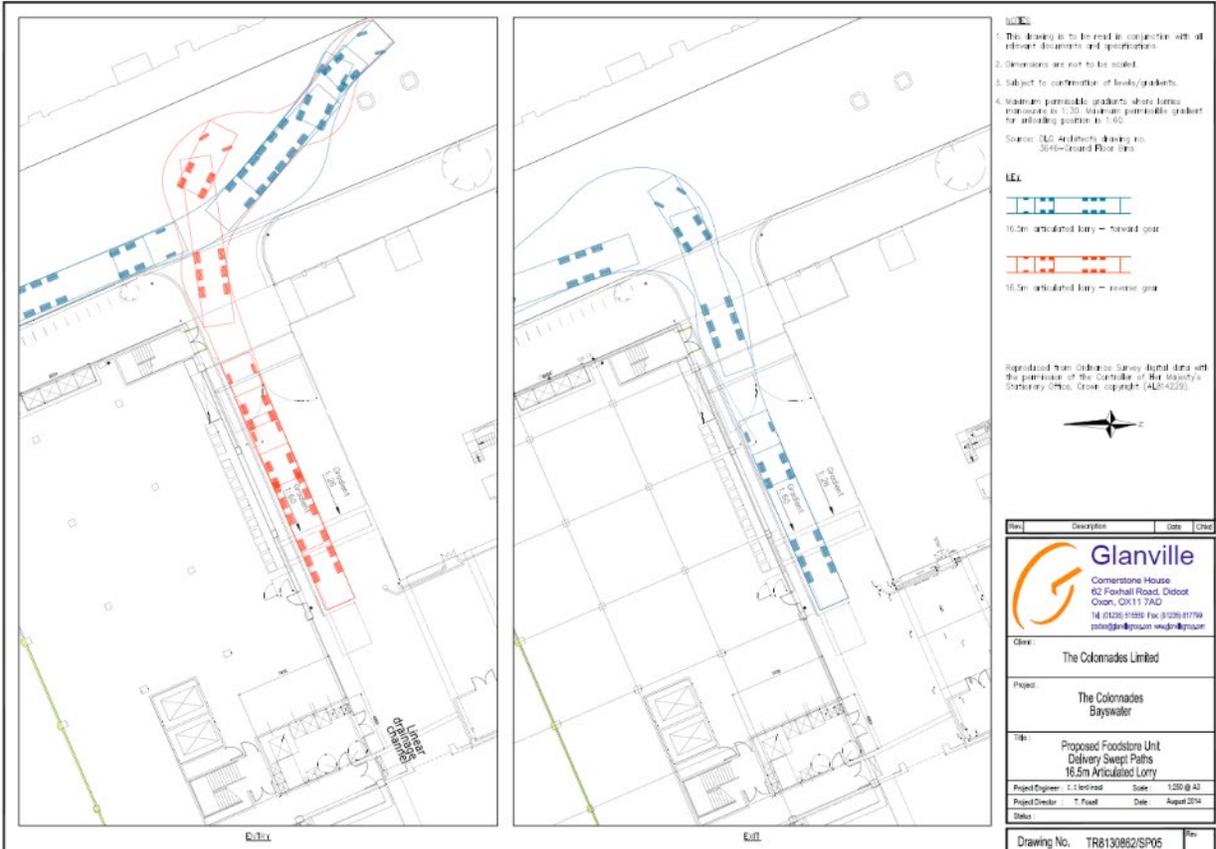


### Route to Refuse Area

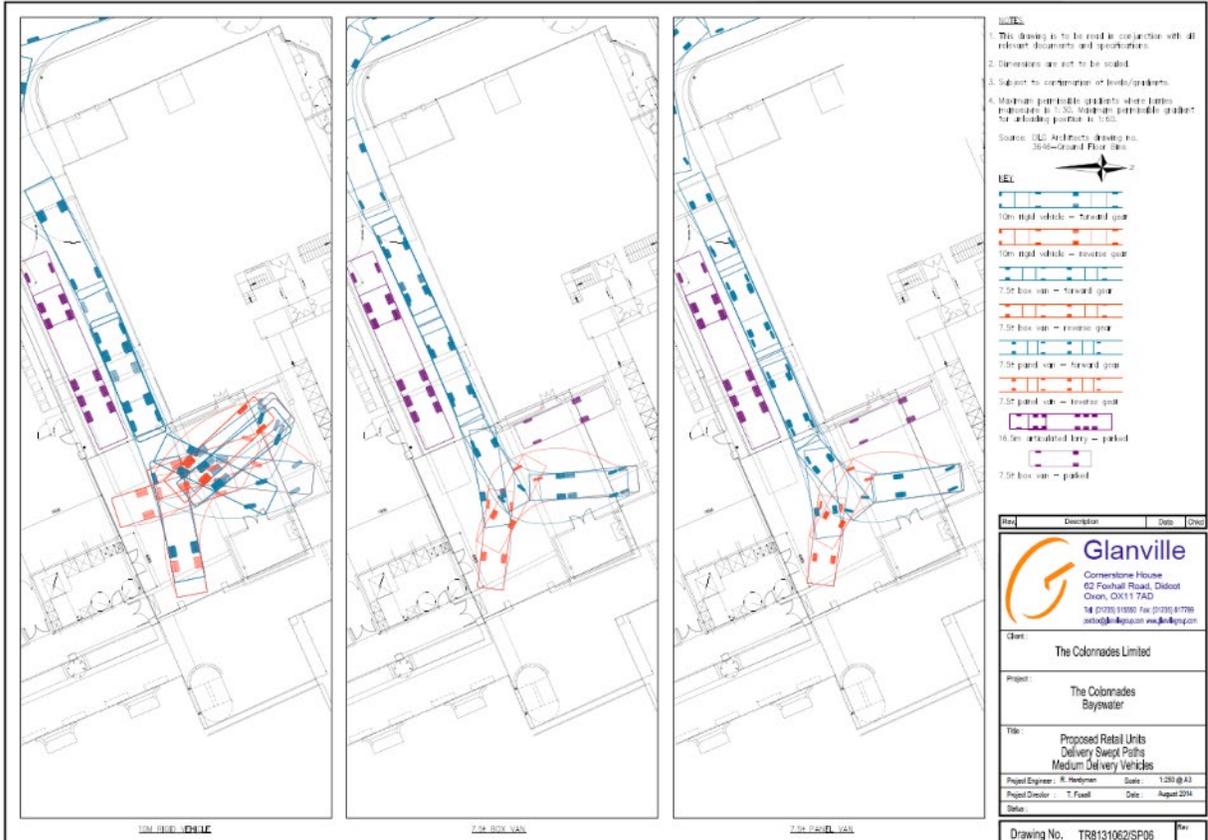


- Proposed location of new residential pedestrian gate into Service Yard
- Exit from internal access to Service Yard

**For information - Swept Path Analysis (16.5m vehicles)**



### For information - Swept Path Analysis (Medium Vehicles)



**DRAFT DECISION LETTER**

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

**Proposal:** Details of plan indicating a clear and unobstructed route for pedestrians of The Colonnades to access the residential waste and recyclable storage within the service yard of The Colonnades pursuant to condition 32 of planning permission dated 06 October 2022 (RN: 21/04074/FULL)

**Reference:** 22/07920/ADFULL

**Plan Nos:** Drawing Number 211B Rev 2

**Case Officer:** Kimberley Davies

**Direct Tel. No.** 07866036948

**Recommended Condition(s) and Reason(s)****Informative(s):**

- 1 This permission fully meets condition 32 of the planning permission dated 6 October 2022 (RN: 21/04074/FULL). (I11AA)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.