

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 28 June 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	2-2A Davies Street, London, W1K 3DJ		
Proposal	Variation of condition 10 of planning permission dated 23 September 2010 (RN 10/04368/FULL) which in itself allowed for the removal of Condition 11 of planning permission dated 30 September 2009 for use of the building as a private members club including retail and restaurant (RN: 09/04770) which permitted use of the north-west courtyard for drinking and dining purposes namely : To allow use of the north east courtyard for drinking and dining purposes between 10.00 and 19.00 daily.		
Agent	Monmouth Planning Limited		
On behalf of	Alfred Dunhill Limited		
Registered Number	16/03437/FULL	Date amended/ completed	15 April 2016
Date Application Received	15 April 2016		
Historic Building Grade	Grade II*		
Conservation Area	Mayfair		

1. RECOMMENDATION

Refuse permission – residential amenity.

2. SUMMARY

The application site (Bourdon House), a Grade II* listed building, is situated on the corner of Davies Street and Bourdon Street. The building is occupied as private members' club, including retail and restaurant uses, (sui generis) pursuant to a 2007 permission which allowed the use of the south-west courtyard only for drinking or dining purposes. Temporary permission was subsequently granted to allow the north-west courtyard to be used for drinking and dining purposes, which has since been permitted on a permanent basis.

Permission is now sought for the use of the north-east courtyard for drinking or dining purposes between the hours of 10:00 and 19:00 each day.

The key issue for consideration is:

- The impact of the use of this courtyard on the amenity of surrounding residential properties.

Item No.

3

The application is considered unacceptable on the grounds that the use would result in unacceptable noise disturbance to occupants of adjoining flats whose windows directly overlook the courtyard. The application is therefore contrary to UDP and City Plan policies designed to safeguard residents' amenities and is recommended for refusal.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS' SOCIETY OF MAYFAIR & ST. JAMES'S:

No objection subject to conditions to ensure that residents are not disturbed.

ENVIRONMENTAL HEALTH:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS:

No. Consulted: 105

No. Responses: 16

No. Objections: 2

No. in support: 14

Objections received on some or all of the following grounds:

Amenity

- Increased noise disturbance from use of the courtyard, particularly at weekends.
- Club is already noisy
- Submitted acoustic report is inadequate.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This is a Grade II* listed building situated in the Mayfair Conservation Area. The building is occupied by Alfred Dunhill Limited as a private members' club (sui generis) with retail and restaurant areas. Permitted opening hours (other than for overnight guests) are between 08:00 and 00:30. The premises licence permits unrestricted opening each day.

6.2 Recent Relevant History

31 May 2007 (RN: 07/00519/FULL): Permission granted for external and internal alterations and extensions in connection with use of the entire building as a private members club including retail and restaurant uses (sui generis).

Condition 15 of this permission stated:

'None of the courtyard space at ground floor level shall be used for drinking or dining purposes at any time, except for the south-west courtyard which may be used for drinking or dining purposes between the hours of 09:00 and 22:00 Monday to Friday and between 10:00 and 22:00 on Saturdays, Sundays and Bank Holidays. The north-west and north-east courtyards and (outside these times), the south-west courtyard, shall only be used for access to and from the building.'

24 September 2009 (RN: 09/04770/FULL): Temporary permission granted (until 30 September 2011) for the variation of Condition 15 to allow the north-west courtyard to be used for dining purposes, to allow the impact of the use to be monitored.

23 September 2010 (RN: 10/04368/FULL): Permission granted to allow the permanent use of the north-west courtyard for drinking and dining purposes (09:00 and 21:00 Monday to Friday and 10:00 – 18:00 on Saturdays, Sundays and Bank Holidays).

Condition 10 of this permission states:

None of the courtyard space at ground floor level shall be used for drinking or dining purposes at any time, except for the south-west courtyard which may be used for drinking or dining purposes between the hours of 09:00 and 22:00 Monday to Friday and between 10:00 and 22:00 on Saturdays, Sundays and Bank Holidays and the north-west courtyard between the hours of 09.00 - 21.00 Monday - Friday (except Bank Holidays) and 10.00-18.00 on Saturdays, Sundays and Bank Holidays. The north-east courtyard and (outside these times), the south-west courtyard and north-west courtyard, shall only be used for access to and from the building.

7. THE PROPOSAL

Permission is sought to vary Condition 10 of the 2010 permission to allow the north-east courtyard to be used for drinking or dining purposes between the hours of 10:00 and 19:00 each day.

The submitted plans indicate seating for a maximum of 12 customers and associated works which may require further permission and/or listed building consent. However, the current application seeks to establish principle of the proposed use.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposal does not raise any further land use issues.

8.2 Townscape and Design

The proposal does not have any design implications.

8.3 Amenity

The north-east courtyard is enclosed on four sides, by the high boundary wall and gate on Grosvenor Hill, by the application building itself and by the party wall with the adjacent residential property, known as 'The Manor', which is comprises commercial units at lower ground and ground floor levels, twelve residential apartments on the five upper floors and a porter's flat in the basement.

There are residential windows on each floor on the south elevation of The Manor which overlook the application site. The applicant has stated that these windows serve bathrooms. It has not been possible for officers to gain access to the flats, and no objections have been received from occupants, as it appears that the flats are being refurbished. Consequently, it has not been possible to confirm the use of rooms served by

the neighbouring windows. However, recent plans for the refurbishment of windows in a third floor flat suggest that the window overlooking the north-east courtyard serves a habitable room.

Objections have been received from residents of Grosvenor Hill Court (a residential tower above an art gallery and NCP car park located to the east of the site) on grounds of potential increased noise nuisance which would exacerbate existing noise disturbance caused by the use of the existing courtyards. Council's records show that two noise complaints were received on 14 June 2015 from residents of Grosvenor Hill Court, in relation to loud music at the club, but it is not clear if these complaints related to the use of the courtyards.

Fourteen letters have been received in support of the application. These are largely from club members and local businesses but also include letters from residents at 16 Bourdon Street and another local resident (no address). It is noted that several of these letters refer to the proposed courtyard use as being on Monday to Friday only although the submitted application is for its use on Monday to Sunday.

Policy S29 of the City Plan states "the council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment". Similarly, UDP policy ENV 13 seeks to protect residential amenity and ensure that developments protect or enhance the residential environment of surrounding properties. City Plan policy S32 and UDP policy ENV 6 also seek to ensure that new development minimises and contains noise levels.

Even if the adjacent windows to "The Manor" do serve bathrooms, such windows are often used for cross-ventilation purposes within flat and records indicate that some windows may serve habitable rooms. Given their proximity to the north-east courtyard, it is considered that the potential noise disturbance caused to neighbouring residential occupiers as a result of the proposals would be unacceptable and that scheme would therefore fail to satisfy policies S29 and S32 of Westminster's City Plan: Strategic Policies and ENV 6 and ENV 13 of our Unitary Development Plan (adopted January 2007).

The applicant has submitted an acoustic report in an effort to demonstrate that the proposal would not adversely impact on residential amenity. This report states that the courtyard would be used on Monday to Friday only. The Environmental Health Officer has assessed the acoustic report and has raised no objection. Notwithstanding this, it is noted that noise measurements in the acoustic report are not based on monitoring of the use of existing courtyards but that a noise modelling methodology has been adopted. Additionally, as in all cases concerning the potential level of noise disturbance generated by the use of outside spaces (rather than noise contained within a building) it is not possible to take account of potential disturbance caused by noise peaks – loud talking/shouting etc. These points have also been raised by an objector to the application who considers the submitted acoustic report to be inadequate. Given the close proximity of adjacent residential windows, it is considered that the proposal would have an adverse impact on the amenity of the nearby residential occupiers.

Due to officers' concerns, the applicant has suggested that permission could be granted on a temporary, 12 month, basis in order to monitor the impact of the proposed use. They have also offered to restrict the proposed use of the courtyard to Monday to Saturday only.

However, it is considered that the potential impact of the proposals upon residents of "The Manor" would be so significant that neither of these suggested amendments would be sufficient to address officers' objection to the proposal.

Although the north-east courtyard is closer to flats in Grosvenor Hill Court than either the north-west or the south-west courtyard, given the distance between the properties, it is not considered that the potential impact on occupants of Grosvenor Hill Court would be so significant as to justify a recommendation for refusal on the grounds that the proposals would have a material impact upon the amenities of occupants of that building.

8.4 Transportation/Parking

Not applicable.

8.5 Economic Considerations

Not applicable.

8.6 Access

No impact on access arrangements

8.7 Other UDP/Westminster Policy Considerations

Not applicable.

8.8 London Plan

This application raises no strategic issues and does not have significant implications for the London Plan.

8.9 National Policy/Guidance Considerations

Not applicable.

8.10 Planning Obligations

Not applicable.

8.11 Environmental Impact Assessment

The proposal is of insufficient scope to require an Environmental Assessment.

8.12 Other Issues

Not applicable.

9. BACKGROUND PAPERS

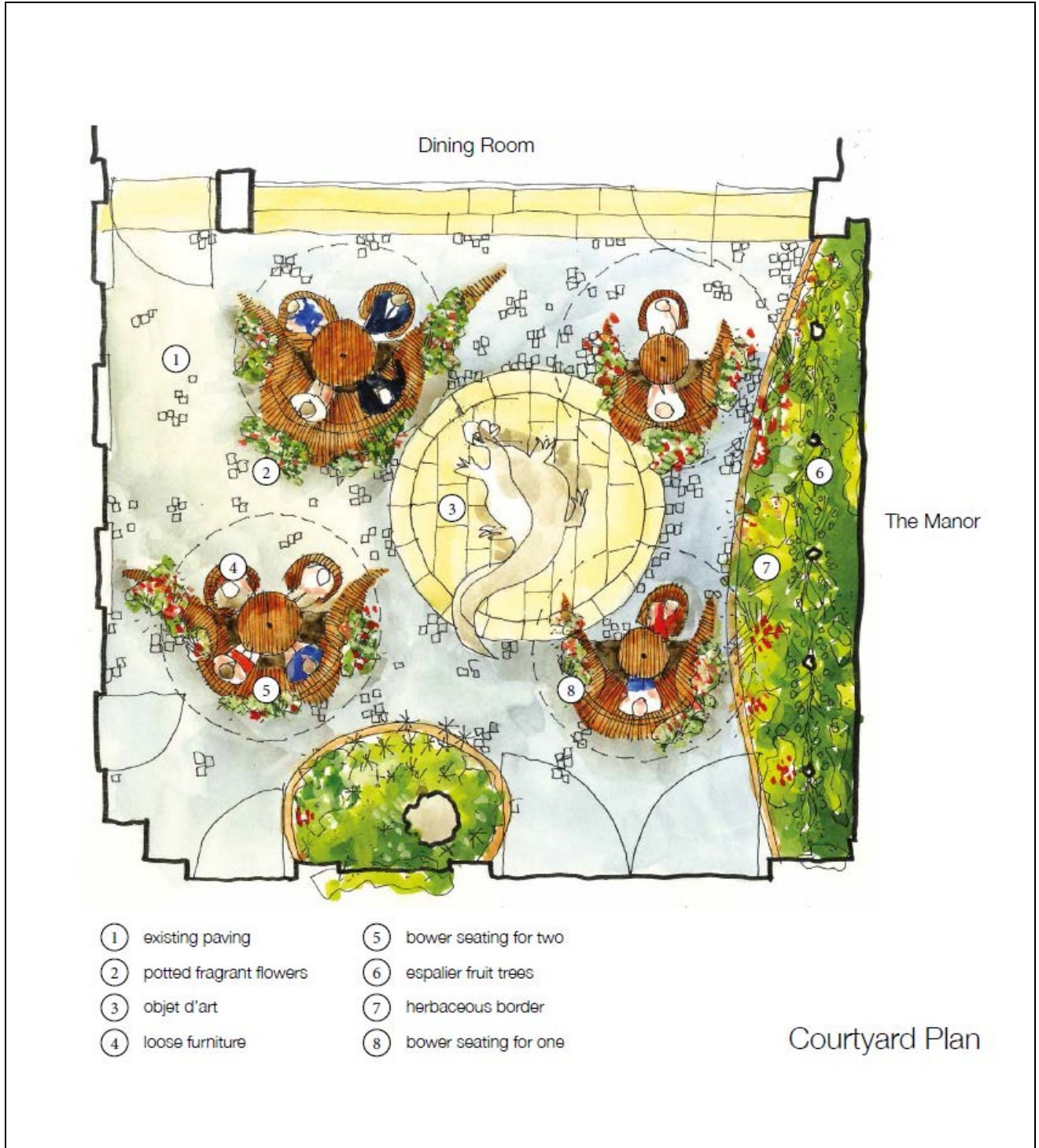
1. Application form and email from Monmouth Planning dated 10 June 2016
2. Response from Environmental Health dated 6 June 2016
3. Response from Residents' Society of Mayfair & St. James's dated 23 May 2016
4. Letter from Phillips Auctioneers, 30 Berkeley Square, dated 18 May 2016
5. Letter from the occupier 16 Bourdon Street, London, dated 26 May 2016
6. Letter from the occupier 16 Bourdon Street, London, dated 26 May 2016
7. Letter from the occupier of 5 Grosvenor Hill Court, London, dated 10 May 2016
8. Letter from Aston Currency Management, 26 Grosvenor Street, dated 17 May 2016
9. Letter from General Manager, Hedonism Wine 3-7 Davies Street dated 17 May 2016
10. Letter from Gagosian Gallery, 20 Grosvenor Hill, dated 20 May 2016
11. Letter from occupier of 6a Turney Road, Dulwich, dated 6 June 2016
12. Letter from Operations Manager, Chalayan LLP 109-123 Clifton Street, dated 20 May 2016
13. Letter from General Manager, Turnbull And Asser, 4 Davies Street dated 20 May 2016
14. Letter from occupier of local residential property (no address) dated 18 May 2016
15. Letter (name withheld, no address supplied) dated 18 May 2016
16. Letter from occupier of 8 Davies Street, London dated 19 May 2016
17. Letter from occupier of Sautter, 106 Mount Row dated 24 May 2016
18. Letter from occupier of 12A Grosvenor Hill Court, 15 Bourdon Street, dated 4 May 2016

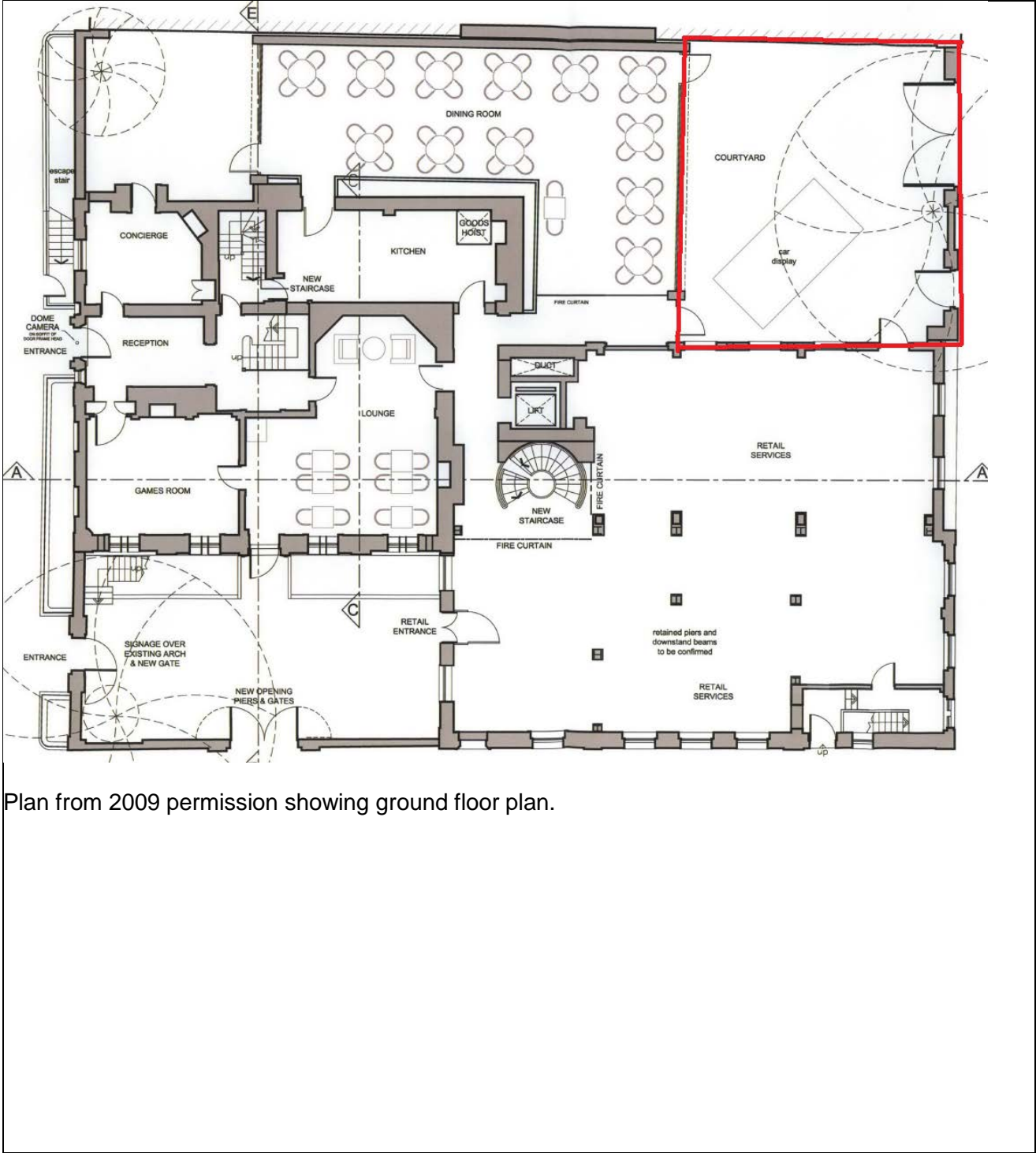
Selected relevant drawings

(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 SARA SPURRIER ON 02076413934 OR EMAIL ON SSPURRIER@WESTMINSTER.GOV.UK

10. KEY DRAWINGS





Plan from 2009 permission showing ground floor plan.

DRAFT DECISION LETTER

Address: 2-2A Davies Street, London, W1K 3DJ,

Proposal: Variation of condition 10 of planning permission dated 23 September 2010 (RN 10/04368/FULL) which in itself allowed for the removal of Condition 11 of planning permission dated 30 September 2009 for use of the building as a private members club including retail and restaurant (RN: 09/04770) which permitted use of the north-west courtyard for drinking and dining purposes. Namely : To allow use of the north east courtyard by the Members club between 10.00 and 19.00 (condition 10 on permission dated 23 September 2010 restricted the use of the north east courtyard for access purposes only)Application under section 73.

Reference: 16/03437/FULL

Plan Nos:

Case Officer: Alice Dunn

Direct Tel. No. 020 7641 7957

Recommended Condition(s) and Reason(s):

The use of the north-east courtyard would lead to unacceptable noise disturbance due to the proximity of adjoining residential windows. This would not meet S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

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.