

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 15 March 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	42 Maiden Lane, London, WC2E 7LJ		
Proposal	Use of ground floor and basement for a mixed Class A1/A3 use to provide a coffee bar/ cafe.		
Agent	Freeths LLP		
On behalf of	Grind & Co. Ltd		
Registered Number	15/10701/FULL	Date amended/ completed	18 November 2015
Date Application Received	18 November 2015		
Historic Building Grade			
Conservation Area	Covent Garden		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

42 Maiden Lane is a five storey building comprising of retail (Class A1) at basement and ground floor level and offices (Class B1) on the upper floors. The application site is located on the north side of Maiden Lane close to the junction with Southampton Street. The building is listed Grade II and within the Covent Garden Core Central Activities Zone (CAZ) and West End Stress Area. Maiden Lane is largely characterised by entertainment uses.

The application relates to a commercial unit (124sqm) occupying the basement and ground floors of 42 Maiden Lane. The unit is one of the few remaining retail units in Maiden Lane and is currently vacant. The unit was previously occupied by 'Field and Trek', a retail clothing and accessory supplier (Class A1).

Permission was refused in November 2015 for the use of the basement and ground floor for restaurant purposes (Class A3) and installation of a full height extract duct to the rear elevation. The application was refused because it would lead to a loss of retail floorspace (Class A1) and insufficient information had been submitted to demonstrate that the extract duct would not harm the amenity of neighbouring occupiers in terms of noise and vibration.

This latest proposal by Grind & Co. Ltd is for a new alternative business model for a mixed A1/ A3 use to provide a coffee bar/ café.

The key issues in this case are:

* The impact of the proposals upon the land use of the property in terms of the loss of retail accommodation and provision of Class A1/A3 composite use.

* The impact of the proposals upon the amenity of the area.

The proposal is considered acceptable in land use and amenity terms and would comply with the Council's policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies (City Plan). The application is recommended for conditional approval.

3. LOCATION PLAN



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Item No.

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4. PHOTOGRAPHS



5. CONSULTATIONS

COVENT GARDEN COMMUNITY ASSOCIATION:

Objection on following grounds:

Land Use:

- No evidence to show the premises has been marketed for A1 use;
- Proposals are more in line with an A3 use;
- Concern the premises will contain a cocktail bar element similar to Soho Grind operating at 19 Beak Street, W1.
- Maiden Lane is saturated with bars and restaurants.

Amenity:

- Introduction of another A3 use, particularly one that sells alcohol and is open late, will harm residential amenity, due to noise and disturbance from customers and mechanical plant, smells, anti-social behaviour, crime, servicing and delivery, and late night closing time.

Other:

- Should permission be granted conditions should be attached to restrict take-away service (Class A5); bar use for customers only and to occupy no more than 15% of floor area of property; opening times to 07.00 - 23.00 Monday - Wednesday; 07.00 - 23.30 Thursday - Saturday and 07.00 - 22.30 hours on Sunday.

COVENT GARDEN AREA TRUST:

No comment.

ENVIRONMENTAL HEALTH:

Holding objection on grounds that no acoustic report or details of an extract duct or plant has been submitted.

HIGHWAYS PLANNING:

Undesirable on transportation grounds but could be made acceptable subject to the provision of cycle spaces, waste store, and a restriction on delivery services.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 39; No. of replies: 0

PRESS ADVERTISEMENT/ SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

42 Maiden Lane is a five storey building comprising of retail (Class A1) at basement and ground floor levels and offices on the upper floors. The building is located on the north side of Maiden Lane close to the junction with Southampton Street. The building is Grade II listed and within the Covent Garden conservation area, Core Central Activities Zone and West End Stress Area.

The application relates to a commercial unit (124sqm) occupying the basement and ground floors of 42 Maiden Lane. The unit is one of the few remaining retail units in Maiden Lane and is currently vacant. The unit was previously occupied by 'Field and Trek', a retail clothing and accessory supplier (Class A1).

Maiden Lane is characterised by entertainment uses consisting predominately of Class A3 and A4 uses. Immediately adjoining the application premises at nos. 40 - 41 is The Maple Leaf Public House and at no. 44 is an office building. In 2015 planning permission was granted for the use of no. 44 for residential purposes, although this has yet to be implemented. There is an existing Class A1 use is at no. 27 (hairdresser) and at no. 30 - 31 Southampton Street on the corner with Maiden Lane.

6.2 Recent Relevant History

42 Maiden Lane

Planning permission was refused on 11 November 2015 for the use of the basement and ground floor for restaurant purposes (Class A3) and installation of a full height extract duct to the rear elevation (15/03576/FULL). The application was refused because it would lead to a loss of retail floorspace (Class A1) and insufficient information had been submitted to demonstrate that the extract duct would not harm the amenity of neighbouring occupiers in terms of noise and vibration.

Planning permission and listed building consent was granted on 21 April 2015 for the use of part basement, part ground floor and first to fifth floors to provide 3 x 1bed and 1 x 2bed flats (Class C3) and external works including mechanical plant within an enclosure at rear first floor level and smoke shaft/lift over-run at main roof level. This has not been implemented (14/12452/FULL and 14/12452/LBC).

19 Beak Street, W1

Planning permission was refused at Planning Applications Committee on 23 June 2015 for the continued use of basement and ground floor as a mixed use coffee shop and a cocktail bar (sui generis). Committee resolved that the application should be refused on the grounds of adverse impact on amenity, the loss of retail and the adverse cumulative impact of an additional bar within the Stress Area (15/02935/FULL). This decision is currently subject to appeal.

7. THE PROPOSAL

This latest proposal by Grind & Co. Ltd is for a new alternative business model for a mixed A1/ A3 use to provide a coffee bar/ café.

Grind & Co. Ltd's current portfolio consists of coffee bars that offer only a limited selection of food and are primarily take away (Soho Grind, 19 Beak Street; Holborn Grind, 199 High Holborn; and Grind Straftord, Westfield Shopping Centre Startford) as well as restaurants with full kitchen facilities (London Grind, London Bridge; and Shoreditch Grind, 213 Old Street). A Grind & Co Coffee Roastery is due to open in East London in 2016 so the group can roast its own coffee beans.

Grind & Co had intended to use the application site to provide a café/ restaurant, however in light of the recently refused application in 2015, the group is now applying for an alternative business model for a mixed A1/ A3 use to provide a coffee bar/ café.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Proposed mixed Class A1/ A3 use

The basement and ground floors comprises an area of approximately 124sqm. The floor plans show the ground floor area is laid out with a coffee bar/ counter service area, chilled food displays and customer seating. The basement level layout includes a preparation area, service area, wash area, and customer seating.

The applicants supporting statement confirms how the premises is to operate. The proposed use is primarily a take-away coffee shop, including the sale of some cold foods (sandwiches and cakes) although some warm food such as paninis will also be served. The use has a strong retail element as it is projected that 60% of sales and turnover will be for sale of hot drinks and cold foods for consumption off the premises.

An element of seating will be provided for the consumption of coffee and cold snacks on the premises, approximately 50% of the floor area. In total the basement and ground floor will provide 12 tables and 37 seats. No waiter/waitress service for taking orders or delivering food to tables will be provided. The applicants have confirmed that the premises will be a typical counter style format, similar to those usually associated with many high street coffee bars.

No primary cooking is proposed. The previously refused scheme for a café/ restaurant use proposed kitchen extraction equipment, however this latest proposal does not include any new plant or machinery.

The Covent Garden Community Association object to the proposal which they consider is more in line with an A3 use. Whilst the proposed use would incorporate an element of Class A3 in the form of seating, no primary cooking is proposed. The use would retain a strong retail element in that customers can purchase goods, hot drinks and cold food, for consumption off the premises.

The Covent Garden Community Association raise concerns that the applicants will provide a cocktail bar element, serving alcohol, similar to their other operation at 19 Beak Street, Soho Grind. It is noted that an application for a mixed use coffee shop and cocktail bar (sui generis) was refused by Planning Applications Committee on 23 June 2015 (see para 6.2). However in this case the applicant's business model does not include a cocktail bar and a condition is recommended to restrict bar facilities.

Loss of retail

Policy S21 of the City Plan states that existing A1 retail will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let.

UDP Policy SS5 seeks to protect retail use at ground and basement level in the Core CAZ, only allowing non-A1 uses if they are not detrimental to the character and function of an area, nor leading to a concentration of three or more consecutive non-A1 uses nor increasing an overconcentration of entertainment uses in a street or area.

The basement and ground floor of the application site were previously occupied by 'Field and Trek', a retail clothing and accessory supplier. The unit has been vacant for circa 22 months although the applicant has not provided sufficient marketing information to demonstrate that the retail unit had been marketed to prospective retail tenants.

However, on balance, given that the applicant's proposals retain a strong retail element, the proposed mixed A1/ A3 use to provide a coffee bar/ café is considered acceptable subject to conditions.

8.2 Townscape and Design

No external alterations are proposed as part of this application.

8.3 Residential Amenity

The proposed opening hours are from 06.00 - 23.00 Monday - Wednesday; 07.00 - midnight Thursday - Saturday; and 07.00 - 22.30 Sunday. The Covent Garden Community Association object to the opening hours stating that the terminal hours should be reduced.

There are five neighbouring restaurants which have terminal hours up to midnight, these include the Maple Leaf Public House at no.40 - 41; Rules restaurant at no. 34 - 35; Mabel's at no. 29 - 30; El Nivel at no. 28; The Porterhouse at no. 21 - 22 (which also has outdoor seating); and The Big Easy at no.12 Maiden Lane. Given that there are already a number of properties with similar opening hours, the proposed hours of opening are considered acceptable in this location.

8.4 Transportation/Parking

The Highways Planning Manager accepts that the use will not substantially increase the servicing demands in comparison to the existing A1 unit. No delivery service is proposed which will help minimise any impact on the road network. A condition is recommended to this effect.

The Highways Planning Manager recommends that staff cycle parking should be provided. It would, however, be unreasonable to secure cycle parking by condition given the limited size of the unit and also that this is an application for a change of use of a site which has already been in commercial use for some time.

8.5 Economic Considerations

The economic considerations of the proposals are welcomed.

8.6 Access

The access into the site remains as existing.

8.7 Other UDP/Westminster Policy Considerations

A condition is recommended requiring details of waste.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

Not applicable.

8.11 Environmental Impact Assessment

Not applicable.

8.12 Other Issues

Environmental Health raise a holding objection on grounds that no acoustic report or details of an extract duct or plant has been submitted. However, no mechanical plant or machinery is proposed as part of the application proposals and no primary cooking is proposed. An informative is recommended to advise the applicants that any new proposed mechanical plant will require planning permission and listed building consent.

9. BACKGROUND PAPERS

1. Application form.

2. E-mail from the Covent Garden Area Trust received 14 December 2015.
3. E-mail from the Covent Garden Community Association received 2 January 2016.
4. Memorandum from Highways Planning Manager dated 15 December 2015.
5. Memorandum from Environmental Health Consultation Team dated 23 December 2015.

Selected relevant drawings

(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 DAVID DORWARD HOSENALLY ON 020 7641 2408 OR BY EMAIL AT ddorward@westminster.gov.uk

10. KEY DRAWINGS



Existing plans



Proposed plans

DRAFT DECISION LETTER

Address: 42 Maiden Lane, London, WC2E 7LJ,

Proposal: Use of ground floor and basement for a mixed Class A1/A3 use to provide a coffee bar/ cafe.

Reference: 15/10701/FULL

Plan Nos: L141176-D09-001, R1 P001 12.05.2015, R1 P01 12.05.2015 and Planning Statement.

Case Officer: Zulekha Hosenally

Direct Tel. No. 020 7641 2511

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 You must carry out any building work which can be heard at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday;
- * between 08.00 and 13.00 on Saturday; and
- * not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 Customers shall not be permitted within the ground floor and basement for a mixed Class A1/A3 use to provide a coffee bar before 06.00 to 23.00 Monday to Wednesday; 07.00 to midnight Thursday to Saturday; and 07.00 to 22.30 hours on Sunday.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 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 basement and ground floors. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 5 The use hereby approved shall not include any primary cooking process which, for the purpose of this condition shall be taken to mean the primary cooking of raw or fresh food on the premises.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 No delivery service is to operate from the mixed Class A1/A3 coffee bar at ground floor and basement level hereby approved.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 7 You must not use any part of the property as a bar or bar area.

Reason:

To protect the environment of neighbouring residents we cannot grant planning permission for unrestricted use in this case. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 This permission does not allow any work which would change the outside appearance of the property. (I18AA)
- 3 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 4 You may need separate licensing approval for the use of the ground floor and basement for a mixed Class A1/A3 use to provide a coffee bar. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 5 It is noted that the existing vaults are to be used to provide toilet facilities you are advised that this permission does not approve any structural alterations to the existing vaults. You are advised that if any structural alterations are proposed to the existing front basement vaults then planning permission and listed building consent would be required. You are also advised that Policy TRANS19 restricts the lateral and vertical extent of new or extended basement areas under the adjacent highway so that there remains a minimum vertical depth below the footway or carriageway of about 900 mm and the extent of the new or extended basement area does not encroach more than about 1.8 m under any part of the adjacent highway.
- 6 You are advised that no goods should be left on the highway whilst servicing is carried out.
- 7 In relation to Condition 6 you are advised that in order to minimise the impact of the use hereby approved on the highway network, no delivery service should operate from the site. This is because delivery vehicle parking can reduce the availability of parking for other uses in addition to increasing noise and fumes in the area.
- 8 You are advised that any new mechanical plant that may be required for the proposed Class A1/A3 use will require planning permission and listed building consent.

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.