



City of Westminster

Committee Agenda

Title: **Planning Applications Sub-Committee (1)**

Meeting Date: **Tuesday 18th October, 2022**

Time: **6.30 pm**

Venue: **Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP**

Members: **Councillors:**
Jason Williams (Chair)
Md Shamsed Chowdhury
Ed Pitt Ford
TBC



Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda.

Committee members will attend the meeting in person at Westminster City Hall. The Committee will be a hybrid Meeting and will be live broadcast via Microsoft Teams. Admission to the public gallery is by a pass, issued from the ground floor reception from 6.00pm.

If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



If you require any further information, please contact the Committee Officer, Georgina Wills: Committee and Governance Officer.

**Tel: 07870 548348; Email: gwills@westminster.gov.uk
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To note that Councillor Ed Pitt-Ford had replaced Councillor Jim Glen.

To note any further changes to the membership.

2. DECLARATIONS OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

3. MINUTES

To sign the minutes of the last meeting as a correct record of proceedings.

4. PLANNING APPLICATIONS

Applications for decision

Schedule of Applications

Members of the public are welcome to speak on the specific applications at the virtual planning committee meeting.

To register to speak and for guidance please visit:

<https://www.westminster.gov.uk/planning-committee>

Please note that you must register by 12 Noon on the Friday before the Committee meeting

In the event that you are successful in obtaining a speaking slot at the hybrid meeting please read the guidance, in order to familiarise yourself with the process prior to joining the remote meeting.

All committee meetings open to the public are being broadcast live using Microsoft Teams. For information on participating in the virtual Committee please see the following link

(Pages 5 - 10)

<https://www.westminster.gov.uk/stream-council-meetings>

To access the recording after the meeting please revisit the Media link

- | | | |
|----|---|------------------------|
| 1. | ECCLESTON YARD | (Pages 13 - 32) |
| 2. | TROCADERO, 40-48 SHAFTESBURY AVENUE,
LONDON, W1D 7EA | (Pages 33 - 50) |
| 3. | MALVERN HOUSE, 15-16 NASSAU STREET, LONDON,
W1W 7AB | (Pages 51 - 68) |
| 4. | 80-82 WARDOUR STREET, LONDON, W1F 0TF | (Pages 69 - 84) |

**Stuart Love
Chief Executive
7 October 2022**

Order of Business

At Planning Applications Sub-Committee meetings the order of business for each application listed on the agenda will be as follows:

Order of Business
i) Planning Officer presentation of the case
ii) Applicant and any other supporter(s)
iii) Objectors
iv) Amenity Society (Recognised or Semi-Recognised)
v) Neighbourhood Forum
vi) Ward Councillor(s) and/or MP(s)
vii) Council Officers response to verbal representations
viii) Member discussion (including questions to officers for clarification)
ix) Member vote

These procedure rules govern the conduct of all cases reported to the Planning Applications Sub-Committees, including applications for planning permission; listed building consent; advertisement consent, consultations for development proposals by other public bodies; enforcement cases; certificates of lawfulness; prior approvals, tree preservation orders and other related cases.



CITY OF WESTMINSTER

MINUTES

Planning Applications Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 23rd August, 2022**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Jason Williams (Chair), Md Shamsed Chowdhury, Jim Glen and Ruth Bush

Also Present: Councillors Small-Edwards (Item 2)

1 MEMBERSHIP

1.1 There were no changes to the membership.

2 DECLARATIONS OF INTEREST

2.1 Councillor Jason Williams explained that a week before the meeting, all four Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the issue had been ignored. Members would have read about the issue and comments made by correspondents in the papers read prior to the meeting.

2.2 Councillor Williams declared that in respect of Item 1 he had attended a site visit with Councillor Glen.

2.3 Councillor Bush declared that she was a friend with Councillor Carman and Councillor Small-Edwards as members of the Majority party who were Ward Councillors for Item 2. With regards to Item 4, one objector was known to her, but she clarified that she had not discussed the application with them.

2.4 Councillors Bush and Glen declared that they were trustees of the Westminster Tree Trust with respect to Items 5 and 6.

3 MINUTES

3.1 RESOLVED:

That the minutes of the meeting held on 9 August 2022 be signed by the Chair as a correct record of proceedings with one amendment, that Cllr Paul Dimoldenberg represented Hyde Park ward, and this was not accurately recorded.

4 PLANNING APPLICATIONS

1 13 - 17 MONTPELIER STREET, LONDON, SW7 1HQ

1.1 Application 1

Details of all new windows showing traditional joinery details and new internal doors, which on the first and second floors should be traditional panelled doors pursuant to condition 7 of the listed building consent dated 20 July 2021 (RN:21/01234/LBC)

1.2 Application 2

Details of all new windows showing traditional joinery details and new internal doors, which on the first and second floors should be traditional panelled doors pursuant to condition 7 of the listed building consent dated 20 July 2021 (RN:20/07401/LBC)

1.3. Application 3

Detailed drawings of the new shopfronts pursuant to Condition 9 of the listed building consent dated 20 July 2021 (RN: 20/07401/LBC)

1.4 Late representations were received from the Knightsbridge Neighbourhood Forum (21.08.22) and from Turley Associates LTD on the (23,08.22)

1.6 Ravi Bulchandani addressed the Sub-Committee in objection of the application.

Melville Haggard from the Knightsbridge Association addressed the Sub-Committee in objection of the application.

Simon Birkett from the Knightsbridge Neighbourhood Forum had a statement read to the Sub-Committee in objection to the application.

Applications 1, 2 and 3:

RESOLVED (Grant: Councillors Bush, Williams, and Glen; Refuse: Councillor Chowdhury):

Had appeals against non-determination not been lodged then the approval of details applications would have been approved.

2 22 HEREFORD ROAD, LONDON, W2 4AA

2.1 Amalgamation of two flats in association with the use of the building as a single-family dwelling and the addition of cycle and waste stores

2.2 Emily Ingram addressed the Sub-Committee in support of the application.

Mark Wassouf addressed the Sub-Committee in support of the application.

Cllr James Small-Edwards addressed the Sub-Committee in his capacity as Ward Councillor in support of the application.

Additional representations were received from the Bayswater Residents Association. (17.08.22)

Late representations were received from the South-East Bayswater Residents Association (19.08.22)

RESOLVED UNANIMOUSLY:

That conditional permission, be granted on the grounds of the exceptional circumstances of the applicant. Conditions and reasons for conditions to be cleared with the Chair and via delegated powers.

3 BASEMENT PARTS AND GROUND FLOOR PARTS, 190 - 196 PICCADILLY, LONDON, W1J 9EY

Use of part ground and lower ground floors as a mixed use working, social, exhibition, event, and production space (sui generis) for a temporary period of four years (Site includes 190-196 Piccadilly, Princess Arcade, and 35-38 Jermyn Street)

Cymon Eckel addressed the Sub-Committee in support of the application.

Additional representations were received from Gala Casino (01.08.22)

Late representations were received from Bidwells (22.08.22).

The presenting officer tabled the following amendments to the conditions:

In the verbal presentation tonight, officers will refer to the requirement for amendments (**in bold text**) to the conditions to this case:

Condition 4

You must not allow more than **410** customers into the property at any one time.

Condition 10

The use hereby permitted **can continue until** 31 August 2026. Thereafter, the basement and ground floor subject to this change of use must revert back to restaurant use (Class E) in accordance with planning permission dated 11 November 2014 (RN: 14/06743).

RESOLVED UNANIMOUSLY:

That conditional permission, as amended, be granted.

4 WILLIAM COURT, 6 HALL ROAD, LONDON, NW8 9PA

4.1 Erection of a two-storey single family dwelling house (Class C3) and associated private amenity space

No additional representations were received.

Late representations were received from a local resident (22.08.22)

The presenting officer tabled the following amendments to the conditions:

Amend condition 4 from:

You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

To:

You must apply to us for approval of details of secure cycle storage for the residential use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the residential property. You must not use the cycle storage for any other purpose.

Delete condition 8:

You must apply to us for approval of detailed drawings of a soft landscaping and planting scheme which includes the number, size, species and position of shrubs and also details of the volumes of soil provided within the scheme. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the landscaping and planting within 1 planting season of completing the development (or within any other time limit we agree to in writing) and retain (and maintain) it thereafter. You must also include a maintenance plan of the sedum roof.

Move condition 18 to condition 8

Amend condition 15

You must apply to us for approval of detailed drawings of a ~~soft landscaping and planting scheme for the biodiverse/blue roof together with a maintenance strategy and details of SUDS which includes the number, size, species and position of shrubs and also details of the volumes of soil provided within the scheme and plans for maintenance and~~ . You must not start work on the relevant part of the development until we have approved what you have sent us. You must then carry out the **biodiverse/blue roof in accordance with the approved details prior to occupation of the development and maintained thereafter** landscaping and planting within 1 planting season of completing the development (or within any other time limit we agree to in writing) and retain (and maintain) it thereafter.

Reason:

To **reduce the chances of flooding** ~~improve the appearance of the development and its contribution to biodiversity and the local environment, as set out in Policy 35 34 of the City Plan 2019 - 2040 (April 2021).~~

Amend condition 17 – deletion shown as strike through. New text in **bold**
You must apply to us for approval of detailed drawings showing the following alteration to the scheme:-

- 1) Redesign bronze areas of front elevation to have a greater degree of decorative detail and texture;
- 2) ~~Relocate air source heat pump and enclosure from the main roof to within the courtyard;~~ **the air source heat pump and enclosure**

You must not start on these parts of the work until we have approved in writing what you have sent us. You must then carry out the work according to the approved drawings. **The air source heat pump must not operate until the enclosure has been installed.**

**RESOLVED: (Grant: Councillors Chowdhury, Williams, and Glen;
Refuse: Councillor Bush):**

That conditional permission as amended be granted.

5 ST AUGUSTINES VICARAGE, KILBURN PARK ROAD, LONDON, NW6 5XB

5.1 T5 1x London plane: fell

RESOLVED: (Grant: Councillors Bush, Williams. Refuse: Councillor Glen, Chowdhury. Chairman Williams casting vote to grant):

That T5 be felled.

**6 APPLICATION 1: 86 HAMILTON TERRACE, LONDON, NW8 9UL;
APPLICATION 2: 84 HAMILTON TERRACE, LONDON, NW8 9UL**

6.1 Application 1:
86 Hamilton Terrace London NW8 9UL. T3 False Acacia: fell

6.2 Application 2:
84 Hamilton Terrace London NW8 9UL.T5 Sycamore: fell

Application 1:

**RESOLVED (Grant: Councillors Bush, Williams, and Chowdhury;
Refuse: Councillor Glen):**

That T3 be felled.

Application 2:

RESOLVED UNANIMOUSLY

Agree recommendation for T5 be felled.

The Meeting ended at 9.20 pm

CHAIRMAN: _____

DATE _____

Agenda Annex

CITY OF WESTMINSTER
 PLANNING APPLICATIONS SUB COMMITTEE – 18th October 2022
 SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Item No	References	Site Address	Proposal	Applicant
1.	RN(s): 22/02190/FULL Knightsbridge & Belgravia	Eccleston Yard London	Use of Eccleston Yards courtyard for markets and events. (A market, selling goods and food, to be held up to twice per week; and Ancillary performance events, such as sports screenings, wellness and fitness classes, workshops like flower arranging and art classes, community events, live theatre, outdoor exhibitions and live music).	Grosvenor Estate Belgravia
	Recommendation Grant conditional permission.			
2.	RN(s): 22/03928/FULL St James's	Trocadero 40-48 Shaftesbury Avenue London W1D 7EA	Use of ground floor as public house with music and entertainment (Sui Generis).	Coyote Ugly London Ltd
	Recommendation Grant conditional permission.			
3.	RN(s): 22/03437/FULL West End	Malvern House 15-16 Nassau Street London W1W 7AB	Erection of a single storey mansard roof extension to 15-16 Nassau Street and 40-46 Riding House Street for use as two residential flats: (Class C3)	Pearl and Coutts
	Recommendation Grant conditional permission			
4.	RN(s): 22/02522/FULL West End	80 - 82 Wardour Street London W1F 0TF	Use of the existing emergency escape doors on the Meard Street frontage for general purposes.	Mission Mars
	Recommendation Grant conditional permission.			

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Agenda Item 1

Item No.

1

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 October 2022	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved	
Subject of Report	Eccleston Yard, London		
Proposal	Use of Eccleston Yards courtyard for markets and events. (A market, selling goods and food, to be held up to twice per week; and Ancillary performance events, such as sports screenings, wellness and fitness classes, workshops like flower arranging and art classes, community events, live theatre, outdoor exhibitions and live music).		
Agent	Gerald Eve LLP		
On behalf of	Grosvenor Estate Management Ltd		
Registered Number	22/02190/FULL	Date amended/ completed	31 March 2022
Date Application Received	31 March 2022		
Historic Building Grade	Unlisted		
Conservation Area	Belgravia		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

Eccleston Yards is a back land site that has recently been developed to create a 'courtyard' space (former car parking area) surrounded by retail and restaurant uses (with alfresco dining), with pedestrian access from Eccleston Place and Ebury Street.

The application proposes the continued use of Eccleston Yards courtyard for markets and events.

The proposed use includes a market, selling goods and food, to be held up to twice per week; and ancillary performance events, such as sports screenings, wellness and fitness classes, workshops

like flower arranging and art classes, community events, live theatre, outdoor exhibitions, and live music.

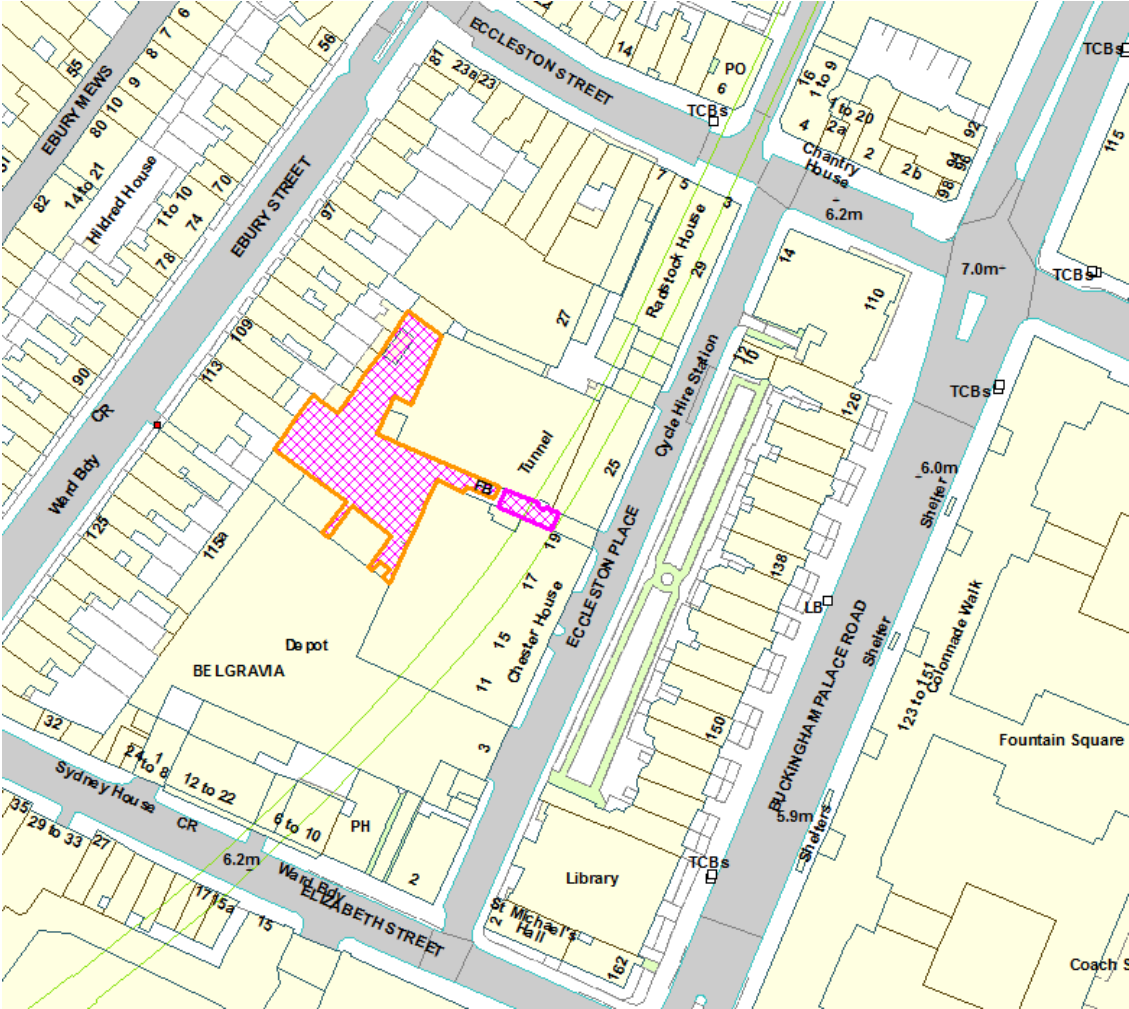
Eccleston Yards is already being used for markets and events. A premises license was issued in October 2020 for licensable activities that include, performance of dance, exhibition of a film, performance of live music, playing of recorded music, and sale of alcohol. The applicant (Grosvenor Estates) is now seeking to regularise this use with this application for planning permission.

The key consideration in this case is the impact of the market and events on the amenity of neighbouring residential properties in terms of noise and disturbance.

There has been objections from neighbouring residents concerned with noise and disturbance from events held within the Yards. The proposal has also received support, mainly from existing local business/ workers.

It is recommended that temporary permission is granted for a one year period only, to allow the council to assess the effect of the use and make sure it meets Policies 7, 14, 15, 16 and 33 of the City Plan 2019 - 2040 (April 2021). This is subject to conditions that would require robust management of the market and events by the applicant (Grosvenor Estates) in line with the strategy set out in the supporting Operational Management Plan, as well as conditions relating to, the hours of use, and number of events per calendar year.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Eccleston Yards



Eccleston Yards

5. CONSULTATIONS

5.1 Application Consultations

BELGRAVIA NEIGHBOURHOOD FORUM:

No response to date

THE BELGRAVIA SOCIETY:

No response to date

BELGRAVIA NEIGHBOURHOOD FORUM:

No response to date

ENVIRONMENTAL SCIENCES:

No objection

WASTE PROJECTS OFFICER:

Requires details of waste and recycling storage.

DESIGNING OUT CRIME:

No response to date.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 238

Total No. of replies: 14

No. of objections: 6

No. in support: 8

Support on some or all of the following grounds:

- Activities are a positive addition to the area;
- Ecclestone Yard is an improvement upon the previous derelict space;
- Market and events support local community and local business as a place to come together,
- Market can provide opportunity for new business;
- Increased footfall supports existing shops and restaurants and is crucial to sustain the success of Ecclestone Yards;
- Grosvenor are careful to manage events and noise;
- It's fun to observe market or events taking place.

Objections on some or all of the following grounds:

- Events will generate noise and disturbance for neighbouring residents;
- Neighbouring residential windows and gardens back onto the yards will be negatively affected by events;
- Noise levels are unacceptable from the outside dining, events and performances;
- A resident can no longer use their garden because of noise levels;
- Nobody listens to residents who complain about noise;
- Regular complaints about noise levels are made to Ecclestone Yards management but it keeps happening despite the regular complaints;
- Granting permission will lead to regular noise complaints to the council;
- Events should not continue beyond 10pm;

- There should be a limit or ban on activities that require amplification;
- Market and events will generate more footfall leading to increased litter in streets.

PRESS NOTICE/ SITE NOTICE:
Yes

5.2 Applicant's Pre-Application Community Engagement

Formal pre-application engagement is not required for a development of this scale although it is encouraged by the City Council for all development. Therefore, whilst details of any pre-application engagement with neighbours that may have taken place has not been submitted, this is not contrary to the expectations of the guidance for development of this scale.

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

Eccleston Yards is located between 15-25 Eccleston Place to the east and 101-115 Ebury Street to the west. It is a back land site that has recently been developed to create a 'courtyard' space (former car parking area) surrounded by retail and restaurant uses (with alfresco dining), with pedestrian access from Eccleston Place and Ebury Street.

Victoria Coach Station is immediately to the south of the site, and the surrounding area is very mixed in character, with predominately commercial uses at ground floor with either offices or residential on upper floors. To the rear of the site lies Ebury Street, which is largely residential in use, and where the courtyard abuts several residential gardens and a hotel.

The site is located within the Victoria Opportunity Area, the Central Activities Zone, and Belgravia Conservation Area

7.2 Recent Relevant History

August 2016, permission granted for:

'Use of the ground floor of 25 Eccleston Place for retail purposes (Class A1) and fitness centre (Class D2); use of ground floor of Chester House (11-19 Eccleston Pl) for retail purposes (Class A1), restaurant use (Class A3) and indoor flexible event space (Sui Generis); associated physical works at ground floor level and creation of shopfronts; relocation of substation; change of use of the courtyard 'giraffe sheds' to provide flexible retail / restaurant uses at ground and mezzanine levels (flexible Class A1 / A3) and associated physical works including shopfronts; change of use at 115A Ebury Street to provide retail use (Class A1) and associated physical works, shopfronts and provision of access to the inner courtyard via 115A Ebury Street'. (ref. 16/03582/FULL)

November 2017, permission granted for:

'Variation of Conditions 1, 7 and 28 of planning permission dated 16 August 2016 (RN 16/03582/FULL) for the use of the ground floor of 25 Eccleston Place for retail purposes (Class A1) and fitness centre (Class D2); use of ground floor of Chester House (11-19 Eccleston Pl) for retail purposes (Class A1), restaurant use (Class A3) and indoor flexible event space (Sui Generis); associated physical works at ground floor level and creation of shopfronts; relocation of substation; change of use of the courtyard 'giraffe sheds' to provide flexible retail / restaurant uses at ground and mezzanine levels (flexible Class A1 / A3) and associated physical works including shopfronts; change of use at 115A Ebury Street to provide retail use (Class A1) and associated physical works, shopfronts and provision of access to the inner courtyard via 115A Ebury Street, namely to vary drawings and other documents to include changes to fenestration, relocation of plant and extended gym opening hours'. (ref. 17/06293/FULL)

8. THE PROPOSAL

The application proposes the continued use of Eccleston Yards courtyard for markets and events.

The proposals consist of two main elements:

- i. A market, selling goods and food, to be held up to twice per week; and

- ii. Events, such as sports screening, ‘wellness’ and fitness classes, workshops like flower arranging and art classes, community events, film screenings, live theatre, outdoor exhibitions, and live music.

The applicant details that Eccleston Yards has hosted a number of events that include:

- ‘Wellness Festival’ (including fitness and wellness classes such as yoga, pilates, high-intensity training and meditation);
- Outdoor screenings of sports events (including tennis, cricket, and the Olympics);
- Film screenings (including classic wedding films as part of bridal events);
- Workshops (including outdoor art classes, flower arranging and wine tasting); and
- A ‘Sunday Market’ with live music.

As part of this application, the applicant would like to host some special markets throughout the year which will include food and drink offerings such as bespoke cheese and wine markets.

The proposal will provide no more than 14 market stalls within the central space of the courtyard. In addition, occasional live music and other performances are proposed through a dedicated performance space.

The markets and other events would operate between the hours of 1100 and 1900 at most. Set up of the stalls would begin from 0700 at the earliest, with de-rig complete and the stall equipment removed from the site by 1930.

Regarding the other uses of the site, these would start no earlier than 0830 and finish no later than 2130, although it is expected that most would finish earlier than this, by 1900, given they would be day-time focussed activities.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The site is located within the Victoria Opportunity Area, and the Central Activities Zone (CAZ).

Land Use Policy Context

London Plan March 2021

London Plan Policy SD1 (Opportunity Areas) seeks to ensure that Opportunity Areas reach their growth and regeneration potential through the support of development which creates employment opportunities for local people and supporting wider regeneration, ensuring development proposals integrate into the surrounding areas.

London Plan Policy E9 (Retail, markets and hot food takeaways) states that a successful, competitive, and diverse retail sector for all Londoners should be supported in line with the wider objectives of the Plan. Part C of Policy E9 states that development proposals should support London’s markets in their full variety, including street markets,

covered markets, specialist and farmers' markets that contribute to local identity and the vitality of the local and surrounding area

The City Plan 2019-2040

City Plan Policy 4 (Victoria Opportunity Area) aims to control and influence certain areas and types of development within the Victoria Opportunity Area. It is stated that growth in this Opportunity Area is encouraged, along with improvements to public transport, accessibility, and the public realm to ensure the area thrives and remains an attractive destination for residents and visitors.

City Plan Policy 14 (Town centres, high streets and the CAZ) part F. relates to markets and states new and extended markets will be supported throughout the town centre hierarchy and wider CAZ where any negative impacts on the surrounding area (including the operational requirements of existing businesses in the vicinity) can be mitigated.

City Plan Policy 15 (Visitor Economy) part E. relates to events in the public realm and states events in the public realm will benefit the city, its people and enterprises. They should support the character and function of the area in which they take place and must be organised in ways that minimise the impact on the long-term access to open space, amenity of residents, businesses and others, and maintain the quality of the public realm.

City Plan Policy 16 (Food, drink and entertainment) part A. states proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate.

Related residential amenity policies

City Plan Policy 7 (Managing development for Westminster's people) requires new development to be neighbourly by protecting, and where appropriate enhancing local environmental quality.

City Plan Policy 33 (Local environmental impacts) part C. relates to noise and states development should prevent adverse effects of noise, with particular attention to:

- i. minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses;
- ii. minimising noise from plant machinery and internal activities;
- iii. minimising noise from servicing and deliveries; and
- iii. protecting the relative tranquillity in and around open spaces.

Proposed use of courtyard for a market and events and impact on residential amenity

The proposed use is considered to broadly accord with the principle of the aforementioned policies. This is provided the use does not harm residential amenity in terms of noise and disturbance.

There are several residential properties on Ebury Street that have rear windows overlooking the site, with rear gardens backing onto the north side of the courtyard. There are also residential flats on Eccleston Place and Eccleston Street.

Eccleston Yards is already being used for markets and events. A premises license was issued in October 2020 for licensable activities that include, performance of dance, exhibition of a film, performance of live music, playing of recorded music, and sale of alcohol.

The premises license authorises the carrying out of licensable activities between the hours of 1130 and 2200. The premises license also restricts licensable activities to a maximum of 100 days per calendar year.

The proposals have received objections from neighbouring residents on grounds of noise and disturbance from events held within the Yards.

The objections also raise concerns about noise and disturbance from the external tables and chairs (alfresco dining) that were approved as part of the original August 2016 permission to create the Yards (ref. 16/03582/FULL). This allowed the external tables and chairs to be used between the hours of 0800 to 2300.

Operation

The market would comprise of a maximum of 14 stalls, most of which would sell goods, with only a maximum of two food stalls. The hours of use would be limited, with the markets taking place almost entirely during daytime hours (1100 to 1900).

Most events and performances are also expected to take place in daytime hours, between noon and 1800 at most.

Many of the proposed events will be low key and have little impact on residential amenity providing there is no amplified or generated sound. These are likely to include 'wellness' and fitness classes, workshops like flower arranging and art classes, community events, and outdoor exhibitions.

Events with sound

The applicant has clarified that all events which involve amplified or generated sound would end by 2130 at the latest. In addition:

- i. those involving singing and amplified music would finish by 2000 at the latest;
- ii. Sport screenings (e.g., Wimbledon, there is no intention to screen football matches), would use speakers and would finish by 2130 at the latest, but the volume can be controlled; and
- iii. Film screenings would finish by 2130 but those viewing them can use headsets instead of the main speakers.

The applicant states that events with sound would be relatively rare across the year as a whole so they would not be taking place every week or weekend, only in association with

events with a certain theme (e.g., the Wimbledon screenings only take place during June/July).

Operational Management Plan

The application is supported by an Operational Management Plan (OMP) prepared by Grosvenor Estates. The plan details how the applicant will manage the market and events to prevent any potential disturbance to neighbouring residents.

In terms of noise and nuisance control, the plans states:

“ No noisy equipment, such as generators, are to be used at the site in connection with the Market element of the proposal.

The presence of a member of the security team will ensure that issues related to noise or other potential disturbance are dealt with swiftly.

Any live music or other speakers are set up by a sound engineer and can be actively controlled throughout the day”.

Land use/ residential amenity conclusion

The proposals are considered acceptable in land use and residential amenity terms on the basis that temporary permission is granted for a one year period only, to allow the council to assess the effect of the use and make sure it meets Policies 7, 14, 15, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

The temporary permission is also subject to conditions that would require robust management of the market and events by the applicant (Grosvenor Estates) in line with the strategy set out in their OMP, as well as conditions relating to, the hours of use, and number of events per calendar year.

The recommended conditions include:

- “The market and events use allowed by this permission can continue until 31 October 2023. After that the land must return to its previous condition and use”.
- “The market shall only be open to the public between the hours of 1100 and 1900 and the ancillary performance events shall take place no earlier than 0830 hours and finish no later than 2130 hours”.
(N.B the applicant has agreed to a finish time of 2130 which is earlier than the authorised premises license hours of 2200).
- “There shall be no playing of live or recorded music before 1130 hours and after 2130 hours”.
- “The licensable activities that include, performance of dance, exhibition of a film or televised event, performance of live music, playing of recorded music, and performance of a play, shall collectively be restricted to a maximum of 100 days per calendar year”.

9.2 Environment & Sustainability

This application is for a change of use only and does not raise any additional energy/sustainability issues.

9.3 Biodiversity & Greening

Not relevant in the determination of the application.

9.4 Townscape, Design & Heritage Impact

The market stalls and equipment events will be removed and stored in the basement of 25 Ecclestone Place after use. Therefore, the proposal will have limited impact on the townscape of this area.

9.5 Residential Amenity

The local environmental impacts are detailed within section 9.1 of this report.

9.6 Transportation, Accessibility & Servicing

Servicing

The applicant's Operational Management Plan (OMP) details how the market and events operations will be serviced to ensure minimal impact on the surrounding highway network.

Traders for the market would be allotted a time slot during which to perform servicing, with no more than three vehicles (vans only, no lorries) attending within each time slot. This will avoid the disturbance of traffic on Ecclestone Place by servicing. It is expected that many traders come via public transport.

Ecclestone Place will be used as the servicing entrance and no suspension of parking bays is necessary.

The demountable market stalls and any associated equipment can be stored on-site within the basement of 25 Ecclestone Place after use.

A condition is recommended that all servicing must take place between 0700 to 1000 on Monday to Saturday and 0800 to 1000 on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. This condition is consistent with the servicing condition attached to the original August 2016 permission to create the Yards (ref. 16/03582/FULL).

Cycling & Cycle Storage

The original August 2016 permission to create the Yards (ref. 16/03582/FULL) provided sufficient cycle parking (64 spaces) which could be used by both workers and visitors.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy through the generation of increased opportunities for local employment (market traders and artists), procurement and spending.

9.8 Other Considerations

Waste & Recycling Storage

The applicant's Operational Management Plan (OMP) details that a team of cleaners attend the site and existing on site litter bins are capable of accommodating the waste generated. Notwithstanding this detail, the council's Waste Projects Officer advises that the applicant needs to indicate on a drawing, the area of waste and recycling storage and confirm the bin capacity. A condition is recommended requiring details of waste and recycling storage.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application.

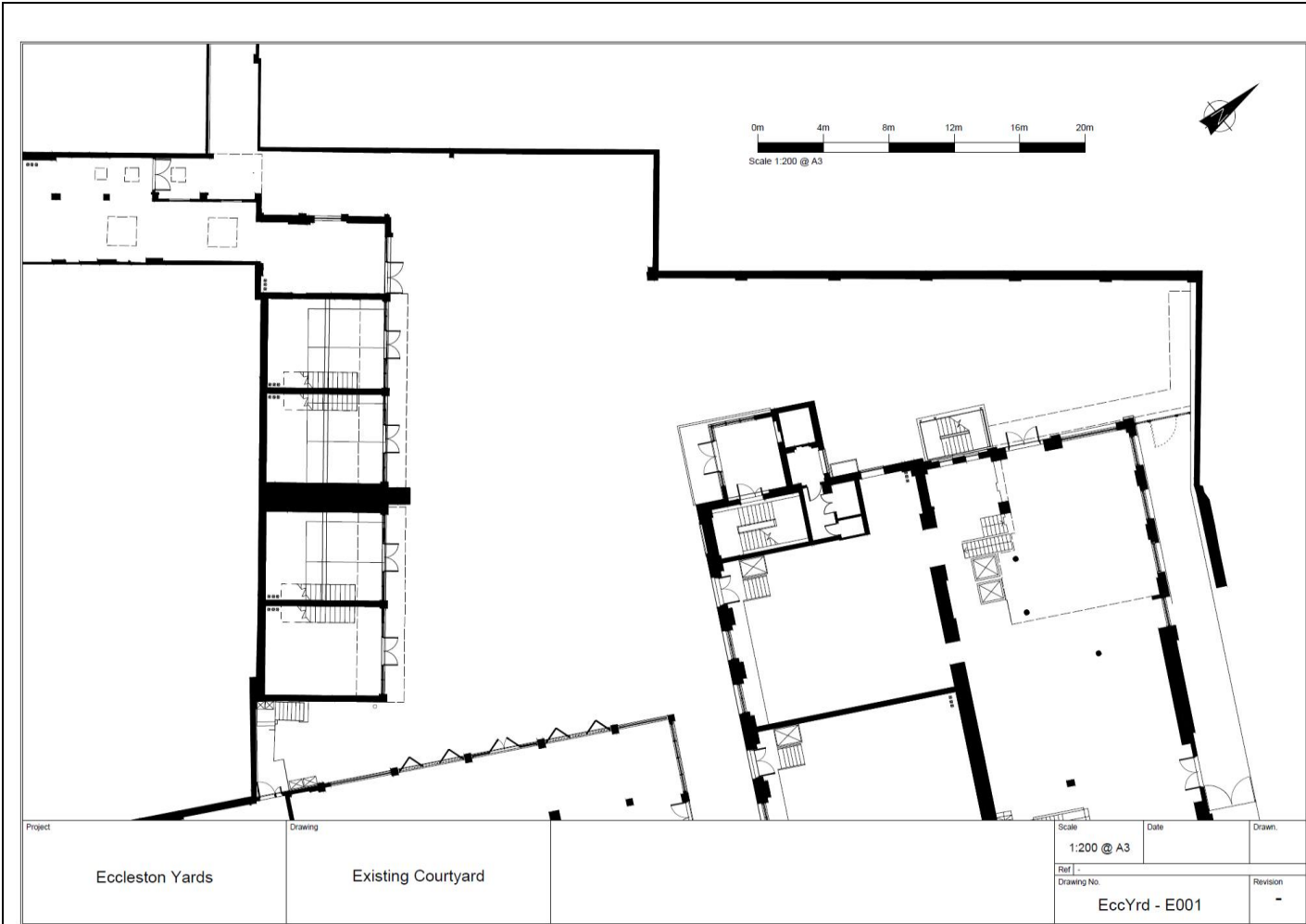
10. Conclusion

On balance, it is recommended that temporary permission is granted for a one year period only, to allow the council to assess the effect of the use and make sure it meets Policies 7, 14, 15, 16 and 33 of the City Plan 2019 - 2040 (April 2021). This is subject to conditions that would require robust management of the market and events by the applicant (Grosvenor Estates) in line with the strategy set out in the supporting Operational Management Plan, as well as conditions relating to, the hours of use, and number of events per calendar year.

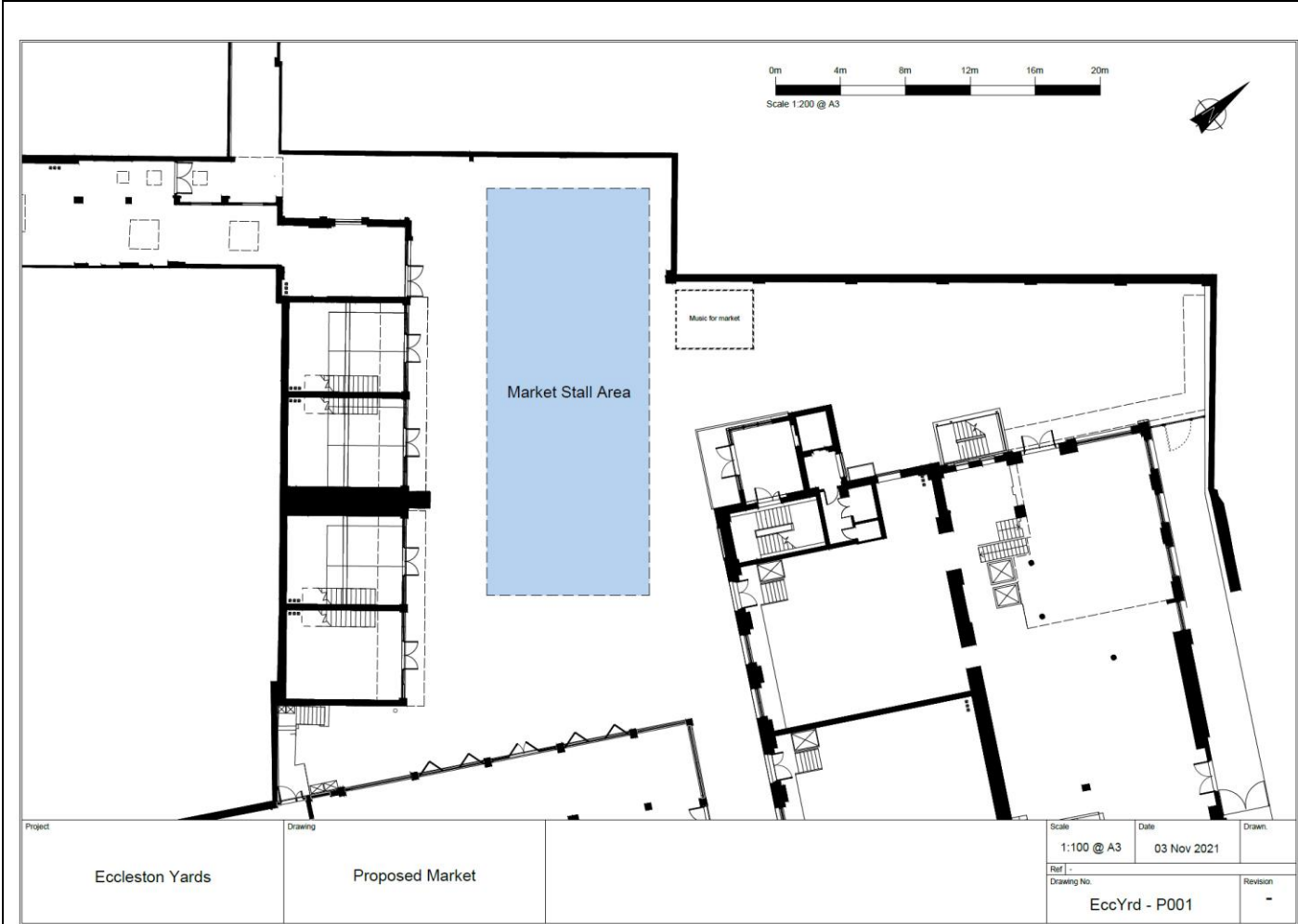
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT ddorward@Westminster.gov.uk

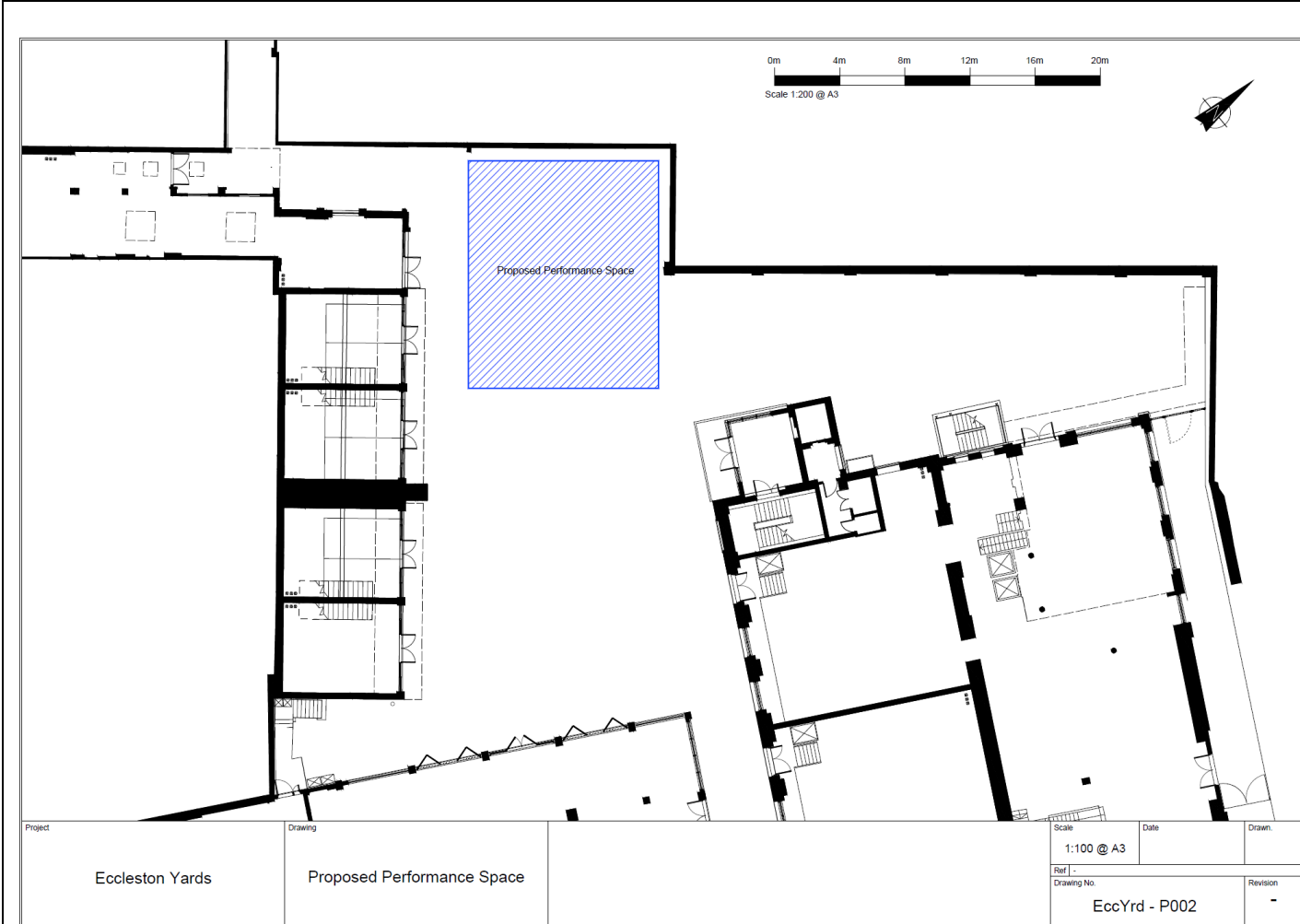
11. KEY DRAWINGS



Existing courtyard



Proposed market



Proposed performance space

DRAFT DECISION LETTER

Address: Eccleston Yard, London

Proposal: Use of Eccleston Yards courtyard for markets and events.

Reference: 22/02190/FULL

Plan Nos: Site Location Plan;
EccYrd - E001 'Existing Courtyard';
EccYrd - P001 'Proposed Market';
EccYrd - P002 'Proposed Performance Space';
Operational Management Plan, by Grosvenor Estate Management Ltd;
Covering Letter by Gerald Eve 30 March 2022;
Email (with timing of events) by Gerald Eve dated 22 September 2022.

Case Officer: David Dorward **Direct Tel. No.** 07866038730

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 The market and events use allowed by this permission can continue until 31 October 2023. After that the land must return to its previous condition and use. (C03AA)

Reason:

So that we can assess the effect of the use and make sure it meets Policies 7, 14, 15, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R03CC)

- 3 You must carry out the measures included in the Operational Site Management Plan at all times unless as otherwise agreed in writing by the City Council as local planning authority.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 4 Within 2 months of the date of this consent you must apply to us for approval of details

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1

of how waste and recycling is going to be stored on the site. You must then provide the waste and recycling store within one month of the date that the details are approved, and clearly mark it and make it available at all times to everyone using the development. You must not use the waste and recycling store for any other purpose.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 5 All servicing must take place between 0700 to 1000 on Monday to Saturday and 0800 to 1000 on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 6 The market shall only be open to the public between the hours of 1100 and 1900 and the ancillary performance events shall take place no earlier than 0830 hours and finish no later than 2130 hours.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 7 There shall be no playing of live or recorded music before 1130 hours and after 2130 hours.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 8 The licensable activities that include, performance of dance, exhibition of a film or televised event, performance of live music, playing of recorded music, and performance of a play, shall collectively be restricted to a maximum of 100 days per calendar year.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

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1

- 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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.

Item No.
2

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 October 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved St James's	
Subject of Report	Trocadero, 40-48 Shaftesbury Avenue, London, W1D 7EA		
Proposal	Use of ground floor as public house with music and entertainment (Sui Generis).		
Agent	Pegasus Group		
On behalf of	Coyote Ugly London Ltd		
Registered Number	22/03928/FULL	Date amended/ completed	16 June 2022
Date Application Received	16 June 2022		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY & KEY CONSIDERATIONS

The application involves the use of the ground floor of one of the units within the Trocadero complex as a public house. The intended operator is Coyote Ugly saloon who intend to provide an American-style bar and restaurant, with recorded and live music and other entertainment (a Sui Generis use).

The key considerations in this case are:

- The acceptability of the proposal in land use terms
- The impact on the amenity of neighbouring occupiers.

For the reasons set out in the report, it is considered that the proposal, with conditions, is acceptable in land use, amenity and highways terms and neighbouring occupiers would not be unduly harmed. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

SOHO SOCIETY

Raise no objection to use within Class E, but object to the use as a public house (Sui Generis). Believe that the application would add to the concentration of alcohol-based premises rather than adding to 'diversity' within the local area. WCC's March 2020 Cumulative Impact Assessment (Licensing policy) states: "The West End Cumulative Impact Zone has been identified because the cumulative effect of the concentration of late night and drink led premises and/or night cafés has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses... The urban infrastructure cannot sustain any further growth in licensed premises that provide a significant risk of a variety of harmful outcomes."

Concur with the Metropolitan Police who have regarded the increase in capacity at this venue as a serious issue. Do not believe that there would be any benefit to the local community from the application, but there will be a loss of residential amenity if police resources in the area have an additional burden to carry. If, despite this, the council is minded to grant permission, we object to the hours proposed and ask that permission be granted for core hours only in order to partially alleviate the concerns raised above.

CROSSRAIL

No comment.

ENVIRONMENTAL SCIENCES

No objections raised.

HIGHWAYS PLANNING MANAGER

No objections raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 93

Total No. of replies: 1

One letter of objection raising the following concerns:

- * the proposed pub will add significant noise both emanating from the site and particularly from the proposed queue on Shaftesbury Avenue.
- * the anticipated licensing conditions with regard to noise limitation do not align with theatre operating hours
- * the proposed queuing system will pressure pedestrian traffic in the area.
- * potential for increased anti-social behaviour in the queues and immediate area
- * request that conditions are included for a noise assessment for the proposed queue; to ensure that no noise emanating from the queue or inside the premises can be heard at the site boundaries of the Apollo and Lyric Theatres (both during the construction phase and once operational); and a detailed assessment of the footfall and foreseen impact on

pedestrian access in the immediate vicinity.

* Request that during the construction phase that liaison is undertaken to ensure that no noisy works are carried out at performance or rehearsal times

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

None undertaken.

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 comprises part of the ground floor of the Trocadero complex, which originally provided the entrance into Cineworld and two retail units (Nos. 17 and 30). The site is now occupied as one retail unit (Unit 30) as a sweet, snacks and souvenir shop.

The complex itself contains a large mix of uses including retail, restaurants and cafes at ground level, and a night club at basement level. The majority of the complex has been converted to a 740-bedroom hotel with a roof level restaurant and bar, The Skybar.

This application is located within the Central Activities Zone, the West End and Leisure Special Policy Area (WERLSPA), the Strategic Cultural Area: West End and the Soho Conservation Area. This part of the Trocadero is not listed and the nearest listed building is the Apollo and Lyric Theatres, both of which are on the other side of Shaftesbury Avenue.

The area is characterised by ground floor commercial uses. Records indicate that there are very few residential properties within the vicinity of the site. The closest are those above the St James Tavern at 45 Great Windmill street, on the opposite side of Shaftesbury Avenue. There are also flats on Rupert Street.

7.2 Recent Relevant History

Planning permission granted 28 December 2020 for the use of part ground floor on the Shaftesbury Avenue frontage as a restaurant (Class A3) and installation of an extract duct at roof level.

Premises license granted for Coyote Ugly on 18 August 2022 (22/05496/LIPN).

8. THE PROPOSAL

This proposal seeks planning permission for a Sui Generis use to accommodate a pub with music and entertainment. This is to allow the unit to be occupied by Coyote Ugly Saloon. The premises will operate as an American-style bar and restaurant, with recorded and live music and karaoke style entertainment. Food will be served all day including breakfast until early morning. Music and live acts will take place every evening (between 5pm and 3am).

The proposals also include a merchandise store selling a selection of branded Coyote Ugly themed merchandise. This part of the site would be accessed via a second set of doors onto Shaftesbury Avenue however, it would operate as an ancillary part of the pub use. A further access provides means of escape.

The proposed opening hours are from 08:00 to 03:00 daily with a maximum capacity of 350.

The proposals seek only the change of use of the unit, an extract duct will run internally discharging at roof level. An internal lobby is proposed to incorporate any queuing to the premises.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Overview

London Plan Policy SD4 concerns the CAZ and seeks to promote unique international, national and London-wide roles of the CAZ, based on an agglomeration and rich mix of strategic functions and local uses. The policy also states that "the unique concentration

and diversity of cultural, arts, entertainment, night-time economy and tourism functions should be promoted and enhanced".

Policy HC6 of the London Plan requires boroughs to develop a vision for the night-time economy, supporting its growth and diversification and requires local development plans to promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, (which includes the West End) and town centres where public transport such as the Night Tube and Night Buses are available in order to build on the Mayor's vision for London as a 24-hour City. The policy encourages the diversification of the range of night-time activities, including extending the opening hours of existing daytime facilities and seeks the protection and support of evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues. However, the policy also requires the boroughs to take account of the cumulative impact of high concentrations of licensed premises on anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses and to seek ways to diversify and manage these areas.

The site lies within the CAZ and the WERLSPA (the West End Retail and Leisure Special Policy Area). City Plan Policy S1.A (Westminster's spatial strategy) seeks to ensure that Westminster will continue to 'grow, thrive and inspire at the heart of London as a world city'. Policy 1 acknowledges the need to balance the competing functions of the Central Activities Zone (CAZ), including those as a retail and leisure destination and home to residential neighbourhoods.

City Plan Policy 2 recognises that the intensification of the WERLSPA will deliver certain priorities, including an improved retail and leisure experience that responds to innovation and change in the sector, along with a diverse evening and night-time economy and enhanced cultural offer. The supporting text (paragraphs 2.7, 2.9 and 2.10) anticipate that the WERLSPA will absorb much of Westminster's future commercial growth, including the development of retail, food and drink uses and entertainment uses; will protect and support the arts, culture and entertainment offer for residents, workers, and visitors and diversify the food and beverage offer whilst, at the same time, minimising negative impacts on residential neighbourhoods. The West End is recognised as home to the largest evening and night-time economy in the UK, supporting as a wealth of cultural uses, pubs, bars, restaurants, nightclubs, cinemas, theatres and other leisure uses.

City Plan Policy 14 concerns town centres, high streets and the CAZ, with their intensification supported in principle for main town centre uses. Uses that provide active frontages will be required at ground floor level, with the WERLSPA to provide a wide mix of commercial uses that support the West End's role as a cultural hub and centre for visitor, evening and night-time economy. Policy 14 goes on to state that town centre uses will be supported in principle through the CAZ with a commercial or mixed-use character, having regard to existing mix of land uses. The supporting text (paragraph 14.5, 14.6 and 14.7) acknowledges that, to ensure their long-term sustainability, town centres will need to provide a mix of commercial uses to create an environment which encourages customers to shop, access services, and spend leisure time, whilst also supporting their role as major employment hubs and visitor destinations., "...town centre uses such as pubs and drinking establishments, exhibition spaces, cultural and leisure uses, can all help support the future success of these key clusters of commercial

activity...”.

City Plan Policy 16 (A) of the City Plan states that proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate. The definition of entertainment uses within the City Plan glossary includes uses predominantly, or partly used for entertainment purposes including live music venues and other sui generis uses e.g. nightclubs, casinos and amusement arcades.

Related policies

To ensure that any detrimental impacts on existing users of an area are avoided, City Plan policy 7 requires new development to be neighbourly by protecting, and where appropriate enhancing local environmental quality and protecting and positively responding to local character and the historic environment. In considering development proposals, the Council will take a balanced approach that considers the specific site location and context as well as the merits of the proposals including the consideration of the wider benefits of a scheme against impacts on the surrounding area.

The Plan recognises that factors such as polluted air, excessive smells, poor waste management, noise and strong vibrations are examples of environmental impacts that have an adverse impact on quality of life and health and well-being. Development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours. It confirms that the Council will place the burden on the applicant to ensure mitigation measures are included to safeguard future local amenity and to ensure that development does not cause existing nearby uses from having to curtail their activities.

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents and development to prevent the adverse effects of noise and vibration with particular attention to minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses; minimising noise from plant machinery and internal activities and minimising noise from servicing and deliveries.

Loss of Retail Accommodation

The lawful use of the ground and lower ground floor is for retail purposes and is currently occupied as a souvenir, snacks and drinks shop. Policy 14 (B) requires that uses that provide active frontages and serve visiting members of the public will be required at the ground floor throughout the town centre hierarchy.

Given the proposed use retains access to visiting members of the public at ground floor level, the proposed public house use is acceptable.

Proposed use and impact on amenity

The proposed use accords with the principle of the aforementioned policies subject to

the impacts of the new entertainment use in terms of scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and provided that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

The Soho Society raise strong objections to the principle of a public house use and believe that the proposal would add to the concentration of alcohol-based premises within the local area. The supporting text to Policy 16 does state that “the cumulative impact of multiple food, drink and entertainment uses in a particular area can have a negative impact on the functioning and use of an area and can negatively impact residential amenity. We will therefore prevent the over-concentration of these uses and require proposals to make sure any negative impacts are managed (applying the Agent of Change principle).”

It is acknowledged that the proposed pub would be adjacent to Bar Rumba at 36 Shaftesbury Avenue, beneath the Skybar rooftop bar and restaurant, and within close proximity to Fratelli La Bufala restaurant at 40 Shaftesbury Avenue, the Rainforest Café at 20-24, a number of pubs and restaurants on Rupert Street and Great Windmill Street and numerous late-night entertainment venues within the wider Soho area.

However, this part of Shaftesbury Avenue is still mixed in character. The site lies adjacent to a retail unit, and this part of Shaftesbury Avenue also contains the Crystal Maze Experience and the Picturehouse cinema. Immediately opposite the site are the Lyric, Apollo and Gielgud Theatres and, given that there are no nearby residential properties, it is not considered that an additional entertainment use would result in an unacceptable concentration of entertainment uses such that it would harm residential amenity. Planning permission was also granted in December 2020 for the use of the premises as a restaurant, and therefore the principle of an entertainment use has already been established. That permission remains extant.

The Soho Society also refer to fact that the proposal lies within the West End Cumulative Impact Zone, as set out within the City Council’s Cumulative Impact Assessment which has been produced as an approach to licence applications. However, Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations. Whilst the November 2016 City Plan had a specific policy relating to the West End Stress Area, the current City Plan does not.

The applicant has indicated that operational measures would be introduced to minimise disruption and noise disturbance including the employment of door staff, provision of CCTV and measures to limit background noise levels. The ground floor plan has also been amended to introduce an internal lobby to accommodate any queueing. Whilst objections have been received to the potential for patrons to queue in the street, this is considered unlikely given this proposed arrangement. A fully worked up operational management plan, to secure these measures, would be secured by condition.

The opening hours of the proposed public house use are 08:00 to 03:00 daily. These hours are significantly later than the extant restaurant permission which has a terminal hour of 00:30. The licensing sub-committee has however recently granted a New Premises Licence under the Licensing Act 2003 which enables the premises to operate

until 03:30 daily.

There are a number of other licensed establishments in the vicinity including Bar Rumba which has licensed opening hours of 09:00 till 06:00 Monday to Saturday and 09:00 till 03:30 on Sundays; The Windmill nightclub to the north at 17-19 Great Windmill Street has licensing opening hours of 09:00 till 05:30 Monday to Saturday and 09:00 till 03:00 on Sunday; and The Piccadilly Institute operates with licensed opening hours of 07:00 till 03:00 Monday to Saturday and 07:00 till 01:00 on Sundays.

Objections to the application have also been received from Nimax Theatres on the grounds of noise disturbance, both from operational noise, and noise from queuing. With regard to queuing, the application has been amended to provide a larger internal lobby to accommodate any queuing. In relation to internal noise, and in acknowledgement that the proposed use would have more intense activity on site than the extant restaurant permission, the applicant submitted a noise assessment detailing mitigating measures to control/contain noise on site. The report proposes a number of mitigating measures including high acoustic performance ceilings and wall linings between the new pub and the hotel rooms above and the use of laminated toughened glass for the shopfront glazing to minimise noise breakout. Environmental Health have reviewed the submitted information and have raised no objection subject to the requirement for conditions requiring compliance with internal noise conditions to ensure that noise break out does not adversely affect nearby residents. In addition, the premises license includes conditions relating to the provision of a noise limiter; a requirement for all windows and external doors to be kept closed after (21:00) hours, or at any time when regulated entertainment takes place; the location of loud speakers; a condition that prevents noise generated on the premises which give rises to nuisance; a requirement for notices to be displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly; and a limitation to a maximum of 10 patrons allowed to temporarily leave the premises, for example for smoking.

Given that there are no nearby residential properties with the exception of the flat located above the St James Tavern on the opposite site of Shaftesbury Avenue approximately 60m from the entrance, it is not considered the proposal will materially impact local residential amenity.

9.2 Environment & Sustainability

This application is for a change of use only and does not raise any additional energy/sustainability issues.

Odour

The proposed public house would be served by a extract duct running internally through existing risers terminating at roof level. The application has been supported by an acoustic report that assesses noise break out from the potential noise impacts of the proposed roof level plant. The nearest affected sensitive windows are those in the Lyric Theatre on the opposite side of Shaftesbury Avenue and the residential windows within the flats on Rupert Street. Background noise levels have been provided to demonstrate that noise from the duct will be compliant with the City Council requirements and this has

been considered acceptable by Environmental Health. Conditions are proposed in relation to the noise and vibration levels from the plant.

9.3 Biodiversity & Greening

Not relevant in the determination of the application.

9.4 Townscape, Design & Heritage Impact

No material external alterations are proposed.

9.5 Residential Amenity

The local environmental impacts are detailed within both Section 9.1 of this report.

9.6 Transportation, Accessibility & Servicing

Highway Impact

The impact upon the local highway network of the proposed public house compared to the existing restaurant use are not considered to be materially different. Servicing is proposed to take place via the servicing yard on Rupert Street and this will be secured by condition

The original submission relied on a designated area for queuing outside the main entrance. Objections to this were received from Nimax Theatres on the grounds that this would pressure pedestrian traffic in the area. The Highways Planning Manager considers that the omission of proposals for formalised queuing on Shaftesbury Avenue, and the proposals to create an enlarged lobby which can accommodate 30 people, ameliorates the potential for localised congestion, including on the footway and that the revised proposals are therefore acceptable in terms of City Plan policy 28 which seeks to ensure developments does not adversely impact on available space for the free flow of pedestrian traffic.

The provision of cycle parking spaces for staff is to be secured by condition.

There is sufficient space within the basement for the storage of waste and recyclable materials. The details may be secure by condition.

9.7 Economy including Employment & Skills

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by employing 50 members of staff and in indirect employment opportunities, through the employment of artists, stewards, sounds and lighting specialists for specific events.

9.8 Other Considerations

Nimax Theatres have commented on the potential for the use to result in increased anti-social behaviour from external queuing. The application has been amended such that queuing will take place internally and the applicant has also confirmed that doormen will be in place daily and the approved license for the premises includes stipulations on CCTV requirements and relevant security staffing levels.

The Soho Societies reference to objections by the Metropolitan Police relates to the objections from the Police to the licensing application.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application.

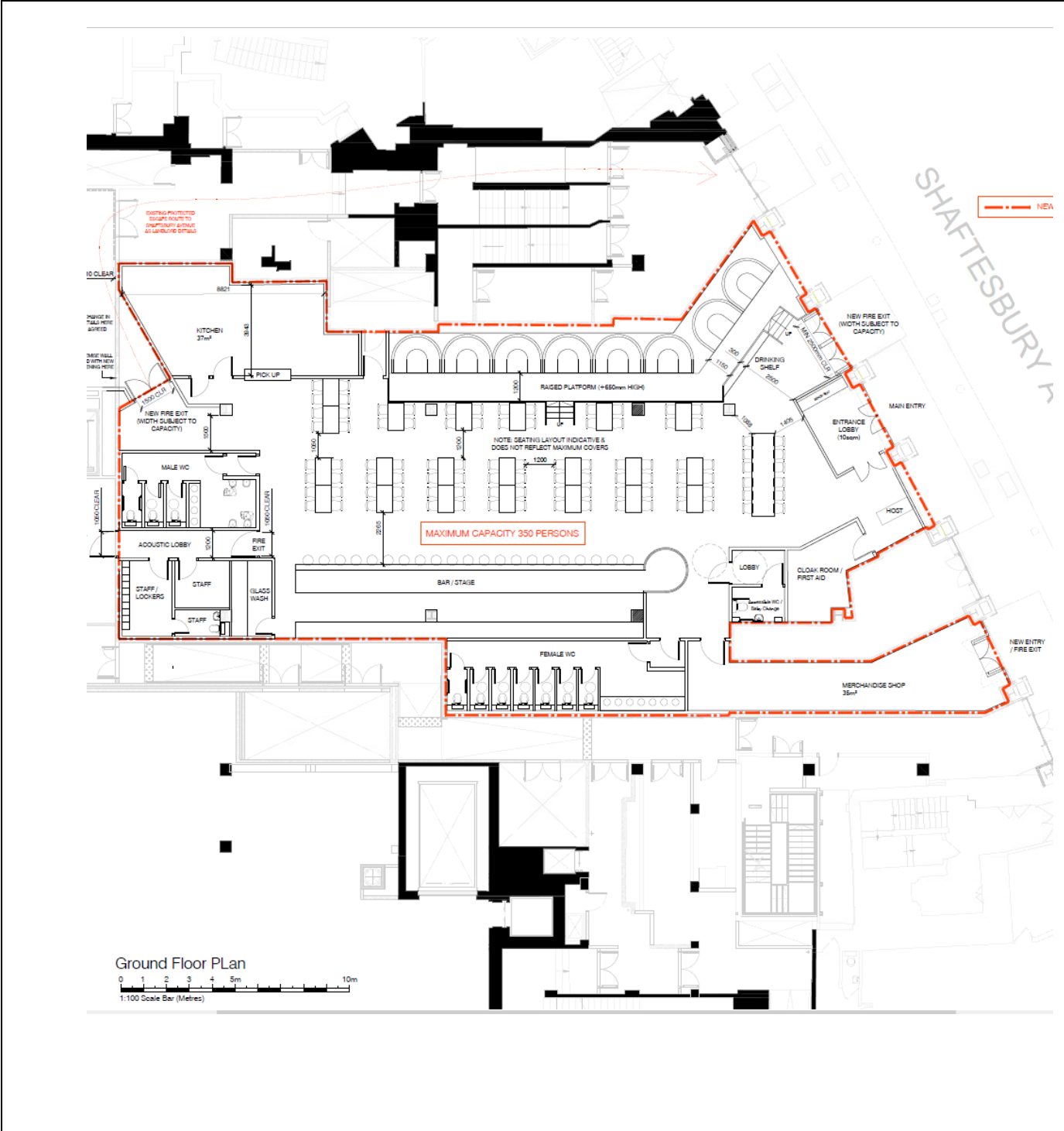
10. Conclusion

The impact upon residential amenity, the character of Soho and upon local environmental quality of the proposed pub is considered to be very similar to the existing use of the site as a restaurant. Subject to conditions, the proposed change of use is considered to be compliant with the policies within the adopted development plan.

(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: MIKE WALTON BY EMAIL AT MWALTON@WESTMINSTER.GOV.UK

11. KEY DRAWINGS



DRAFT DECISION LETTER

Address: Trocadero, 40-48 Shaftesbury Avenue, London, W1D 7EA,
Proposal: Use of ground floor as public house with music and entertainment (Sui Generis).
Reference: 22/03928/FULL
Plan Nos: 4941/01/C, Acoustic report reference: 220514-R001 dated 15th June 2022

Case Officer: Jo Palmer

Direct Tel. No. 020 7641
07866040238

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 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 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 proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, 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 proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.
(3) Following installation of the plant and equipment, 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 confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council.

Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;.
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) 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. (R46AC)

- 3 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 4 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

For any music noise; the indices of Leq and LFMax in the octave bands 31.5 Hz, 63 Hz

and 125 Hz should be at least 10 dB below the existing background noise level measured in terms of L90,5mins (31.5Hz, 63Hz, 125Hz) inside the neighbouring premises. For music noise where access to relevant habitable spaces is unavailable; the design of the separating structures should be such that the received music noise level in the habitable spaces, with music playing, should be demonstrated through calculation to not exceed a rating of NR20 (Leq, day time), NR15 (Leq, night time) and NR30 (LFMax, night time).

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) 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. (R47AC)

- 5 You must not allow more than 350 customers into the property at any one time. (C05HA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 6 Customers shall not be permitted within the public house premises before 08:00 or after 03:00 each day. (C12AD)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 7 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 8 You must apply to us for approval of an operational management plan to show how you will prevent customers who are either arriving or leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the public house use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the public house is in use. (C05JC)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 9 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises, until details of how cooking fumes will be discharged have been submitted to and been approved by us. The ventilation must run internally within the building terminating at roof level. The approved ventilation system thereafter be retained whilst any primary cooking takes place on the premises.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

- 10 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the restaurant. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 11 You must apply to us for approval of details of secure cycle storage for the public house use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the building. You must not use the cycle storage for any other purpose. (C22HA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 12 You must provide the entrance lobby shown on the approved ground floor plan prior to the commencement of the public house use hereby approved. The doors fitted to this lobby shall be self-closing doors and you must not leave these doors open except in an emergency or to carry out maintenance. This lobby shall be retained in situ for the life of the development.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 13 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway.

You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

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 the City Plan 2019 – 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.
- 2 The whole of the City of Westminster is a Smoke Control Area under the Clean Air Act 1993. Thus premises cannot emit smoke unless burning an 'authorized fuel' or using 'exempt appliances'. Further information can be found at the following government website: <https://www.gov.uk/smoke-control-area-rules>

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.

Agenda Item 3

Item No.

3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 October 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Malvern House, 15-16 Nassau Street, London, W1W 7AB,		
Proposal	Erection of a single storey mansard roof extension to 15-16 Nassau Street and 40-46 Riding House Street for use as two residential flats: (Class C3)		
Agent	Cooley Architects		
On behalf of	Pearl and Coutts		
Registered Number	22/03437/FULL	Date amended/ completed	13 June 2022
Date Application Received	24 May 2022		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		
Neighbourhood Plan	Fitzrovia Werst Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY & KEY CONSIDERATIONS

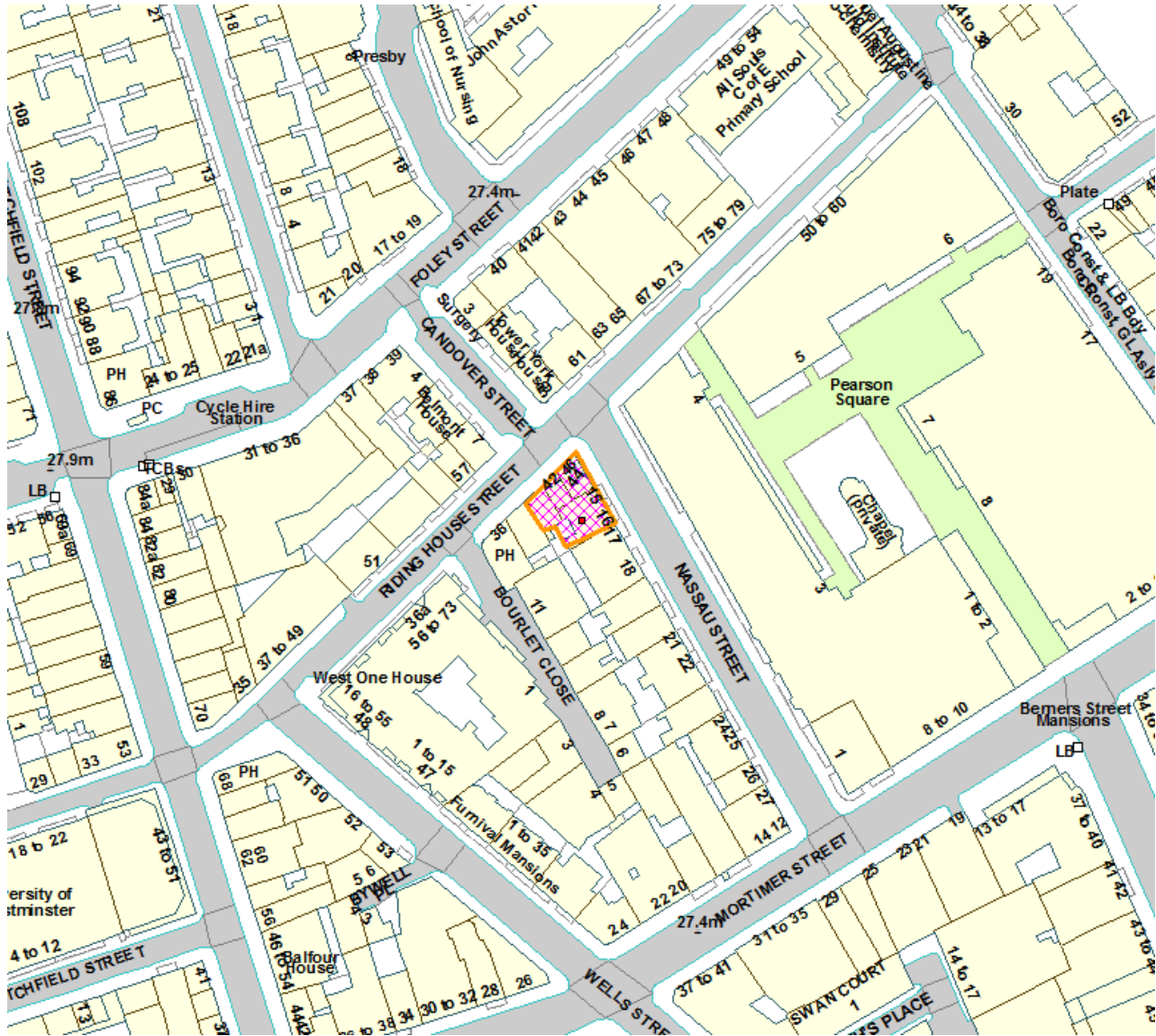
Permission is sought for the erection of a single storey mansard roof extension to 15-16 Nassau Street and 40-46 Riding House Street to provide two residential flats.

The key considerations in this case are:

- The impact of the proposed buildings on the character and appearance of the East Marylebone Conservation Area.
- The impact on the amenity of neighbouring residential properties.

For the reasons set out in the main report, it is considered that the proposal, with conditions, is acceptable in land use, design and amenity a terms and neighbouring residential occupiers would not be unduly harmed. As such, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

FITZOVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

FITZOVIA WEST NEIGHBOURHOOD FORUM

Fitzrovia Neighbourhood Association

HIGHWAY PLANNING

No objection subject to conditions.

PROJECT OFFICER FOR WASTE

Further detail required

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 86

Total No. of replies: 4

No. of objections: 4 on the following grounds:

- Loss of light
- Reduction in privacy
- Impact on the setting of York House and Oakley House

SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application. However, the Early Community Engagement guidance only expects such engagement to take place where proposals of this nature may have a significant impact on residential amenity or other noise sensitive receptors.

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 Fitzrovia West Neighbourhood Plan includes policies on a range of matters including promotion of regeneration, provision of housing, entertainment uses, community facilities, provision of small business units, provision of active frontages, open spaces, environmental performance, and servicing.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Fitzrovia West neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

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

15-16 Nassau Street and 40-46 Riding House Street are two unlisted buildings located within the East Marylebone Conservation Area.

40-46 Riding House Street faces north and has a self-contained gallery on the ground floor and basement with its own access. 15-16 Nassau Street faces east, and this is from where the lower levels of 15-16 Nassau Street and the upper levels of 40-46 Riding House Street are accessed. The building has a mix of uses with offices at ground and first floors and residential flats above.

The general area is mixed in character with a number of commercial and residential premises in the vicinity.

7.2 Recent Relevant History

None.

8. THE PROPOSAL

The proposals comprise a single storey roof extension. The proposed extension on the Riding House Street frontage consists of a 2-part pitched roof at 70° and 20° respectively, rising to a flat roofed area over the middle of the flat. The front elevation would be finished in slate with traditional dormer windows and timber sash windows and lead finishings. The rear elevation would mirror this arrangement. The Nassau Street roof profile would follow that of Riding House Street albeit at a higher level to follow the step in the building height. The rear part of Nassau Street would be vertical to match the arrangement to of neighbouring buildings to the south east.

This extension will provide an additional two new residential flats (1 x 2-bed and 1 x 1-bed flat), totalling 134.7 m2 GIA.

The proposals incorporate private amenity space for the 1-bed unit in the form of winter garden with a planting area.

The application involves modification to the entrance to a 3rd floor flat and extending a staircase to provide access to the new accommodation. An existing underutilised vault will be used to accommodate cycle storage.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Policy 8 of the City Plan 2019-2040 (April 2021) states that Westminster seeks to optimise housing delivery by optimising site densities, delivering a higher number of homes on small sites, permitting appropriate upwards extensions, and planning positively for tall buildings in certain locations. As such the principle of additional residential units in this location is acceptable in principle, subject to impacts of the additional bulk as discussed in the design and amenity sections below.

Furthermore, the policy goes on to state that no new homes in Westminster will exceed 200 m2 Gross Internal Area. The proposed flats are 46 m2 and 88 m2 respectively. Neither of the units would therefore exceed the maximum space standard.

Policy 10 of the City Plan states that residential developments will provide a mix of units in terms of size, type and tenure to secure mixed and inclusive communities and contribute towards meeting Westminster's housing needs; however, the policy does go on further to state that 25% of all new homes across Westminster will be family sized (3 bed or more). Given the number of units being proposed and the footprint of the site, it is not considered that it would be possible to provide family sized units.

Policy 12 of City Plan requires that all new homes and residential extensions will provide a well-designed, energy efficient and high-quality living environment and all new homes will meet or exceed the Nationally Described Space Standards. The policy goes on to say that all new-build homes will provide at least 5 m2 of private external amenity space for each dwelling. Where it is sufficiently demonstrated that it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement is required.

Policy PR2 of the Fitzrovia West Neighbourhood Plan states that housing developments should maximise the provision of dual aspect dwellings.

The flats proposed do not provide the outdoor amenity space required by policy. The proposed 1 x bed unit has a small winter garden of 3 m², (below the 5 m² target). The 2x bedroom unit has no external amenity space. There are however obvious site constraints which prevent the provision of external space. The provision of roof terraces would result in the reduction in the size of the accommodation. As proposed both the units meet the Nationally Described Space Standards. They are both dual aspect flats that would provide a good standard of accommodation.

Policy 9 of the City Plan 2019 – 2040 (April 2021) and Policy PR2 of the Fitzrovia West Neighbourhood Plan requires that at least 35% of all new homes will be affordable across Westminster where 10 units are being provided or the increase in residential floorspace totals 1,000 m² GIA. The scheme does not trigger the requirements to provide affordable housing.

9.2 Environment & Sustainability

The proposed design has considered measures to reduce the need of mechanical ventilation. Therefore, all habitable rooms can be ventilated either through vertical window openings or through skylights.

The proposed mansard extension will feature high performance thermal products which will ensure a highly efficient development. High performance windows are to be used for all the glazing elements.

Both flats are dual aspect and have been design minimise the need for artificial lighting as far as practicable. Water efficiency and management features are being considered for the proposal through the implementation of efficient taps, shower heads or other appliances.

9.3 Biodiversity & Greening

Considerations have been given to the implementation of a green or blue roof. However, due to the nature of the site, the requirement for a slight pitch on the roof and the potential design implications, it is not considered practical. Planting is proposed as part of the small winter garden which will add to biodiversity gain, albeit modestly.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that "*In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to*

the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 72 of the LBCA Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Assessment

Malvern House is a pair of unlisted late nineteenth century buildings in the East Marylebone Conservation Area. The buildings are 4 storeys, with pitched roofs to the front of each building and sections of flat roof to the rear.

There are nearby listed buildings at no. 20 Nassau Street and particularly the grade II* listed 59 & 61 Riding House Street. The application site is not considered form part of the setting of these buildings.

The buildings are considered to make a positive contribution to the character and appearance of the area. They are identified in the East Marylebone Conservation Area Audit as buildings where a roof extension is unlikely to be acceptable.

The prevailing height of buildings in this part of East Marylebone is 5 storeys. Some buildings, such as those facing the application site across Nassau Street are taller still. The adjoining building, 17 Nassau Street shares a consistent parapet line with the application buildings, but also has a slate and standing seam metal mansard roof.

At 15 and 16 Nassau Street the proposed extensions would be in standing seam metal on the upper pitch and slate on the lower pitch to match the adjacent roof at 17-18 Nassau Street, while the lower roof of 40-46 Riding House Street would be in slate, and hipped to the corner in order to relate to the facing buildings across Riding House Street.

The application buildings are among the lowest in this part of the conservation area. Taken together, the buildings form a corner site; a location where a degree of additional height or prominence is often acceptable. It is considered that, notwithstanding the designation in the conservation area audit, the principal of a roof extension in this location is acceptable, subject to the detailed design, and to both buildings being addressed simultaneously. The implementation of an extension on the Riding House buildings only,

for example, would not be acceptable.

In terms of the detailed design, the roof forms, materials and proposed alterations to the chimneys are considered to be acceptable; the materials are traditional and a consistent with other buildings in the vicinity. While the metal element of the roofs need not be lead it should be patinated to a dark grey lead colour. This can be secured by condition.

The proposed dormer arrangement is acceptable in design terms. The widths and positions of the dormers relate to each pair of windows in the lower floors. Multiple individual small dormers would be create a cluttered appearance at roof level and would not provide a good amount of light to the new top storey. The glazing bar patterns have been selected to mirror those of the existing windows.

The rear of the building is of less architectural interest and makes a more modest contribution to the character and appearance of the conservation area. The combination of a mansard roof form to the Riding House Street building and a sheer extension to the Nassau Street building is an appropriate response to the respective rear elevations.

Objection

Of the four objections received one relates to design issues. The objector states that the proposed extension will “alter the appearance of an Unlisted Building of Merit” and will “adversely affect the setting of York House and Oakley House in Candover Street”, which are listed buildings.

59 and 61 Riding House Street (York and Oakley Houses) is a grade II* corner building of 5 storeys, built as shops, offices and flats in 1903 by H. Fuller Clark for Boulting and Sons. It is a distinctive building of purple and red brick, glazed tilework and Portland stone dressings.

It is not considered that the proposed roof extension would have a significant impact on the setting of the listed building. While it is visible in the same views as York House, it would not form the foreground or background to it in key views; it faces diagonally across a crossroads. The traditional materials would not detract from an appreciation of the more distinctive materials of York house, and the additional height would result in a building of approximately the same height as York House, and indeed the other buildings in the area. It would not therefore be overbearing.

Design Conclusion

It is not considered that the proposals would cause substantial harm, nor even less than substantial harm, to the heritage asset and therefore, a recommendation to grant conditional permission would be compliant with the relevant policies of the City Plan 2019-2040 and the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposed works are considered to preserve the character or appearance of the East Marylebone Conservation Area, and the setting of neighbouring listed buildings, and are therefore considered to be acceptable in design terms. Consequently, the objection cannot be supported.

9.5 Residential Amenity

Policy 7 of the City Plan 2019-2040 seeks to protect and, where appropriate, enhance amenity by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.

Policy S33 of the City Plan 2019 – 2040 states that; ‘development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council’s Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses’

Objections have been received from occupants of 4 Pearson Square and York House (59 Riding House Street) on the grounds of loss of light and reduction of privacy.

Daylight and Sunlight

A daylight and sunlight assessment has been submitted. This assesses the impact of the development on the light receivable by the neighbouring properties at 11 Bourlet Close, 15 to 16 & 17 Nassau Street, 38, 40 to 46, 57, 59 & 61 Riding House Street, 7 Candover Street and The Meyerstein Institute of Radio Therapy (Pearson Square).

Daylight

Vertical Sky Component (VSC) is the method used to measure the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the window will have the potential to provide good levels of daylight. Reductions of more than 20% should be avoided as such losses are likely to be noticeable. and the adverse effect would have to be taken into account in any decision-making. The BRE guidelines seek to protect daylighting to principal habitable rooms including living rooms, larger kitchens and bedrooms. However, the guidance is clear that numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the site circumstances.

The distribution of daylight within individual rooms can also be assessed using the No-Sky Line (NSL) test. The applicant has submitted an NSL assessment where room layouts are known.

The report shows that any reductions in daylight received are below BRE thresholds and therefore objections on the basis of loss of light cannot be supported.

Sunlight

In terms of sunlight, the BRE guidance states that if any window receives more than 25% of the Annual Probable Sunlight Hours (APSH where the total APSH is 1486 hours in London), including at least 5% during winter months (21 September to 21 March) then the room should receive enough sunlight. The BRE guide suggests that if the proposed sunlight is below 25% (and 5% in winter) and the loss is greater than 20% either over the whole year or just during winter months, or there is more than a 4% loss in total annual sunlight hours, then the occupants of the existing building are likely to notice the loss of sunlight.

All windows that face within 90 degrees of due south have been tested for direct sunlight. All windows tested pass both the total annual sunlight hours test and the winter sunlight hours test.

Sense of Enclosure

The bulk and mass of the proposed extensions is not considered to be so great that it would result in a material increased sense of enclosure to any of the surrounding properties.

Privacy

The proposal introduces new windows to the front and rear of the proposed extension, and a windows garden on the boundary with 17 Nassau Street set behind a window along the rear elevation.

Given the presence of windows at the lower levels and the separation distance between the application site and properties on both the other side of Nassau Street and Ridding House Street, it is not considered that the proposal will result in material reduction of privacy. As such, it is not considered that objection on the grounds of reduction of privacy can be supported.

9.6 Transportation, Accessibility & Servicing

The site is centrally located and well served by public transport including principal bus routes and benefits from the highest public transport accessibility (PTAL) rating (6b).

Car Parking

No car parking is proposed, Policy 27 supports residential development without car parking provision.

Cycle Parking

The London Plan requires 1.5 spaces per 1-bedroom unit and 2 spaces for 2+ bedroom units. Whilst an area within an existing pavement vault has been identified, a condition is recommended requiring further details to ensure three cycles can be accommodated.

Waste Storage

Whilst waste storage has been indicated, the drawing and the waste detail submitted are not in line with the council waste storage requirements. As such, a condition is recommended to secure revised details of waste storage.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending.

The new residential accommodation proposed will support the local economy through increased local spending, thereby supporting local employment and services.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application.

The estimated CIL payment is: £6,656 (Westminster CIL £53,880 and Mayoral CIL £10,776).

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

No pre-commencement conditions are recommended.

10. Conclusion

Subject to appropriate conditions the proposal accords with development plan policies, specifically PR1, PR2, EN2 and T1 of the Fitzrovia West Neighbourhood Plan, policies 7, 8, 10, 12, 25, 27, 33, 34, 36, 37, 38, 39, 40 and 43 of the City Plan 2019 - 2040 (April 2021) and policies GG2, SD4, D6, H1, H10, T5 and T6 of the London Plan.

In terms of heritage impact, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The application is therefore recommended for conditional approval.

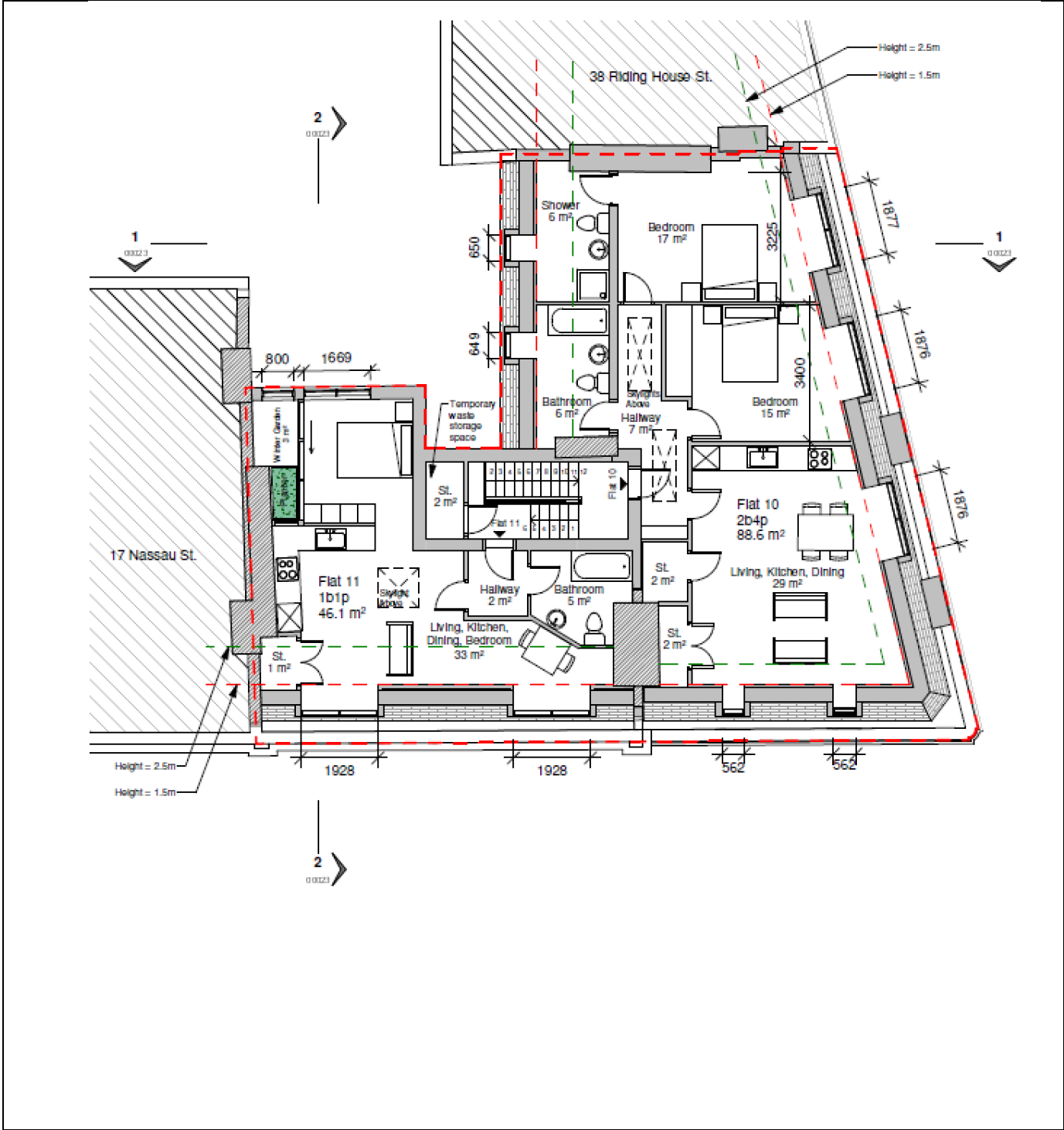
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT MWALTON@WESTMINSTER.GOV.UK.

11. KEY DRAWINGS

Isometric View Comparison Looking South





DRAFT DECISION LETTER

Address: Malvern House, 15-16 Nassau Street, London, W1W 7AB

Proposal: Erection of a single storey extension to mansard extension to 15-16 Nassau Street and 40-46 Riding House Street for use as two residential flats: (Class C3) with and enclosed winter garden to the rear [Site includes 40-46 Riding House Street]

Plan Nos: 1203-CYA-AA-ZZ-DR-A-00023 A, 1203-CYA-AA-04-DR-A-00018 A, 1203-CYA-AA-00-DR-A-00016 A, 1203-CYA-AA-B1-DR-A-00015 A, 1203-CYA-AA-ZZ-DR-A-00021 A, 1203-CYA-AA-RF-DR-A-00019 A, 1203-CYA-AA-03-DR-A-00017 A.

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).
(C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than

emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 4 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 5 You must apply to us for approval of details of secure cycle storage for the residential use use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the approved residential units. You must not use the cycle storage for any other purpose. (C22HA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 6 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the residential accommodation at fourth floor level. (C14ED)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 7 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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 8 You must apply to us for approval of (photographs of) samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 9 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development - new dormer windows. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 10 The metal portion of the mansard roof must be patinated to a dark grey colour.

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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.

Item No.
3

Item No.
4

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 th October 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	80 - 82 Wardour Street, London, W1F 0TF		
Proposal	Use of the existing emergency escape doors on the Meard Street frontage for general purposes.		
Agent	Firstplan		
On behalf of	Mission Mars		
Registered Number	22/02522/FULL	Date amended/ completed	12 April 2022
Date Application Received	12 April 2022		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Soho Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional planning approval.

2. SUMMARY & KEY CONSIDERATIONS

The application premises has frontages onto Wardour Street and Meard Street. The ground and basement floors are in use as a restaurant pursuant to permission granted in May 1995. A condition on this permission restricted the use of doors on Meard Street to being used in the case of emergencies only. Permission is sought to enable the doors to be used as general access to the restaurant.

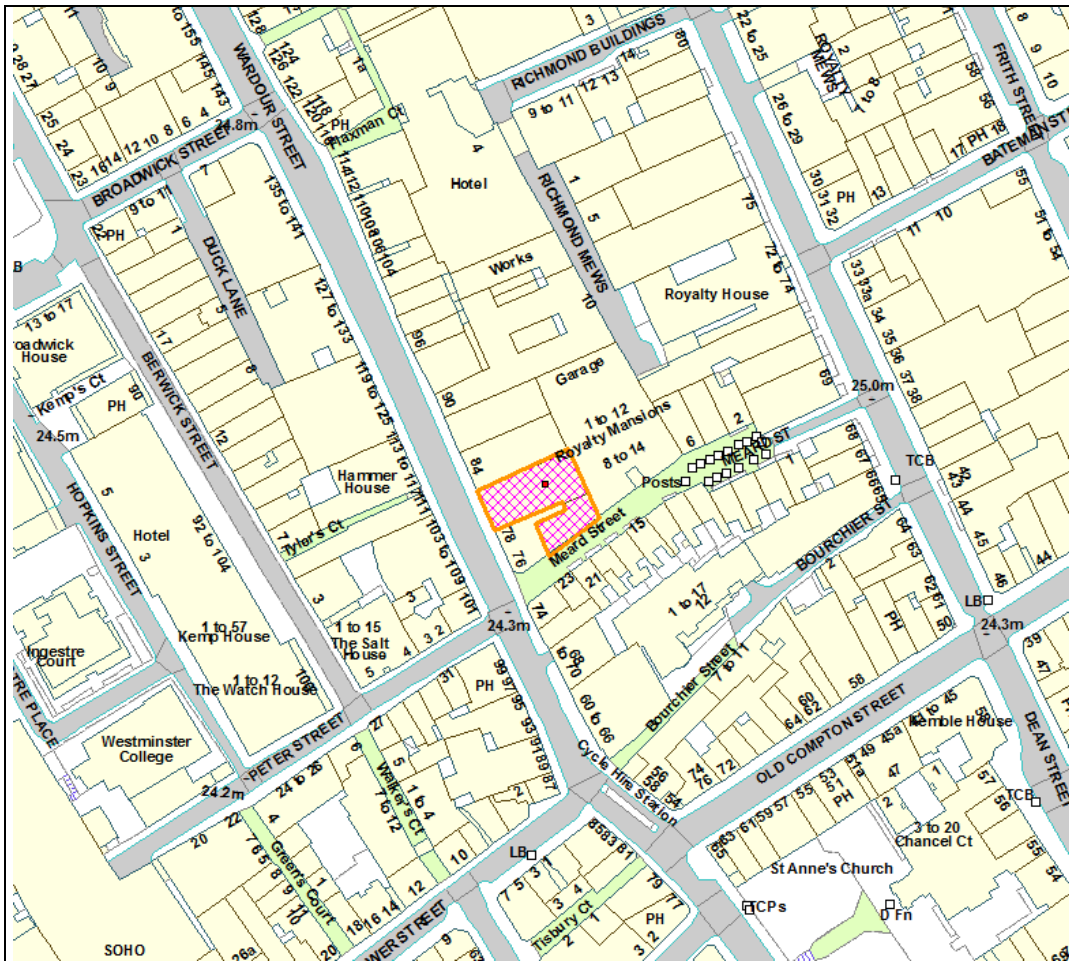
The key issue is the impact on the residential amenity of neighbouring occupiers.

With conditions controlling the hours of use of the doors and that they must be fitted with a self-closing mechanism and not be held open it is not considered the use of the doors by staff and customers would result in an unacceptable impact upon residential amenity in the vicinity. The application is therefore considered acceptable and recommended for approval.

Item No.

4

3. LOCATION PLAN



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4. PHOTOGRAPHS

View of the ground floor elevation along Meard Street



View along Meard Street looking west towards Wardour Street



5. CONSULTATIONS

5.1 Application Consultations

FORMER COUNCILLOR PANCHO LEWIS

Objection on the following grounds:

Hospitality businesses are encroaching on the residential nature of Meard Street.

SOHO SOCIETY

Objection on the following grounds:

Detrimental impact on residential amenity.

Detrimental impact on the character of the street contrary to the requirement to 'preserve or enhance the character and appearance of Westminster's conservation areas'.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 30

Total No. of replies: 14

No. of objections: 11 (including one from the Meard and Dean Street Residents Association (MDSRA) (6 letters were received from 3 addresses)

No. in support: 0

Objections on the following grounds:

External seating was allowed in exceptional circumstances (Covid) and would not be allowed again.

Use of the door will result in additional noise impacting on residential amenity.

Inaccuracies in the planning submission.

The provision of seating in Meard Street would affect the character of the area and the setting of listed buildings.

SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

The Early Community Engagement Guidance encourages developers carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. However, given the nature of the development, the application is not required to submit details of the engagement they have undertaken with their application. The agent has confirmed there has been no discussion between the applicant and neighbours in relation to the current application.

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 Soho Neighbourhood Plan includes policies on a range of matters including housing, residential amenity, air quality and climate change, traffic and servicing, green infrastructure, pedestrians and cycling and waste and recycling.

It has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Soho neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

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

80 - 82 Wardour Street is an unlisted building located within the Soho Conservation Area and the West End Retail and Leisure Special Policy Area. The ground and basement are in use as a restaurant (Class E) the upper floors are in use as offices (Class E). The main entrance to the restaurant is from Wardour Street, the premises also has a frontage on Meard Street.

7.2 Recent Relevant History

On 18 May 1995 permission was granted for 'Use of part of the ground floor and basement for Class A3 (restaurant) purposes, erection of full height ventilation duct to

rear and new escape doors on the Meard Street frontage' RN 94/08888/FULL

8. THE PROPOSAL

Permission is sought for the use of emergency escape doors' on Meard Street for general access purposes.

Condition 3 of the May 1995 consent for the use of the restaurant stated that:

"The doors onto Meard Street shall only be used for access and ingress between the hours of 9am and 11pm, and shall not be used at any other time other than emergency purposes"

The drawings submitted are annotated to refer the fitting of a self-closing device on the door. The applicant has agreed to a condition on any approval to ensure these were fitted and retained and the doors not held open.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The proposal raises no land use issues.

9.2 Environment & Sustainability

Not relevant to the proposal.

9.3 Biodiversity & Greening

Not relevant to the proposal.

9.4 Townscape, Design & Heritage Impact

The proposal raises no design or heritage impacts.

9.5 Residential Amenity

City Plan Policy 7 requires that development will be neighbourly by; 'protecting and where appropriate enhancing local environmental quality.' Paragraph 7.4 states that 'Polluted air, excessive smells, noise and strong vibrations are examples of environmental impacts that have an adverse impact on quality of life and health and well-being. Development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours.'

Policy 33 is also relevant and considers 'local environmental impacts', Part C of the policy states; Development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to: 1. minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses.' Paragraph 33.5 requires that; 'developments should ensure that any noise and vibration impacts are mitigated. They

should be constructed and operated to achieve appropriate noise levels and ensure that any cumulative effects of new noise sources (for example additional plant machinery or music) does not contribute to the existing background noise level. Careful consideration must be given to the design and location of schemes that could impact or be impacted by noise from development that includes: plant machinery, internal activities, amplified noise, transport (including servicing and deliveries) and other noise generating activities.'

The Soho Neighbourhood Plan was adopted the 8th October 2021, Policy 12 'Food and Drink Uses' states that: '*Proposals for new food uses (Class E), public houses, drinking establishments, take-aways and music venues (Sui Generis) uses which require planning permission and are contiguous to residential use must comply with the 'agent of change' principle and demonstrate that they will not have unacceptable amenity impacts (including in relation to noise, vibration and odours).*' The reasoning being '*Proposals in close proximity to residential will need to take particular account of the potential for adverse impacts and ensure that suitable and effective mitigation is in place if they are to be supported. Some examples of potential adverse impacts are structure borne noise, noise from patrons and staff, collections and deliveries at unsocial hours, odours and obstruction of residential entrances and passageways. In bringing forward their proposals applicants must show how such adverse impacts will be avoided and mitigated.*'

The justification provided by the applicant in support of the general use of the door is that the premises has external tables and chairs placed in Meard Street (which is pedestrianised). The external tables and chairs were granted a pavement license under the Planning and Business Bill. The general use of the door would allow for easier servicing of the external seating and also for customers using the external seating to access toilet facilities etc. The applicant notes that there are other shop, restaurant and office entrances along Meard Street and also that other premises (namely Honest Burger) have tables and chairs in Meard Street which have been considered acceptable in amenity terms and granted planning permission for a number of years.

Objectors argue that the provisions for external seating under the Planning and Business Bill were meant as a temporary measure during Covid so there is no reason to allow the permanent use of the door for general purposes. The provisions of the Planning and Business Bill to allow for external seating has been extended until 30th September 2023 and the premises could also apply for planning permission for tables and chairs in Meard Street at any time. It is noted that the pavement license for the tables and chairs in Meard Street was for the period 25th June 2021 until 30th September 2021.

Objections have been received from a number of residential occupiers on Meard Street (including the Meard and Dean Street Residents Association). The objectors are primarily concerned that the general use of the door by customers and staff will result in an increase in noise nuisance to neighbouring residents and a change in the character of Meard Street which is mainly residential.

Whilst the southern side of Meard Street is residential in addition to the application premises there are other commercial premises on the northern side of the street. No 8-14 Meard Street to the east is a mixed use building of offices, flats and a leisure facility occupied by a golf simulator experience. The ground floor of No 4 Meard Street is in use as a burger restaurant (opening hours are 11:30 until 22:00 Saturday to Wednesday

and 11:30 until 22:30 on Thursdays and Fridays). This premises has external tables and chairs.

Use of the doors for general purposes instead of just for emergency use would likely result in a small increase in footfall within Meard Street. However, given the mixed use of the street with a number of other commercial premises (including a restaurant with external seating) and as Meard Street provides a link for pedestrians between Wardour Street and Dean Street it is not considered the increase in footfall resulting from the general use of the doors would have any significant increase in noise levels within the street.

A condition is however recommended that the hours that the doors are used (other than in the case of emergencies) is restricted to between the hours of 09:00 and 22:00 daily. A condition is also recommended to ensure that a self closing device is installed on the doors to prevent them being left open. Subject to these conditions it is considered that there would be no material loss of amenity to nearby residents.

9.6 Transportation, Accessibility & Servicing

Not relevant to the proposal.

9.7 Economy including Employment & Skills

The development is of insufficient scale to require an employment and skills plan.

Other Considerations

A number of objectors have noted what they consider discrepancies in the planning application this includes reference in the application to residential being on the upper floors of Meard Street rather than residential townhouses in Meard Street. The application has been assessed on the basis that the residential are townhouses.

Objections are also made to the impact of external tables and chairs. This application solely relates to the use of the doors from the restaurant to Meard Street and whilst this is to allow easier servicing of external seating, external seating does not form part of the application. The external seating associated with the premises in Meard Street was granted under a license for the Summer of 2021. The applicant has stated that if general use of the doors is allowed which allows for easier servicing to Meard Street they will apply separately for the placing of tables and chairs in Meard Street. Objections have also been made that tables and chairs would adversely impact on the character of the street and the setting of listed buildings, again this cannot form part of the determination of this application.

Objectors refer to the restaurant occupier using the doors on Meard Street for access for staff and removing refuse from the site. This is the subject on ongoing enforcement investigations

9.8 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.9 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application.

10. Conclusion

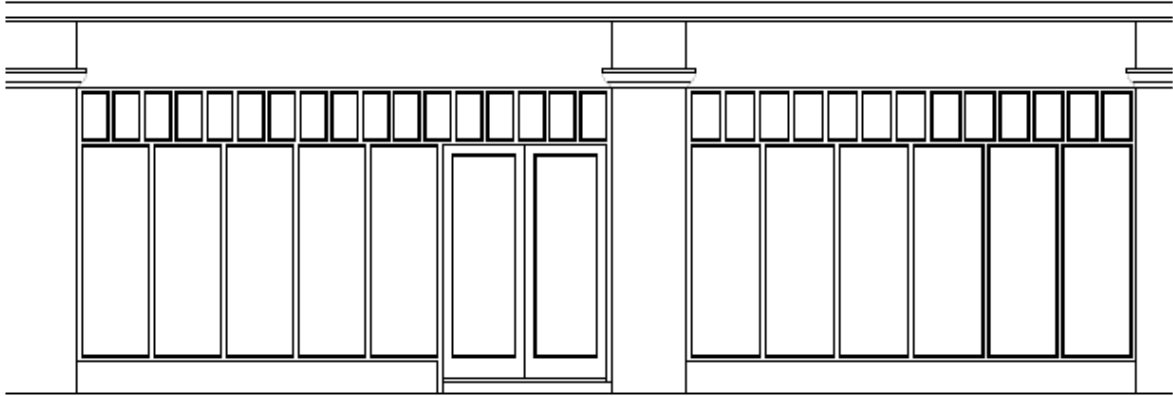
The application is considered acceptable in accordance with City Plan policies 7,16 and 33 and is compliant with the requirements of the NPPF.

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

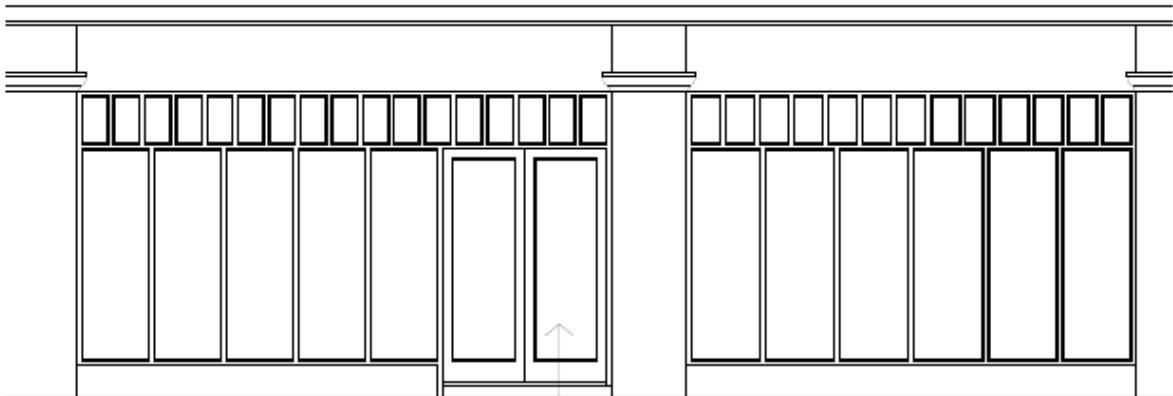
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

11. KEY DRAWINGS

Existing and Proposed Meard Street elevation:



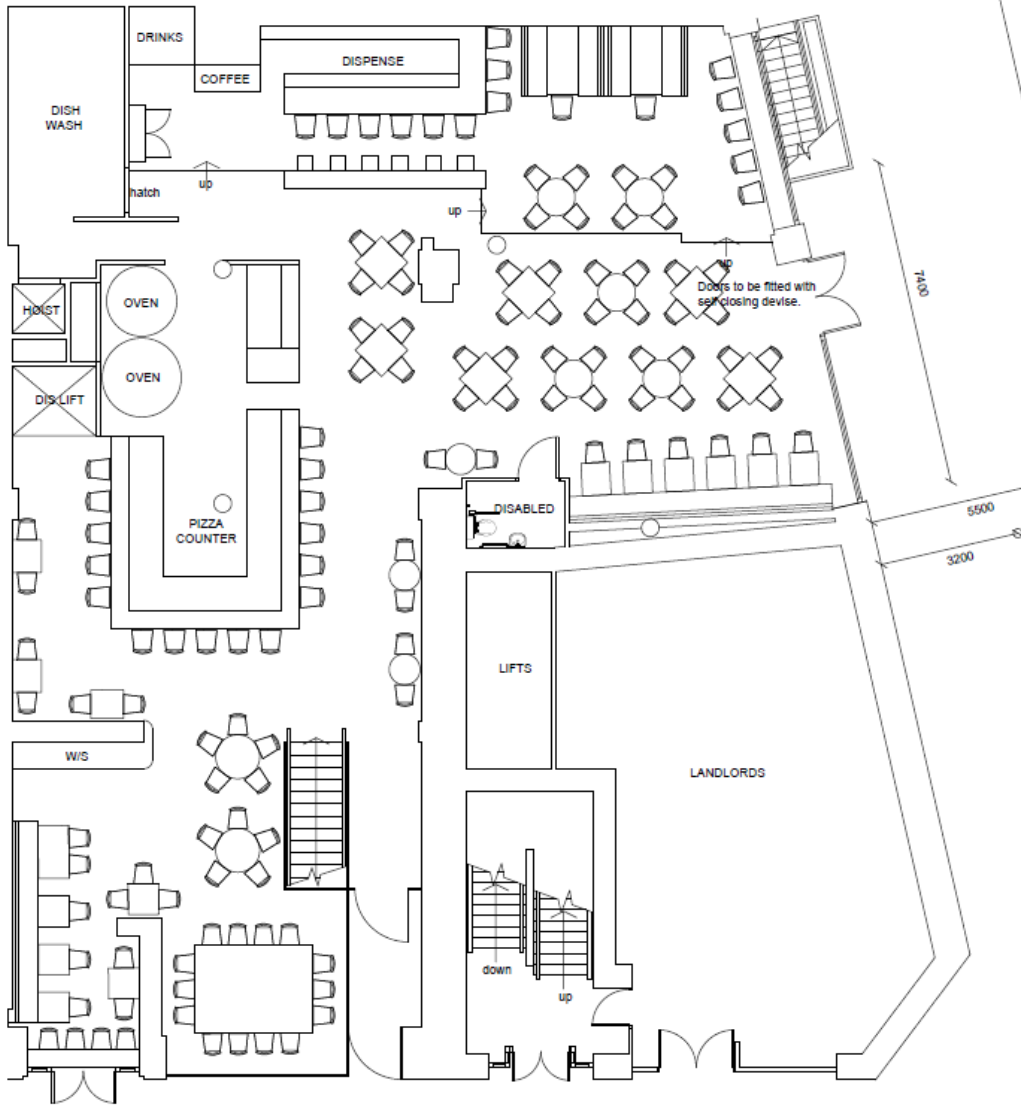
Existing Meard Street Elevation



Proposed Meard Street Elevation

Doors to be fitted with self closing devise.

Proposed Ground Floor plan:



PROPOSED GROUND FLOOR PLAN

DRAFT DECISION LETTER

Address: 80 - 82 Wardour Street, London, W1F 0TF,
Proposal: Use of the existing escape doors on the Meard Street frontage for general purposes.
Reference: 22/02522/FULL
Plan Nos: Drawings: 194 RevB, 197.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641
07866040155

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 The doors from the unit onto Meard Street must be fitted with a self-closing device which must be retained and maintained in this form unless agreed otherwise in writing with the City Council as Local Planning Authority. You must not leave these doors open except in an emergency or to carry out maintenance.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

- 3 The doors from the restaurant unit onto Meard Street can only be used for general purposes between the hours of 08:00 and 22:00. Outside these hours the doors can only be used in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.

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