

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 28 February 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	52 Wells Street, London, W1T 3PR		
Proposal	Installation of new shopfront with openable windows (retrospective application).		
Agent	R R Paice And Co		
On behalf of	Homeslice Ltd		
Registered Number	15/04939/FULL	Date amended/ completed	16 July 2015
Date Application Received	28 May 2015		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises a lawful restaurant use at ground floor level with three floors of residential accommodation above it. There are also flats directly opposite. The building is not listed but is located within the East Marylebone Conservation Area. The site is located within the Core CAZ.

Permission is sought to install a timber framed shopfront with two openable sections above a fixed stallriser. The shopfront was installed in late summer 2015 and therefore this application is entirely retrospective.

No consultation responses have been made to this application.

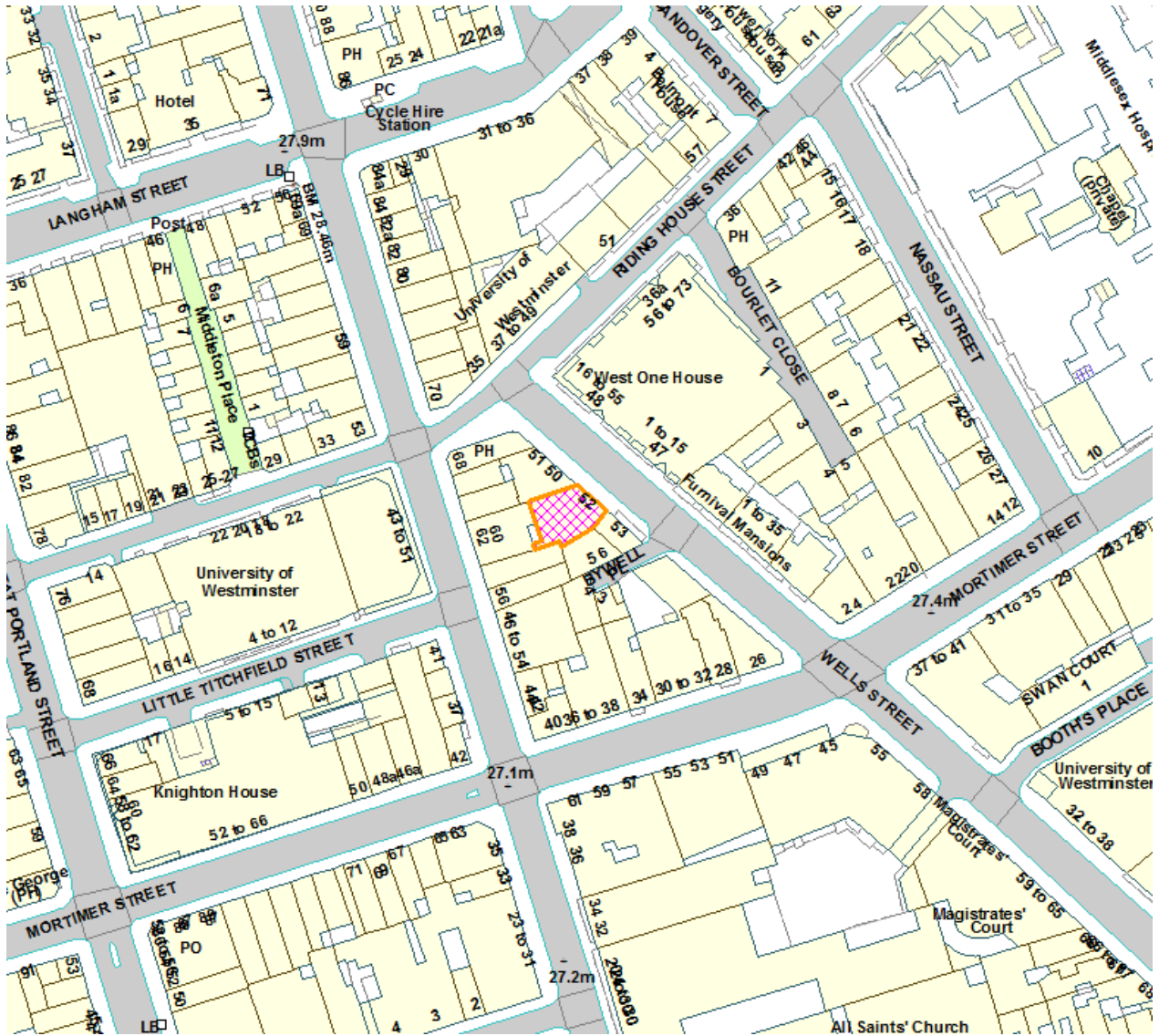
UDP Policy DES5(C)(1) states that permission will generally be granted for new shopfronts where the new shopfront is not designed to be entirely or largely openable, in the absence of local circumstances or established patterns of trading activity. Despite the usual presumption against openable shopfronts, the detailed design of the shopfront represents an improvement over the shopfront it replaced through the attractive chevron subdivision to the glazing and traditional design incorporating stallriser and top lights. In addition, the shopfront is recessed within the building meaning that the openable elements will not be discordant to the streetscene. It is therefore concluded that the proposal will preserve the character and appearance of the East Marylebone Conservation Area.

The openable nature of the shopfront has the potential to result in noise outbreak from the restaurant and therefore disturbance to the residents immediately above the restaurant and on the east side of Wells Road. The recessed nature of the shopfront, the lack of any noise complaints in respect to internal activity from local residents since the openable shopfront was installed and the lack of objections to the application, however, means that it is considered that the partially openable nature of the shopfront is acceptable in amenity terms. This is, however subject to:

- i. A condition being imposed requiring the shopfront to be fixed shut except between 08.00 to 21.00 (Monday to Saturday) (except Bank Holidays) and 09.00 to 20.00 (Sunday and Bank Holidays); and
- ii. A condition being imposed requiring noise from internal activity to be 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property.

The latter condition will enable the City Council to take enforcement action should a change in restaurant operator increase the noise level to such an extent that it begins to harm residential amenity even during the hours that the shopfront is permitted to be opened.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. PLANNING HISTORY

Permission was granted on 28 March 2013 for the shopfront that was in situ prior to the current unauthorised shopfront.

Retrospective permission was granted on 29 December 2005 for the installation of a retractable awning.

Retrospective permission was refused on 12 July 2005 for the installation of timber decking and ramped access on the private forecourt. Following action from the Planning Enforcement Team, the decking to the forecourt was removed from the site.

6. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION - No response.

ADJOINING OWNERS / OCCUPIERS:

No. consulted - 16.

No. responses - 0.

SITE NOTICE / PRESS ADVERTISEMENT - Yes.

7. BACKGROUND PAPERS

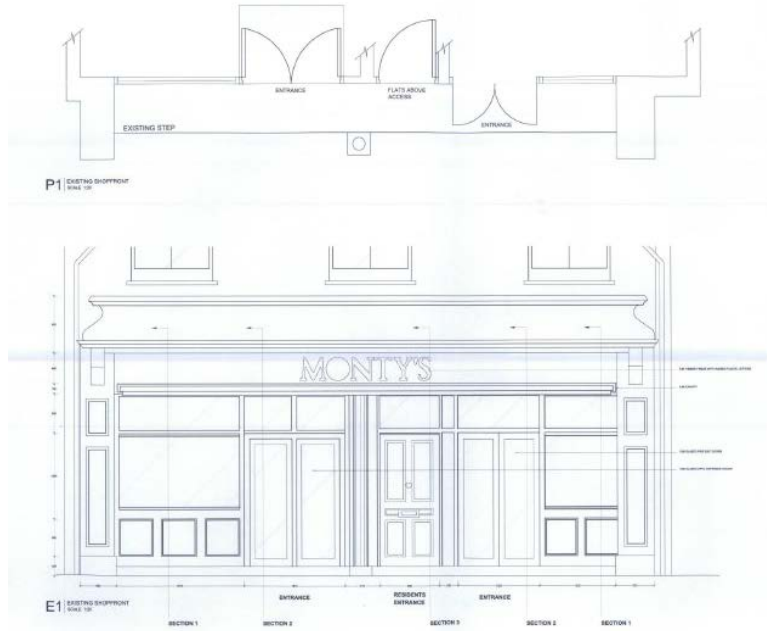
1. Application form

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

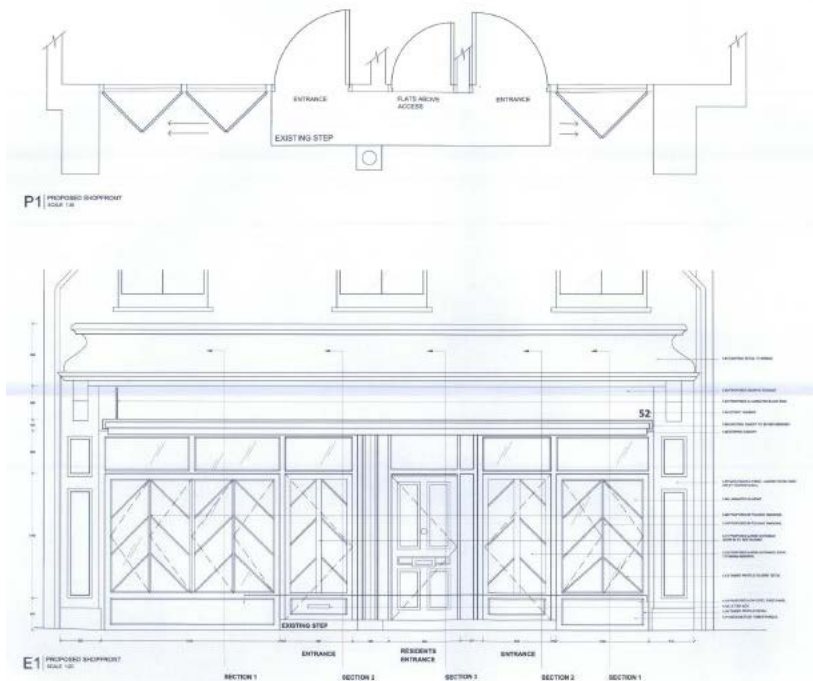
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT MHOLLINGTON2@WESTMINSTER.GOV.UK

8. KEY DRAWINGS

Existing shopfront:



Proposed shopfront:



DRAFT DECISION LETTER

Address: 52 Wells Street, London, W1T 3PR,
Proposal: Installation of new shopfront with openable windows.
Reference: 15/04939/FULL
Plan Nos: AUTH-07 Rev. B (Pages 1 and 2),

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 3 The shopfront hereby approved shall be fixed shut except between the following hours:

- 08.00 to 21.00 (Monday to Saturday) (except Bank Holidays).
- 09.00 to 20.00 (Sunday and Bank Holidays).

Reason:

To protect the environment of people in neighbouring properties, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 4 (1) Where noise emitted from the internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant, when

operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(2) You may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (2) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

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.