

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 20 September 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	3-5 Wardour Street, London, W1D 6PB,		
Proposal	Use of basement as restaurant (Class A3) and erection of a full height rear extract duct.		
Agent	Mr Turabi Ay		
On behalf of	Mr W Cheung		
Registered Number	16/02558/FULL	Date amended/ completed	14 April 2016
Date Application Received	22 March 2016		
Historic Building Grade	Unlisted		
Conservation Area	Chinatown		

## 1. RECOMMENDATION

Grant conditional permission

## 2. SUMMARY

The application premises is situated at the southern end of Wardour Street close to its junction with Coventry Street. Permission is sought for use of the basement as a restaurant and the erection of a full height rear extract duct. The basement has been vacant since March 2014 and is believed to have last been used as storage space for offices (Class B1) on the upper floors.

The key issue for consideration is :

- \* The acceptability of the proposal in land use terms
- \* The impact of the restaurant on the character and function of the area and on residential amenity.

The proposal would bring the basement back into active use. There are no policies which seek to prevent offices from being converted into another commercial use. Given that the proposal would result in a small scale restaurant that would not be a late night entertainment use it is considered appropriate to this part of Soho. Subject to appropriate conditions the use is considered acceptable in accordance with relevant policies set out in the adopted Westminster's City Plan: Strategic Policies (the City Plan) and the Unitary Development Plan (UDP).

### 3. LOCATION PLAN



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## 4. PHOTOGRAPHS



## 5. CONSULTATIONS

### ORIGINAL APPLICATION

Soho Society

Objection to the loss of small offices (Class B1) and the provision of a restaurant (Class A3) in the West End Stress Area which is saturated with restaurants.

Cleansing

Request further details of refuse storage

Highways Planning

No objection

Environmental Health

Holding objection to low level extract system

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 27

Total No. of replies: 1

No. of objections: 1

1 objection that a low level extract duct does not comply with Council Policy. A high level extract duct is required. Potential noise nuisance from three air conditioning units.

### REVISED APPLICATION

Environmental Health

Response to be reported verbally

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application premises comprises basement ground and four upper floors. The basement has been vacant since March 2014, having previously been used as storage in connection with the offices on the upper floors. The site lies in the heart of the West End within the Core CAZ, the West End Stress Area and the China town Conservation Area.

The area is mixed use in character comprising a mix of retail, restaurant entertainment uses, offices and residential.

## **6.2 Recent Relevant History**

None directly relevant

## **7. THE PROPOSAL**

Permission is sought for the use of the basement as a restaurant (Class A3). Initially the proposal involved the provision of a low level extract system as ventilation for cooking. Further to advice from officers that this would not adequately disperse cooking fumes this aspect of the application has been amended and the scheme now includes the provision of a full height rear ventilation duct. The basement has an existing separate independent access and no external alterations are proposed to the front of the building.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Loss of Offices**

An objection has been received from the Soho Society to the loss of small office floorspace which they consider to be a more beneficial and appropriate use than the proposed restaurant. City Plan policy S18 encourages commercial development within the Core CAZ. City Plan Policy S20 protects offices but only where this is being converted to residential. Furthermore given that the basement has been vacant for over 2 years and has not contributed to the vitality of the area it is not considered that permission could reasonably be withheld due to the loss of office floorspace.

#### **Proposed Restaurant**

The proposal would see the creation of a new restaurant on site measuring 158 m<sup>2</sup>. The capacity is 60 covers the intended opening hours are between 11.00 and 23.00 daily. The proposed menu is based on Chinese/Japanese Hot Pot cooking with mainly stews, soups and noodle soups.

UDP Policies TACE 8-10 control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the city (whilst acknowledging that they provide services to people living in, working in and visiting Westminster and contribute to its role as an entertainment centre of national and international importance).

The UDP TACE policies are on a sliding scale in which proposals where TACE 8 is applicable will generally be permissible and where TACE 10 is applicable will only be permitted in exceptional circumstances. Given that the size of the premises (158 m<sup>2</sup>) situated within the West End Stress Area policy the application needs to be assessed against UDP policy TACE 8.

City Plan policy S24 is also applicable this states that 'New entertainment uses will need to demonstrate that they are 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 that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. New large-scale late-night entertainment uses of over 500 m<sup>2</sup> floorspace will not generally be appropriate within Westminster'.

The objection from the Soho Society is made on the basis that the West End Stress Area is already saturated with restaurant and a further restaurant would be harmful to the character of the area. It is acknowledged that there is an abundance of restaurants in this part of Soho in the Chinatown Conservation Area which are an important characteristic of the area. The proposal would result in the provision of a small low key restaurant within a basement which is long term vacant. It is considered that this would not be harmful to the character and function of the area.

The very modest and limited number of covers and opening hours which are within the core hours for entertainment uses are considered acceptable and the use would not have an adverse impact on residential amenity.

## **8.2 Townscape and Design**

The rear of the site is enclosed by buildings on Coventry Street and Rupert Street and is not visible from any public views. The proposed full height rear extract duct is in a relatively concealed location and would not be unduly prominent. This aspect of the application is considered acceptable, in accordance with City Plan policy S28 and UDP policies DES1, DES5 and DES9.

## **8.3 Residential Amenity (Daylight and Sunlight/ Sense of Enclosure )**

Proposed alterations are limited to a rear extract duct. This bulk and mass of the structure would have no material impact on the amenity of the occupants of any nearby properties.

## **8.4 Transportation/Parking**

As this is a conversion of part of an existing building no off street servicing can be provided. Servicing will take place on street. The largest regular service vehicle expected to be associated with this development in this location servicing is the refuse

collection vehicle. This will service this property in a similar fashion to the existing use and nearby properties.

The Highways Planning Manager advises that given the floorspace the London Plan requires 2 cycle parking spaces. The space should be accessible, covered and secure. There are however practical difficulties in providing cycle parking within the basement. In the circumstances it is considered that a condition requiring the provision of cycling parking could not reasonably be imposed.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

No change is made to the existing access arrangements

### **8.7 Other UDP/Westminster Policy Considerations**

An objection has been received from a nearby resident to the proposed low level extract system as an inadequate means of dispersing cooking fumes and that three air conditioning units will generate more noise and heat in addition to existing ones.

As already stated the application has been amended since the initial submission and a high level extract duct is now proposed. This is considered an adequate means of ventilating the kitchen and dispersing cooking fumes. No new or replacement air conditioning is proposed. Subject to a condition that the duct operates within the normal noise criteria this aspect of the application is considered acceptable.

### **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**

The scheme is of insufficient scale to require an Environmental Impact Assessment.

**8.12 Other Issues**

None.

**9. BACKGROUND PAPERS**

1. Application form
2. Response from Soho Society, dated 13 May 2016
3. Response from EH Consultation, dated 10 May 2016
4. Letter from occupier of 7 Wardour Street, London, dated 10 May 2016
5. Letter from occupier of Sawalana Limited, PO Box 227, dated 27 May 2016
6. Response from Highways Planning Manager dated 8 June 2016
7. Memorandum from Cleansing dated 27 April 2016.

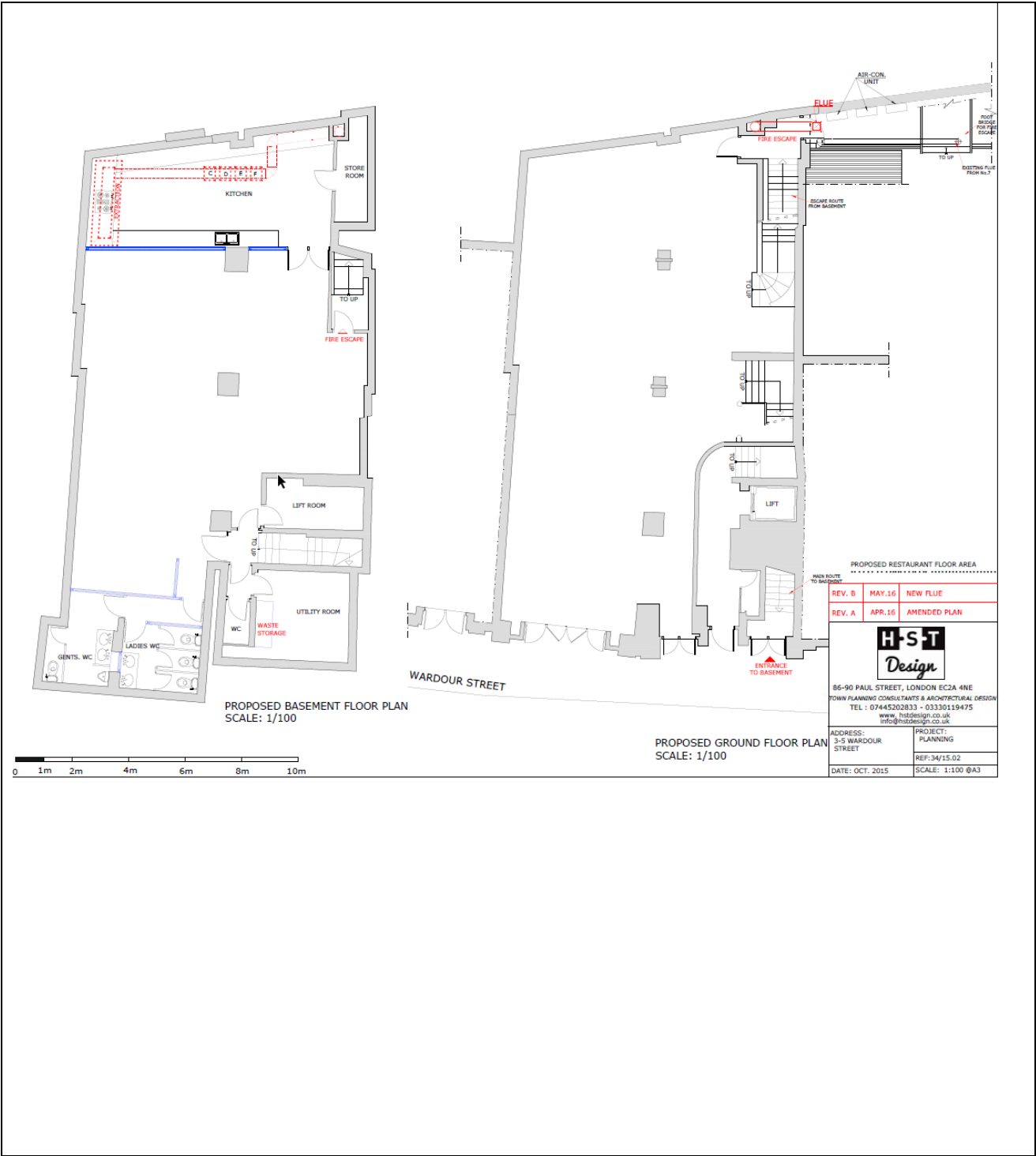
**Selected relevant drawings**

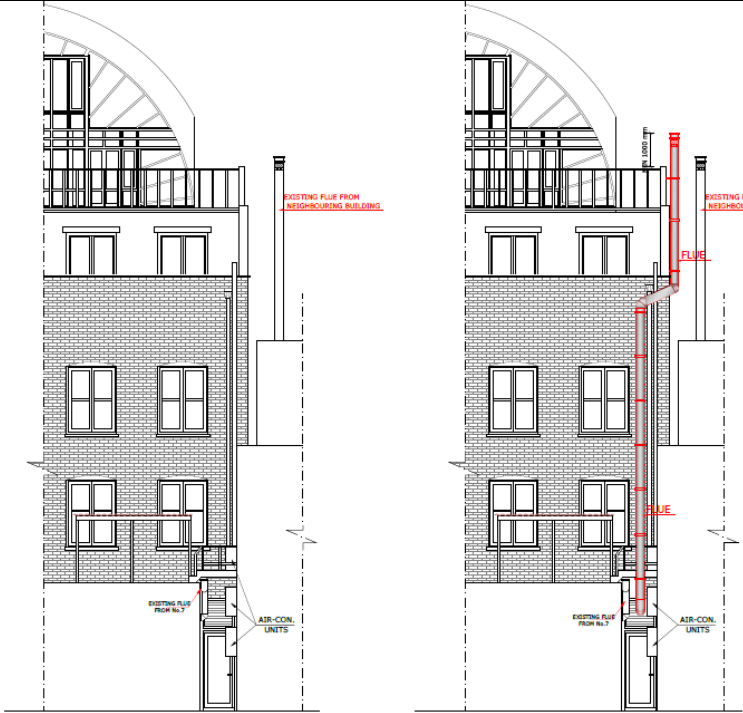
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT: [MWALTON@WESTMINSTER.GOV.UK](mailto:MWALTON@WESTMINSTER.GOV.UK).



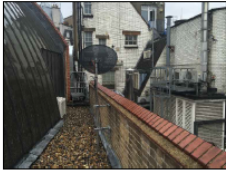
10. KEY DRAWINGS





EXISTING REAR ELEVATION  
SCALE: 1/100

PROPOSED REAR ELEVATION  
SCALE: 1/100



REAR VIEW

REV. B	MAY.16	NEW FLUE
<b>H-S-T</b> Design		
86-90 PAUL STREET, LONDON EC2A 4NE TOWN PLANNING CONSULTANTS & ARCHITECTURAL DESIGN TEL : 07445202833 - 03330119475 www.hstdesign.co.uk info@hstdesign.co.uk		
ADDRESS: 3-5 WARDOUR STREET		PROJECT: ELEVATIONS RFP-34/15.02A
DATE: OCT. 2015		SCALE: 1:100 @A3

**DRAFT DECISION LETTER**

**Address:** 3-5 Wardour Street, London, W1D 6PB,

**Proposal:** Use of basement as restaurant (Class A3) and erection of a full height rear extract duct.

**Plan Nos:** 34/15.02, 34/15.02A

**Case Officer:** Mike Walton

**Direct Tel. No.** 020 7641 2521

**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 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;

- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

**Reason:**

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 3 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

**Reason:**

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 4 Customers shall not be permitted within the restaurnt premises before 11.00 or after 23.00 each day. (C12AD)

**Reason:**

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of

Westminster's City Plan (July 2016) and ENV 6, ENV 7 and TACE8 of our Unitary Development Plan that we adopted in January 2007.

- 5 You must not allow more than 60 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007 and S24 of our City Plan ( July 2016) . (R05AB)

- 6 The restaurant use hereby approved shall not commence until the extract duct has been installed as shown on drawing No 34/15.02A and the duct shall thereafter be permanently retained whilst the restaurant use is in operation.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007 and S24 of our City Plan ( July 2016) .

- 7 You must apply to us for approval of details of how waste is going to be stored on the site. 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 waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the restaurant. You must not use the waste store for any other purpose. (C14CD)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (July 2016) 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 (July 2016), 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 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise,

smells or other types of nuisance. (I06AA)

- 3 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 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)