

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 12 July 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Maida Vale	
Subject of Report	170 Randolph Avenue, London, W9 1PE,		
Proposal	Use of two areas of the public highway measuring 2.04m x 0.77m and 4.0m x 0.77m for the placing of three tables, six chairs and one waste bin in connection with adjacent coffee shop from 09:00 - 19:00 Monday to Saturday and 10:00 - 18:00 Sundays.		
Agent	Miss Emma Morrison		
On behalf of	Starbucks Coffee Co (UK) Ltd		
Registered Number	15/10107/TCH	Date amended/ completed	11 May 2016
Date Application Received	30 October 2015		
Historic Building Grade	Unlisted		
Conservation Area	Maida Vale		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

This is a renewal application for the use of the public highway for the siting of three external tables, six chairs and a single bin associated with Starbucks Coffee in Maida Vale between 09.00 - 21.00 Monday to Saturday and 10:00 - 18:00 Sundays. The proposed items of furniture and layout, and hours sought are the same as those most recently approved at planning Committee 3 February 2015 for a temporary period of a year. The premises have a long history of external tables and chairs associated with the premises. However, there have also been breaches of planning control and local residents in close proximity to the premises have raised concern with the management of the premises and the impact of the external tables and chairs in respect of noise and disturbance, litter and highways issues.

The key issues are:

- * The impact of the placing of the external tables and chairs on the public highway in transportation terms.
- * The impact of the use of the external tables and chairs on the amenities of local residents.

The hours and layout proposed are the same as those approved when the application for tables and

chairs was last submitted. There are no new material considerations which would lead to a different conclusion and the proposal would again satisfy the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies, and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

HIGHWAYS

No objection

CLEANSING

No objection

COUNCILLR PRENDERGRAST

- * Starbucks not a considerate operator.
- * They operate in breach of hours controlled by condition.
- * Refuse is left outside premises for extended periods prior to collection time.
- * Customers littering.

Cllr Prendergast has requested that her most recent objection to the previous application which sought to extend the permitted hours of use of the premises (RN: 15/05674/FULL) be considered in this current tables and chairs application. She has also requested that the representation of an adjoining resident to this previous application be used also. Both are included in the background papers for reference. The main points of Cllr Prendergast's previous representations are summarised below;

"Objection, additional opening hours would have a significant, harmful and detrimental impact on this quiet residential road. Starbucks are the only business trading on the road in a high density housing area. They cause noise and disturbance, litter and anti-social parking by customers and the premises are poorly managed. City Inspectors have spent a lot of time attempting to educate the managers (in relation to waste presentation and litter) without success. There are also ongoing problems with mess associated with external tables and chairs. Cars are left in the bays designated for the local doctor's practice, and residents find themselves boxed in."

ADJOINING OWNER/OCCUPIERS

No consulted: 38 No replies to date: 1

- * No regular clearing outside the premises.
- * Customers littering.
- * Refuse waste left outside premises for extended periods prior to scheduled collections.
- * Takeaway function attracts vehicular congestion.
- * Opening hours are not appropriate.

SITE/PRESS NOTICE

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is the ground floor commercial premises occupied by Starbucks of 170 Randolph Avenue, London, W9 1PE, which is an unlisted building located in the Maida Vale Conservation Area.

6.2 Recent Relevant History

06/00671/FULL - Planning permission was granted on 23.03.2006 for the continued use of the premises as a mixed use coffee shop (Class A1/A3) Sui Generis. This was subject to a number of conditions restricting the use including:-

1. No cooking of raw or fresh food.
2. Hours of operation 07.00-19.30 Monday to Friday and 07.30 to 19.30 on Saturdays and Sundays.
3. Personal to Starbucks

Planning permission was subsequently granted for the placing of three tables and six chairs on the highway in connection with Starbucks between the hours of 9am and 9pm in 2006, 2007, 2008, 2009, 2010, 2011 and 2013 (the latter of which also included the provision of a waste bin outside the premises).

14/00356/TCH - Application withdrawn on Officer advice in July 2014, for use of the public highway for the placing of three tables, six chairs and one waste bin in connection with Starbucks from 06:00 - 22:00 Monday to Friday, 07:00-22:00 Saturdays and 07:30 - 21:00 Sundays, as the proposed hours fell outside of the permitted hours of opening controlled by condition 2 of the principle use permission.

An officers meeting with Starbucks followed whereby the lawful planning position in respect of both the use of the building and the external tables and chairs was discussed together with ongoing management concerns raised by local residents in respect of unsocial hours of servicing, noise and disturbance, litter, inconsiderate parking and general management issues.

14/10399/TCH - Planning permission was granted on 03.02.2015 for use of two areas of the public highway for the siting of three tables, six chairs and one waste bin in connection with Starbucks Coffee, subject to reduced hours of between 09.00 to 19.00 Monday to Saturday and 10.00-18.00 on Sunday, to operate until 03.02.2016.

15/02135/FULL - Application withdrawn by applicant 11.05.2015 (due to be reported to Planning Committee 12.05.2015) for variation of Condition 2 (hours of opening) of planning permission dated 23 March 2006 (RN: 06/00671Full), for continued use as mixed use coffee shop Class A1/A3 (Sui Generis), namely to extend the opening hours of the premises from 19.30 until 21:00 daily.

15/05674/FULL - Variation of Condition 2 of planning permission dated 23 March 2006 (RN: 06/00671) for the continued use as mixed use coffee shop (sui generis) at Nos. 168-170; namely, to extend opening hours to between 06.30-20.30 Monday to Friday and 07.30-20.30 Saturday and Sunday. This was refused at Planning Committee for the following reason:

1. "The proposed extension of hours of this coffee shop is considered to result in additional noise, disturbance and litter to nearby residents. This would not meet S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007."

7. THE PROPOSAL

The application proposes: 'Use of two areas of the public highways measuring 2.04m x 0.77m and 4.0m x 0.77m for the placing of three tables, six chairs and one waste bin in connection with adjacent coffee shop, from 09:00 - 19:00 Monday to Friday, 09:00-19:00 Saturdays and 10:00 - 18:00 Sundays.'

8. DETAILED CONSIDERATIONS

8.1 Land Use

The existing use of the premises by Starbucks is operated under the 2006 permission which granted conditional permission for a mixed use coffee shop (Class A1/A3), a sui generis use.

The three tables and six chairs proposed are not considered to unacceptably intensify the existing mixed use coffee shop and the principle of external tables and chairs is considered to be acceptable in terms of Policy TACE11 of the UDP. Furthermore, the planning history demonstrates that temporary permission has been granted for tables and chairs on the public highway outside of Starbucks continuously since 2006. The proposed hours during which the tables and chairs may be placed outside the premises accord with the opening hours restricted by condition 2 of the original permission granted in 2006.

8.2 Townscape and Design

The furniture comprises steel circular tables and steel/teak wood chairs. These are considered to be of appropriate design and material and are considered to protect the character and appearance of the Maida Vale Conservation Area.

The waste bin which was requested by the Sub-Committee in 2009 is fibre glass and does not display any advertisements. The bin is therefore considered to be of appropriate appearance. No other furniture is proposed and this is to be secured by condition. The proposal therefore satisfies Policy TACE11 and DES7 of the UDP.

8.3 Residential Amenity

The premises lie on the edge of the Maida Vale Local Shopping Centre (Core Frontage) and in close proximity to the Maida Vale Underground Station, but also in close proximity to local residents.

This is a renewal application and is identical to the temporary tables and chairs permission most recently granted 03 February 2015, with respect to the number of tables, chairs and single bin, and for when the tables and chairs may be placed outside the premises which is between 09:00 - 19:00 Monday to Saturday and 10:00 - 18:00 on Sundays. The 2015 permission originally proposed longer hours on a Sunday. However, Officers imposed the above reduction to afford neighbours more respite on a Sunday. In this application, the applicant has not sought to extend these hours on a Sunday. Rather they have sought to renew those imposed by the Council previously.

This sui generis (A1/A3) use and placement of tables and chairs outside the premises has attracted objections in the past in relation to management, litter and hours of operation. In this application, similar representations have been received objecting to the continued placement of tables and chairs outside of the premises, littering and congestion arising from vehicles visiting the premises and parking illegally in residents bays.

Cllr Prendergast has advised Officers of instances where the opening hours of the use have been breached, and a provided photograph allegedly of the premises with advertised opening hours during Christmas period beyond those permitted by condition 2 of the 2006 use permission. Cllr Prendergast also forwarded to Officers correspondence from the Council's Public Protection and Licensing department with respect to refuse collection during the week which may have accumulated on the weekend, potentially in breach of condition 4 (refuse collection) of the 2006 use permission which restricts the placement of refuse outside the premises on collection days only.

The concerns expressed by neighbours and Cllr Prendergrast, in relation to the opening hours, refuse collection times and congestion associated with vehicles visiting the premises, are issues caused by the use itself, rather than the presence of tables. Any alleged breaches of conditions imposed by that permission are matters for planning enforcement to investigate.

With regards to implications of patrons utilising outside seating at the premises in relation to neighbouring residential amenity, the hours sought are the same as those permitted most recently in February 2015 and are considered to be appropriate within the context of the site. With regards to litter, this is a management issue, rather than one intrinsically linked to the presence of tables and chairs. Accordingly, it is not considered a sustainable reason for refusing permission.

A temporary permission for one year is recommended in order to monitor compliance with the planning permission and the applicant is to be advised in an Informative that any future breach of planning control may result in unsuccessful future applications, especially given the previous breaches.

8.4 Highways

The tables, chairs and bin layout correspond with the layout of the most recently approved temporary permission in 2015. The area of public footway for pedestrian use remains at least 2.4m which satisfies the City Council's minimum requirement of 2m for a pedestrian clearway [See Westminster Way, page 89, section 246] and is in accordance with Policy TRANS 3 (A). During the course of the application, the agent supplied an amended drawing addressing a discrepancy relating to the distances from the tables and chairs to the kerb edge. As long as this layout and number of tables and chairs is complied with, there would be no impingement on the free flow of pedestrians, and the proposal would satisfy Policies TACE11 of the UDP and S41 of the City Plan.

Objections from adjoining neighbours have been received in relation to increased congestion arising from the use and cars parking illegally in resident's bays when visiting the premises. However, these concerns relate to the operation and use itself rather than the placing of tables and chairs on the highway, and therefore withholding planning permission on these grounds is unsustainable.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

It is not considered that the granting or refusal of permission will have any significant impact on the City Council's equalities and diversities policies.

8.7 London Plan

This application raises no strategic issues.

8.8 National Policy/Guidance Considerations

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

8.9 Planning Obligations

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

8.10 Environmental Impact Assessment

Not applicable

8.11 Other Issues

Officers have responded to questions asked of the City Council concerning the extent to which the Council has considered the issue of 'Amenity' in determining applications at the site (see background papers). Officers advised that the most recent decisions have been considered principally on grounds of impact toward neighbouring amenity, whereby extended hours of operation have been rejected owing to unacceptable disturbance on mornings and evenings.

9. BACKGROUND PAPERS

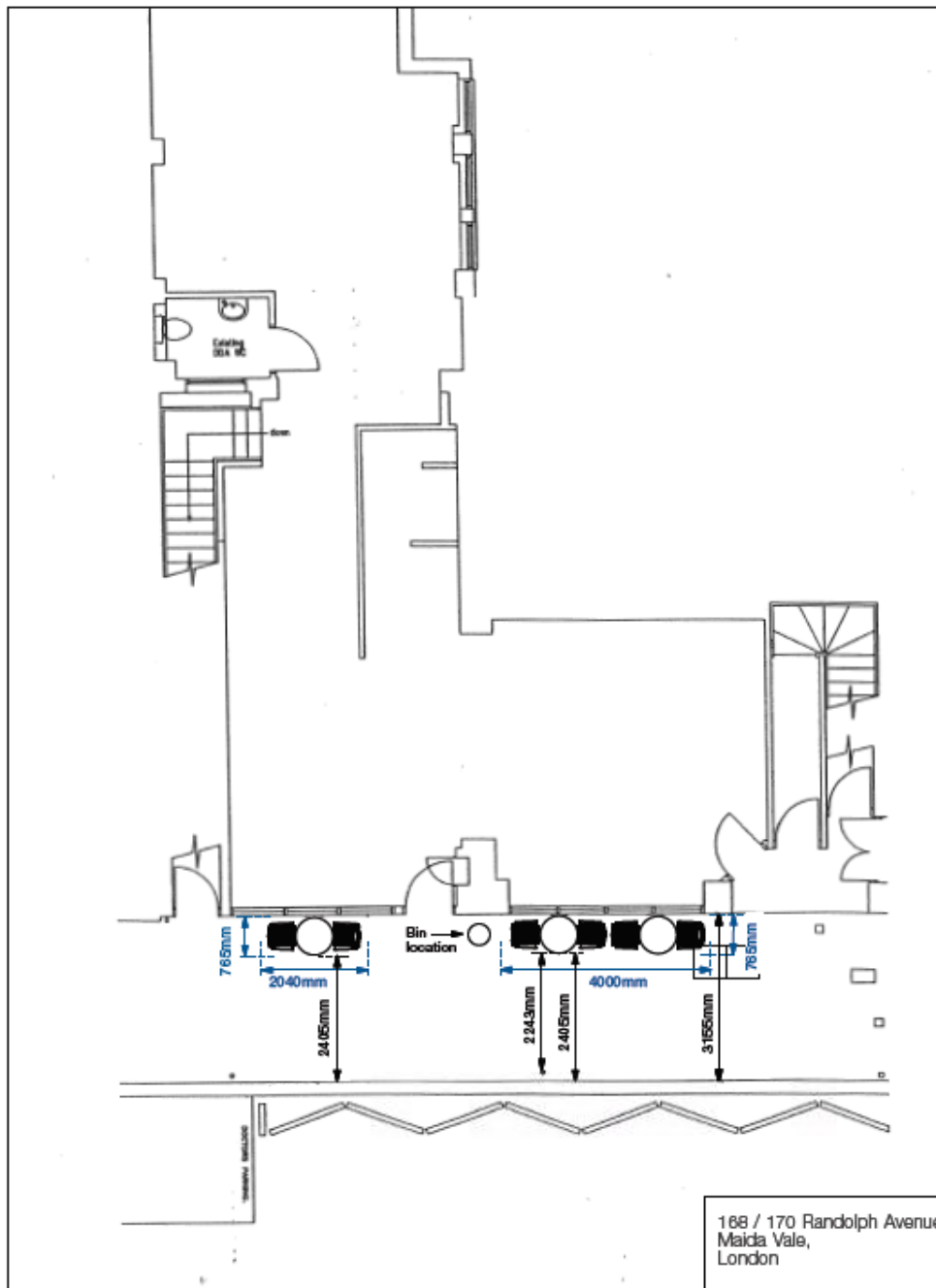
1. Application form
2. Response from Cleansing - Development Planning, dated 19 November 2015
3. Response from Highways Planning, dated 7 December 2015
4. Response from Cllr Prendergast, dated 10 April 2015 (in relation to previous application), 24 December 2015, 2 February 2016, 16 March 2016,
5. Letter from occupier of 1 Elgin Mews North, Maida Vale, dated 19 November 2015, 8 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 THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT n.barrett@westminster.gov.uk.

10. KEY DRAWINGS



168 / 170 Randolph Avenue,
Maida Vale,
London

Outdoor Seating Plan

Starbucks Coffee Company (UK) Ltd

www.pegasus.co.uk

Team: NPVGL

20th March 2012

1:100 BA4

BRS.1091-12437_02-1a



0 1 5m
Scale 1:100 @ A4

T: 01454 525245 | F: 01454 518074 | www.pegasus.co.uk

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Item No.
8

DRAFT DECISION LETTER

Address: 170 Randolph Avenue, London, W9 1PE,

Proposal: Use of two areas of the public highways measuring 2.04m x 0.77m and 4.0m x 0.77m for the placing of three tables, six chairs and one waste bin in connection with adjacent coffee shop from 09:00 - 19:00 Monday to Saturday and 10:00 - 18:00 Sundays.

Reference: 15/10107/TCH

Plan Nos: BRS.1091-12437_01-1; BRS.1091-12437_02-1e; Cover letter dated 29 October 2015; Liability Insurance dated 6 October 2015; Specification sheets for "Bijou Stacking Armchair with Teak Wood Seat" and "Bijou Tilt Table"; Design and Access Statement

Case Officer: Samuel Gerstein

Direct Tel. No. 020 7641 4273

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 can only put the tables and chairs and litter bin on the pavement between 09.00 and 19.00 Monday to Saturday and 10.00 and 18.00 on Sundays. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 3 You must not put the tables and chairs and litter bin in any other position than that shown on drawing BRS.1091-12437_02-1e.

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 4 The tables and chairs must only be used by customers of Starbucks Coffee, 168-170 Randolph Avenue, W9. (C25CA)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 5 This use of the pavement may continue until 12.07.2017. You must then remove the tables and chairs. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables and chairs and litter bin shown on drawing BRS.1091-12437_02-1e. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 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 You are reminded of the need to comply with the conditions on this planning permission and planning permission dated 23 March 2006 (Ref:-06/00671/FULL) which granted permission for the continued use of the premises as a mixed use coffee shop (Class A1/A3) Sui Generis subject to a number of conditions, including a restriction on the hours of use of the premises to between 07.00-19.30 Monday to Friday and 07.30 to 19.30 on Saturdays and Sundays. Failure to comply is a breach of planning control and we may take legal action to stop any such breach.

Any such breaches will be taken into account in assessing any future applications.

- 3 You are reminded of the need to respect your neighbours in the operation of your business. This includes managing the premises in a way to prevent anti social behaviour, noise and disturbance, litter and unsocial hours of servicing of the premises.

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.