

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 12 July 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	4 Mill Street, London, W1S 2AX		
Proposal	Use of second floor as a hostess bar including striptease (sui generis use) in connection with the existing use at first floor.		
Agent	WvH Planning Ltd		
On behalf of	Mr Chris Sturm		
Registered Number	15/11399/FULL	Date amended/ completed	7 December 2015
Date Application Received	7 December 2015		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site comprises the second floor of this listed building located within the Mayfair Conservation Area and the Core Central Activities Zone. The site is located outside of the Soho Sex-Related Uses Area (SRUA).

The basement and ground floors of this building are in use as a restaurant (Class A3), the first floor is in use as a hostess bar including striptease (*sui generis*), the second floor is vacant but the lawful use is an office (Class B1) and the third floor is a flat (Class C3). The upper floors are all accessed from a ground floor entrance on Mill Street and share a communal stairway. In addition to the third floor of the host building, it is understood that the nearest residential properties are located at No. 2 Mill Street at front third floor level and above The Windmill public house at Nos. 6-8 Mill Street.

The application seeks the change of use of the second floor to form an extension to the existing hostess bar including striptease at first floor level. Access between the two floors is proposed to be via a new internal staircase. No external alterations are proposed.

The existing hostess bar including striptease at first floor is a longstanding use immune from

enforcement action and is therefore lawful. It has a licence as a Sexual Entertainment Venue permitted to operate as a hostess bar with striptease involving full nudity between the following hours: 09.00 and 05.00 (Monday to Saturday) and 12.00 and 22.30 (Sunday). Condition 26 of the license limits the capacity of the venue to 30 patrons before 03.00 and 20 patrons after this time (i.e. between 03.00 and 05.00).

The current application follows an appeal against an identical form of development that was dismissed on 1 November 2013 (Ref: 12/12456/FULL) (please see Background Paper 4). In dismissing the appeal, the Inspector stated:

*“The Council’s objection appears to be in-principle one which goes beyond any consideration of day-to-day effects. However, when regard is had to those effects, the proposal would double the capacity at the premises for up to 60 guests, and therefore customer turnover. This would inevitably increase its profile in the immediate locality, with increased activity associated with it (including comings and goings, strangers in the area, likelihood of increased noise, taxis picking up and dropping off) especially late at night and well in to the early hours in the morning. For these reasons, I do not consider that the Council’s concerns about the likely effects, aside from licensing controls, cannot be said to be unfounded or unjustified”*

*“In conclusion, there is no compelling evidence before me which demonstrated that a SRU [Sex Related Use], albeit in the form of an extension to the existing premises, should be allowed outside of the strict area within which such uses may be accepted or why the general restraint policies should be set aside in this case. Therefore, the proposed development if contrary to policy TACE 13 of the UDP” (Paras. 16 and 17).*

The material difference between the current proposal and that dismissed at appeal is that the previous application sought to double the capacity of the premises to 60 patrons. The current application seeks to enlarge the existing venue to provide improved facilities and a less cramped environment, but with the same number of patrons. It is considered that this addresses the reasons for the dismissal of the previous application. Subject to conditions controlling the number of patrons and the hours of operation to match the existing licence, the proposal will not result in any increase in customer turnover or increased late-night activity when compared with the existing use. For this reason, despite the policy objection to sex-related uses (and especially outside of the SRUA) within UDP Policy TACE 13, there is no objection to the proposal in terms of the amenity impact of activity associated with the expanded use.

There is also no objection to the loss of office floorspace to another commercial use, with the emerging replacement City Plan Policy S20 (which the City Council is taking into account as a material consideration with significant weight in determining planning applications) only providing protection for offices where they are proposed to be converted to residential floorspace.

Finally, the effect of the application will be to remove the ‘buffer’ between the existing venue and the flat on the third floor of the host building. Furthermore, it would add another floor of entertainment adjacent to the flat on the upper floor of the adjacent public house. The result would be that the proposed venue would be immediately below and adjacent to two residential units. The nature of the use is such that music may be played at raised levels and also be of a type (i.e. low frequency) which could be transmitted through the building fabric unless mitigation measures are taken. The intention is that the second floor will operate until 05.00 with the playing of music, albeit at ‘background’ level, being an essential part of the operation of the premises. The music being played does not necessarily have to be very loud as the ‘beat’ of the low frequency music can be particularly disturbing to nearby residents.

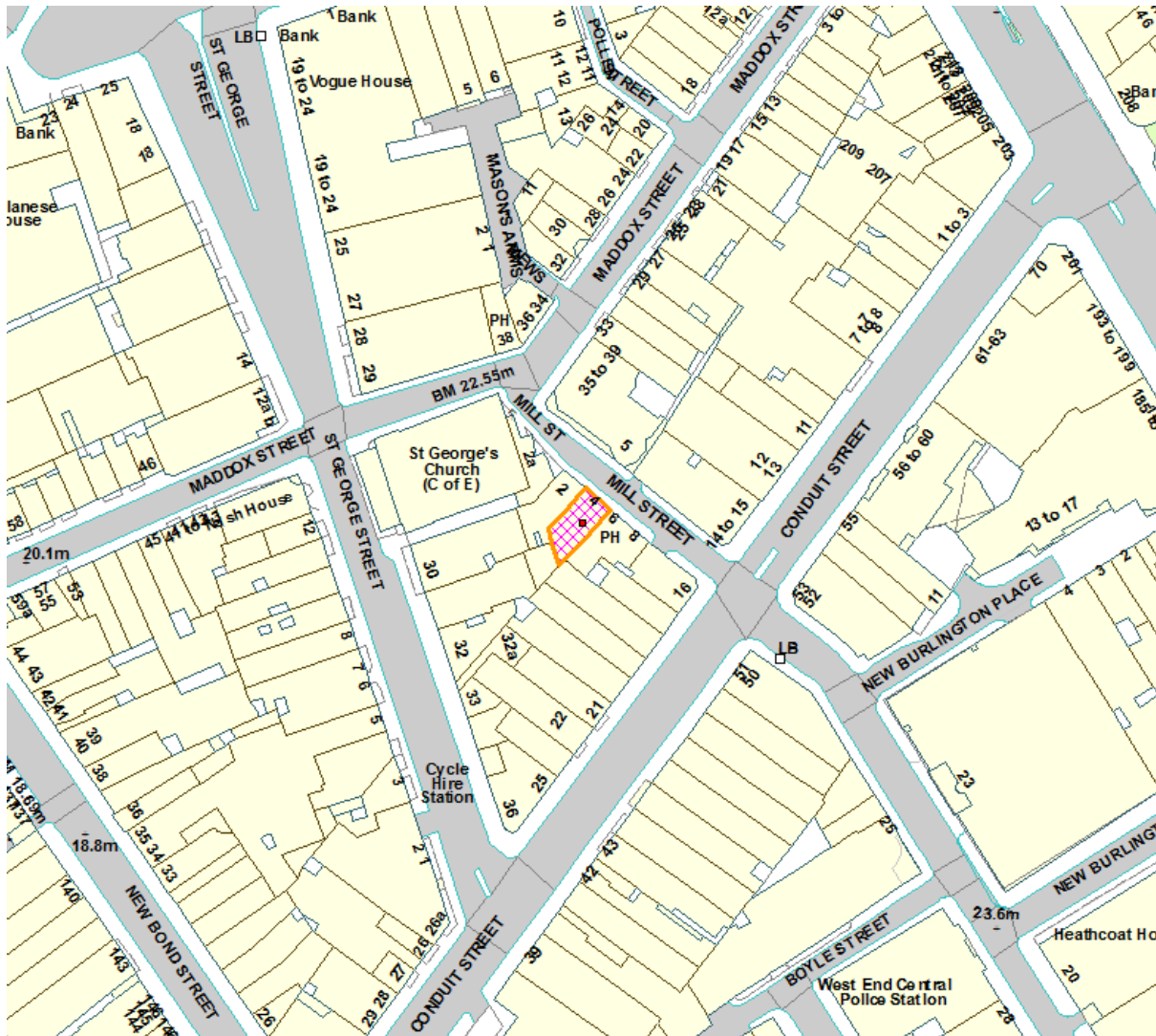
The proposal therefore has the potential to cause a loss of amenity to the occupants of the neighbouring flats, contrary to City Plan Policies S29 and S32, as well as UDP Policies ENV 6 and ENV 13.

The applicant has submitted an acoustic report setting out the mitigation required to ensure that noise from the venue does not result in noise disturbance to the neighbouring residents. Measurements taken from the operation of the venue at first floor have been used to calculate the required mitigation. The proposed mitigation is in the form of insulation being installed within the ceiling void between the second and third floors, insulation being fixed to the interior walls of the second floor and acoustic doors (with appropriate seals) being installed to common parts of the building to prevent sound 'flanking' the ceiling and wall insulation.

This report has been considered by Environmental Health who advise that the mitigation measures are considered to be readily achievable so that existing residents will be unlikely to be adversely affected by the proposed development. This is subject to conditions requiring the mitigation to be installed prior to the commencement of the use of the second floor, this mitigation being retained and a limiter being fitted to the sound amplification system in the proposed second floor so that pre-defined maximum noise levels are not exceed. This limiter will be secured by key or password so that only persons with management responsibility have access. Subject to these conditions, Environmental Health has no objection to the proposed development on noise or nuisance grounds.

For the reasons set out above, it is concluded that the proposed extension to this existing use will not be harmful to the character of the area or to the amenity of adjoining residents.

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013. All rights reserved License Number LA 100019597

## 4. PHOTOGRAPHS



## 5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S:  
No objection.

ENVIRONMENTAL HEALTH:  
No objection.

CLEANSING:  
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:  
No. Consulted: 45  
Total No. of replies: 0  
No. of objections: 0  
No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND PAPERS

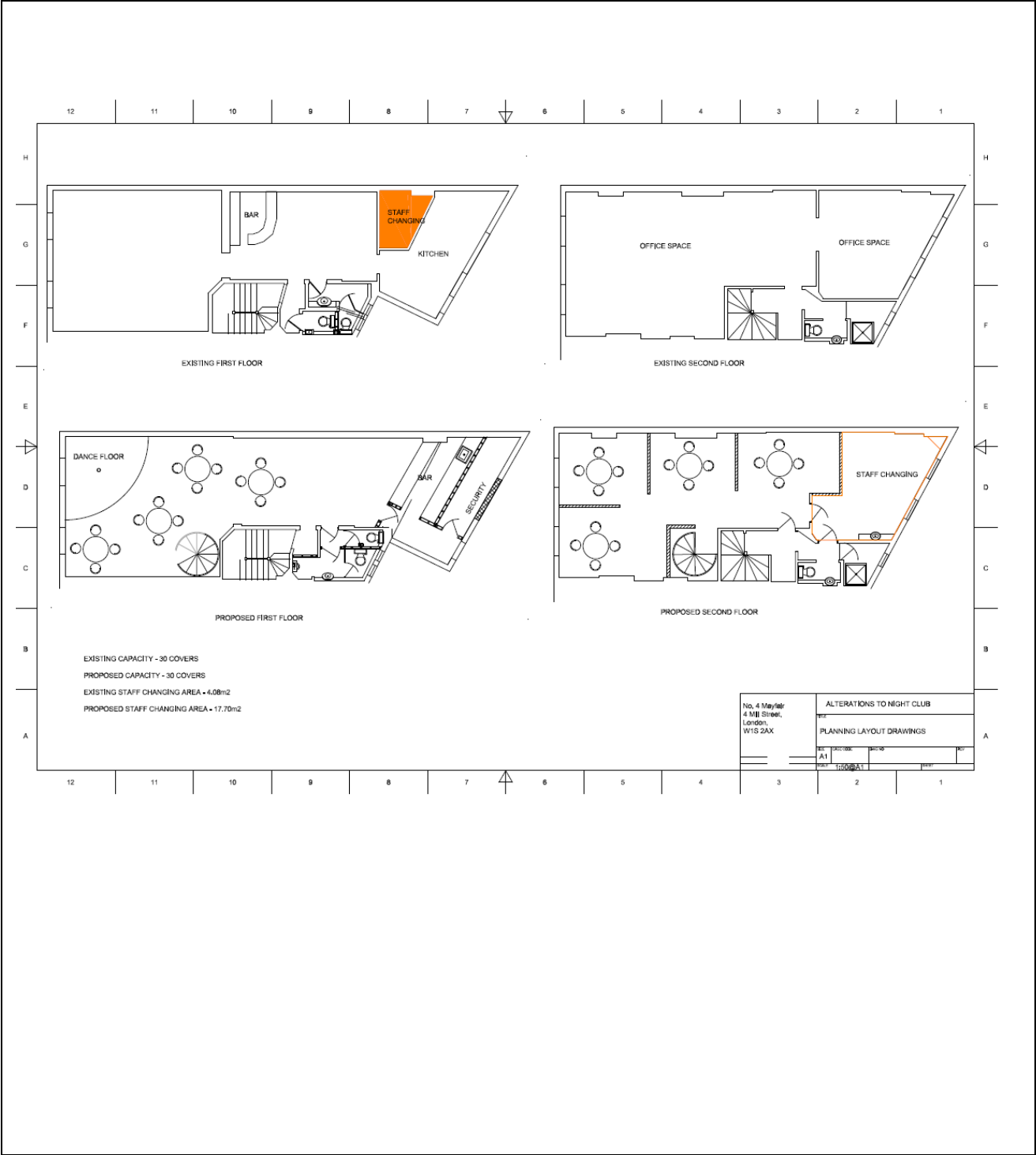
1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 11 January 2016
3. Response from Environmental Health Consultation, dated 22 June 2016.
4. Appeal decision dated 1 November 2013.

### 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 THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT [MWALTON@WESTMINSTER.GOV.UK](mailto:MWALTON@WESTMINSTER.GOV.UK).

7. KEY DRAWINGS





**DRAFT DECISION LETTER**

**Address:** 4 Mill Street, London, W1S 2AX,

**Proposal:** Use of second floor as a hostess bar including striptease (sui generis use) in connection with the existing use at first floor.

**Reference:** 15/11399/FULL

**Plan Nos:** Existing and proposed first and second floors titled 'Planning Layout Drawings' and Sound Insulation Desktop Study (Ref: 16706-1).

**Case Officer:** Mark Hollington

**Direct Tel. No.** 020 7641 2523

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

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

Reason:

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

- 2 Customers shall not be permitted within the first and second floor hostess bar including striptease premises:

- Before 09.00 or after 03.00 the following morning on Monday to Saturday; and
- Before 12.00 or after 22.30 on Sundays and Bank Holidays.

Reason:

To protect the environment of people in neighbouring properties, as set out in S29 and S323 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, TACE 13 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

- 3 You must not allow more than 30 customers into the property at any one time before 03.00 and you must not allow more than 20 customers into the property at any one time between 03.00 and 05.00. (C05HA)

Reason:

To protect the environment of people in neighbouring properties, as set out in S29 and S323 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, TACE 13 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

- 4 The acoustic insulation between the second and third floors and on the perimeter walls of the unit at second floor level as detailed within Section 8 of the approved Sound Insulation Desktop Study



(Ref: 16706-1) shall be carried out in full prior to the commencement of the use hereby approved so it will protect residents within the same building or in adjoining buildings, 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. The acoustic insulation shall thereafter be retained in situ.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order 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.

- 5 Prior to the commencement of the use hereby permitted, a noise limiter shall be fitted to the musical amplification system so that the following maximum noise levels are not breached:

- Leq noise limit - 67.0dB (63Hz octave band) and 75.9dB (125Hz octave band); and
- LFMAX noise limit - 67.0dB (63Hz octave band) and 75.9dB (125Hz octave band).

This noise limiter shall be retained, the maximum noise levels not adjusted and no sound generating equipment shall be used on the premises without being routed through the sound limiter device.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order 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.

- 6 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 commence the use hereby approved 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 hostess bar including striptease. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste 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. (R14BD)

#### **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 One or more of the uses we have approved are referred to as being 'sui generis'. This means that the use or uses are not in any particular class. Any future plans to materially (significantly) change the use that we have approved will need planning permission. (I78AA)
- 3 The conditions hereby approved are separate from any licence issued by the City Council. You must comply with the conditions of both the planning permission and the licence at all times.

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.