

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 2 August 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Meadows House, 20-22 Queen Street, London, W1J 5PR,		
Proposal	Use of the first floor as an extension to the existing restaurant at basement and part ground floor levels (Class A3)		
Agent	Mr Mark McDermott		
On behalf of	Indian Cuisine Ltd		
Registered Number	16/02265/FULL	Date amended/ completed	22 March 2016
Date Application Received	12 March 2016		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application site located on the west side of Queen Street within the Core Central Activities Zone but outside of the designated entertainment Stress Areas. The application premise is a restaurant ("Tamarind") which occupies the basement and part ground floors. The remainder of the ground floor is in separate restaurant use. The first to third floors are in office use and the fourth/fifth floors are occupied for residential purposes.

This application is for the use of vacant first floor offices as an extension to the existing restaurant. No new or replacement plant proposed. As the scheme involves the conversion of offices to another commercial use, this is considered acceptable in land use terms. The proposal would create a large restaurant of 518 sqm, with an increased capacity of 136 customers. UDP policy TACE 10 states that large entertainment uses, of 500m² or more, will only be approved in exceptional circumstances. Similarly, under City Plan policy S23 new large-scale entertainment uses will not generally be appropriate. However, where it can be demonstrated that the proposals would not have an adverse impact on residential amenity or environmental quality, this may constitute exceptional circumstances.

* The key issue in this case is the impact of the proposed restaurant extension upon local environmental quality and residents' amenities, or upon the character or function of the area

This is a longstanding restaurant use which contributes to the character and function of the CAZ. No

objections have been received to the application. Subject to the imposition of operating conditions, the relatively modest increase in floorspace and capacity is considered acceptable on the basis that the enlarged restaurant would not have a material impact on neighbours' amenities, environmental quality or the character and appearance of the area. This is considered to constitute sufficient exceptional circumstances to justify a recommendation for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS' ASSOCIATION of MAYFAIR & ST JAMES's
No objection

HIGHWAYS PLANNING

Limited servicing details provided but overarching principles appear acceptable, a detailed Servicing Management Plan should be secured by condition; cycle parking required, delivery services should be precluded.

ENVIRONMENTAL HEALTH

No objection. .

CLEANSING

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. consulted:118 No of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is an unlisted, post-war development, situated on the west side of Queen Street, close to its junction with Curzon Street, within the Mayfair conservation area and the Core Central Activities Zone but outside of the designated entertainment Stress Areas. The building backs onto the extensive grounds of the Embassy of Saudi Arabia, and the entire rear of the property is visible from Curzon Street.

The basement and ground floors of the property are occupied as two separate restaurants, the first to third floors are in office use and the fourth/fifth floors are in residential use. The first floor offices are currently vacant.

This application relates to one of the existing restaurants on the site ("Tamarind", an Indian restaurant) which comprises a ground floor entrance, at the southern end of the building frontage, and kitchen and dining accommodation at basement level. The second restaurant occupies the remainder of the ground floor.

The area is mixed use in character but there are residential premises in the vicinity of the site, including on the upper floors of the building and immediately opposite on Queen Street.

6.2 Recent Relevant History

24.2.195: Permission granted for the redevelopment of the site to erect a new building comprising a restaurant on basement and part ground floor, a post office on the remainder of the ground floor (now a separate restaurant), offices on first to third floors and a maisonette at fourth/fifth floor levels. No conditions were imposed relating to the operation of the restaurant.

1994: Advertisement consent for new signage "Tamarind"

24.11.1994 Permission granted for the installation of a new shopfront and projecting canopy and roof level plant. No conditions were imposed controlling the hours of plant operation, although noise a plant noise condition was imposed.

Subsequent planning records from 2003-2008 refer to "Tamarind" restaurant and the applicants have provided rating records from 2005 to date.

7. The Proposal

This application is for the change of use of the first floor offices (Class B1) to provide additional accommodation to the existing restaurant on basement and part ground floors (Class A3).

The submitted application did not include any proposals for external alterations or the installation or replacement of plant or ducting, although the application drawings and acoustic report referred to the potential replacement of roof level plant. However, the applicants have since confirmed that the plant installations will remain unaltered and have updated the drawings accordingly. They have also confirmed that the existing plant and ducting are adequate in terms of serving the proposed increase in floorspace/capacity.

Internally, a new staircase would be provided between the ground floor entrance area and the new first floor restaurant seating area. The size of the basement seating area would be reduced and the kitchen extended.

The applicants have confirmed that the premises licence, in place since 2005, permits the restaurant to open between 10.00 and 00.30 on Monday to Saturday and between 12.00 and 24.00 on Sundays. These are the proposed hours of operation.

(An application was recently lodged to vary the premises licence to include the proposed first floor dining area and to permit up to 8 diners to drink at the basement bar pre/post their meal).

The applicants have advised that the existing restaurant capacity is for 90 customers (with 80 covers) and that the proposed capacity would be for 136 customers (with 130 covers).

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Loss of offices

The application would involve the loss of 168 sqm of first floor office floorspace. There are no policies within the adopted UDP and City Plan which safeguard existing office uses. However, since 1 September 2015, given the pressures on existing office floorspace from residential development, on sites within the Core CAZ, the conversion of existing offices to residential use, has been considered unacceptable, other than in the most exceptional circumstances.

Updated policies, 'The Basement Revision and Mixed Use Revision to the City Plan' were submitted to the Secretary of State in December 2015. The independent examination was held in March 2016. Following the examination, a further consultation was held between 20 April and 5 June 2016, inviting responses to the proposed main modifications. Having considered the responses, none of the matters raised bring forward new issues which were not considered by the Inspector at the examination hearings in March. Therefore, in accordance with Paragraph 216 of the National Planning Policy Framework, the Council will take the Basement Revision and Mixed Use Revision into account as a material consideration with significant weight in determining planning applications, effective from Tuesday 7 June 2016.

However, the relevant revisions to the City Plan are concerned with the conversion of Class B1 offices to residential use. In this case, the proposal involves the conversion of vacant offices to another commercial use, which itself generates employment opportunities. In these circumstances, the loss of office floorspace is considered acceptable in land use terms.

8.1.2. Extension of existing restaurant

The existing basement/ground floor restaurant measures 350 sqm. The scheme would provide an additional 168 sqm of restaurant floorspace, creating a large restaurant of 518 sqm.

UDP Policy TACE 10 is relevant to the consideration of the restaurant proposals and states that large entertainment uses of 500m² or more will only be approved in exceptional circumstances. City Plan policy S23 requires proposals for new entertainment uses to be appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and requires that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. It also states that new large-scale entertainment uses of over 500sqm will not generally be appropriate within Westminster.

In considering the impact of large entertainment uses, particular regard will be given to the number of people on the premises, the opening hours, servicing and arrangements to safeguard amenity. Where it can be demonstrated that the proposals would not have an

adverse impact on local environmental quality or residents' amenities, or upon the character or function of the area, this may constitute exceptional circumstances.

Given the character of Queen Street and the surrounding area, the use of adjoining buildings, the fact that there are few residential properties in the immediate vicinity of the site, and as the scheme is for the expansion of a long-established restaurant, with the additional floorspace being provided at first floor level, it is not considered that the proposal would, in principle, have an adverse impact upon the character or function of the area. The impact of the proposals upon residents' amenities and the local highway network is discussed below.

8.2 Townscape and Design

No external alterations are proposed

8.3 Amenity

In assessing the impact of the proposed restaurant use upon residential amenity and local environmental quality, the Council will have particular regard to noise from the proposed use, particularly from increased late night activity, noise and vibration from plant, potential smell nuisance and increased parking and traffic generation.

As detailed above, the applicants have recently confirmed that there is no requirement for any new or replacement plant or extract equipment to serve the extended use.

The existing restaurant use is not the subject of any conditions relating to opening hours or the hours of plant operation. Activities associated with the proposed restaurant expansion have the potential to impact on local amenity and environmental quality, with the greatest potential impact arising from increased numbers of customers arriving at and leaving the restaurant throughout the evening. UDP Policy ENV 6 requires new developments to incorporate design features and operational measures to minimise and contain noise in order to protect neighbouring noise sensitive properties.

The application is supported by an acoustic report. However, this is primarily concerned with the potential noise impact of any replacement plant (no plant is to be replaced); noise transmission between the new first floor restaurant space and second floor offices, the impact of external traffic noise and plant installations at the rear of the site upon conditions within the restaurant, and the reverberation of noise within the dining rooms caused by customers talking etc. The report does not specifically address the potential noise impact of any increased activity associated with the additional capacity.

The applicants have made the following points in support of the application:

- Permission has been granted, either by the City Council, or on appeal, for a number of large entertainment uses, including the expansion of restaurant premises to first floor level, where it has been considered that the new or extended premises would not cause demonstrable harm e.g. 34 Grosvenor Square.

- The premises is a longstanding, Michelin starred, restaurant with a positive reputation serving, residents, workers and visitors and contributes to the character and function of the CAZ,
- No neighbour objections have been received either to the current planning application or to the recent licence application.
- This is a waiter-service restaurant with limited bar areas. No external seating is proposed
- The capacity of the premises will increase by only 46 customers, to a total of 136.
- Restaurant servicing is strictly controlled by the restaurant for operational reasons, taking place between 10.00 and 11.00, and these arrangements will remain unchanged.
- Existing arrangements for the processing and transfer of waste will continue.
- The submitted acoustic report confirms that the proposed restaurant extension would not adversely impact on levels of noise disturbance including to the residential uses on the upper floors.
- The adjoining properties are in office use and there would be two-floor buffer between the new dining area and the fourth floor flat.
- All existing operational/management controls would apply to the extended restaurant use.

In addition, the applicants have indicated their willingness to accept conditions to prevent takeaway sales, and the operation of a delivery service and requiring the windows to the first floor restaurant to be fixed shut.

8.4 Transportation/Parking/Servicing

The premises are centrally located and accessible by all forms of public transport. The site is within a Controlled Parking Zone and anyone driving to the premises would be subject to those parking restrictions. Consequently, it is not considered that the proposed increase in capacity would have a significant impact on on-street parking demand in the area or on the local highway network.

The application does not include any cycle parking provision. The Highways Planning Manager considers that, as that the floor area is being extended, there would appear to be no physical constraint to cycle parking provision for staff use. Standards in the Further Alterations to the London Plan would require two spaces to be provided. However, the applicants contend that the transfer of cycles up the narrow stairways would result in a potential safety hazard. They have pointed to the availability of TfL cycle parking provision in the immediate vicinity. Given the limited number of spaces required, and as this is a longstanding use, it is not considered that the absence of cycle parking provision could justify a recommendation for refusal.

All site deliveries would continue to take place from Queen Street. Limited servicing information has been provided and, although the overarching principals appear acceptable, it is considered that detailed servicing strategies should be secured by a Servicing Management Plan given the increase in capacity and floorspace. Conditions to prevent takeaway sales and the operation of a delivery service are also recommended as these activities would reduce the availability of parking for other road users and result in potential noise disturbance). The applicants have indicated their willingness to accept these conditions.

8.5 Economic Considerations

Any economic benefits generated by the proposals are welcomed

8.6 Access

WC accommodation for disabled customers would be provided at first floor level, which is accessible by lift.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Refuse /Recycling

The existing and proposed floorplans indicate refuse stores at ground floor level. The Project Manger (Waste) has raised no objection to the proposed arrangements, subject to conditions to prevent waste being stored on the highway and requiring the enlarged refuse store to be provided and maintained for that use.

8.8 London Plan

This application raises no strategic issues.

8.9 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.

8.10 Planning Obligations

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

8.11 Environmental Impact Assessment

Not relevant

8.12 Other Issues

Not relevant

9 BACKGROUND PAPERS

1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 19 April 2016
3. Response from Environmental Health dated 24 May 2016
4. Memoranda from Highways Planning Manger dated 15 April and 14 June 2016
5. E-mail from Project Officer (Waste) dated 12 July 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 THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk.

DRAFT DECISION LETTER

Address: Meadows House, 20-22 Queen Street, London, W1J 5PR

Proposal: Use of the first floor as an extension to the existing restaurant at basement and part ground floor levels (Class A3)

Plan Nos: 5503-PL-101; 376 PL-100

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

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 You must provide the waste store shown on drawing 5503-PL-101 before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the extended restaurant. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

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)

- 3 You must not allow more than 136 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 4 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 5 You must not operate a food or drink delivery service from the premises, even as an ancillary part of the primary Class A3 use

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 6 Customers shall not be permitted within the restaurant premises before 10.00 or after midnight on Monday to Saturday (not including bank holidays and public holidays) and between midnight and 00.30 the following Tuesday to Sunday mornings or before 12.00 and after 24.00 on Sundays, bank holidays and public holidays. (C12DD)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 7 No goods shall be accepted at the premises other than between 10.00 and 11.00 each day.

Reason:

In accordance with the submitted application and because we cannot grant planning permission for unrestricted use within Class A3 as it would not meet S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

- 8 You must keep the first floor restaurant windows (front and rear) closed at all times.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, 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. (R13EC)

- 9 Prior to the commencement of the restaurant use at first floor level you must apply to us for approval of a Servicing Management Plan for the restaurant. You must not commence the restaurant use at first floor level until we have approved what you have sent us. You must then operate the restaurant use in accordance with this approved Servicing Management Plan. (C26DB)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 10 No waste shall be stored on the highway

Reason:

To protect the environment 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)

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 may need separate licensing approval for the restaurant premises. 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)

- 4 You must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 5 This permission does not grant approval for any external alterations to the building including the installation of any new mechanical plant or ducting, or the replacement of any existing mechanical plant or ducting.
- 6 The Servicing Management Plan required under condition 10 must include full details of the delivery process, internal storage locations, the scheduling of deliveries and associated staffing.