

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 14 November 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	11 Berkeley Street, London, W1J 8DS,		
<b>Proposal</b>	Use of part-ground and part-basement levels as a restaurant (Class A3). Installation of associated plant including air condenser unit and combined gas boiler and flue at main roof level and 4no. external kitchen extract ducts and 3no. air supply ducts rising from to basement to first floor levels on the rear southern elevation and across the roof at second floor level leading to 2no. filtered extraction units and a fresh air handling unit, extension of the 2no. extract ducts from second floor level to high level positioned on the side wall of 38 Dover Street. Creation of a smoking terrace on southern elevation within lightwell comprising of decking on cantilever steel supports and a frosted glass roof.		
<b>Agent</b>	CgMs Consulting		
<b>On behalf of</b>	Berkeley Eats Limited		
<b>Registered Number</b>	16/01377/FULL	<b>Date amended/ completed</b>	16 February 2016
<b>Date Application Received</b>	16 February 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site is an unlisted building located on the eastern side of Berkeley Street. The building comprises basement, ground and five upper storeys and is currently in office use (Class B1). The site is within the Mayfair Conservation Area and Core Central Activities Zone (CAZ).

Permission is sought for the use of part-ground and part-basement levels as a restaurant (Class A3) and installation of associated plant and kitchen extraction. Creation of a smoking terrace on southern elevation within the lightwell with decking supported on cantilever steel supports and a frosted glass roof.

The plant and kitchen extraction includes an air condenser unit and combined gas boiler and flue at main roof level; 4no. external kitchen extract ducts and 3no. air supply ducts rising from to basement to

first floor levels on the rear southern elevation and extending across the roof at second floor level leading to 2no. filtered extraction units and a fresh air handling unit. The extension of the 2no. extract ducts from second floor level to high level positioned on the side wall of 38 Dover Street.

The key issues for consideration are:

- The impact of the proposed restaurant in land use terms and upon the amenities of neighbouring residents.

The application is considered acceptable in land use, amenity, design and conservation terms and is in accordance with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan).

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Front elevation of application site



View of southern elevation of 11 Berkeley Street and relationship to the terrace at 40 Dover Street



View of south elevation of 38 Dover Street where the high level extract duct will be located.



## 5. CONSULTATIONS

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

No objection

### ENVIRONMENTAL HEALTH

No objection, the kitchen extracts duct raises to full height and will ensure adequate dispersion of cooking odours.

### CLEANSING

No objection

### HIGHWAYS PLANNING

No objection, subject to controls to restrict a delivery service and provision of cycle parking.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 44

Total No. of replies: 10

No. of objections: 10 (from 7 objectors)

10 letters of objection have been received raising some or all of the following grounds:

#### Land use

- Berkeley Street has reached saturation point with 2 hotels, one casino and 7 restaurants and cafes.
- Office floorspace is being lost and will result in Mayfair losing its daytime vibe-the street needs more A1 not A3Amenity
- Smells and noise from plant due to close proximity to building. It is unlikely that the background noise levels and conditions imposed by the City Council will be complied with.
- Late night opening (until 1.30am) will create noise issues and anti-social behaviour. This is already experienced when people are leaving other establishments such as Nobu, Mayfair Bar, Funky Buddha and Novikov
- Congregation in front of No. 10 Berkeley Street
- Sounding of horns is a common cause of being woken up in the early hours.

#### Parking/Highways

- Traffic congestion/late night parking – already suffering from double parked vehicles which will become worse if plans for a new bus stop on the eastern side of Berkeley Street is implemented.

#### Other

- Workers are already on site which is disturbing residents.
- Lack of drawings/information/details relating to items of plant and duct, sound insulation and noise breakout.



Following the submission of revised plans and information relating to high level extract duct on the side wall of No. 38 Dover Street, the application was re-advertised. No additional letters of representation have been received.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site is located on the eastern side of Berkeley Street. It is an unlisted building located within the Mayfair Conservation Area and Core Central Activities Zone (CAZ). It occupies basement, ground and five upper storeys and is in office use (Class B1). Part of the ground floor is currently vacant with internal alterations currently being carried out. An office occupier is currently using the part basement. There are two existing separate entrances from Berkeley Street; one entrance will be retained for access to the offices and one on the southern side to be utilised by the proposed restaurant.

Adjoining the application site to the south is 10 Berkeley Street which is a residential building (where most of the objections originate from) with commercial at ground floor, and adjoining to the north; 12 Berkeley Street is a commercial building, with a gallery (Class A1) at ground floor level and offices (Class B1) above.

### **6.2 Recent Relevant History**

Planning permission was granted 2 July 2015 for alterations to the front facade to include replacement glazing and window/door frames.

## **7. THE PROPOSAL**

Permission is sought for the use of part-ground and part-basement levels as a restaurant (Class A3) and installation of associated plant and kitchen extraction and ventilation. A smoking terrace is proposed and this is situated on the southern elevation at ground floor level. The decking will be supported on cantilever steel supports and includes a frosted glass roof.

The plant and kitchen extraction includes an air condenser unit and combined gas boiler and flue at main roof level; 4no. external kitchen extract ducts and 3no. air supply ducts rising from to basement to first floor levels on the rear southern elevation and extending across the roof at second floor level leading to 2no. filtered extraction units and a fresh air handling unit. The ducts at second floor level will be extended to roof level on the side elevation of 38 Dover Street.

The intended user of the restaurant is Samba Brands who operate Duck & Waffle in the City of London, as well as other restaurants internationally. Raw and Barbecue is their new concept with a focus on raw produce.

The proposed restaurant comprises 499.5m<sup>2</sup> and will have a seated capacity of 150 with a further 25 covers within the holding bar for pre meal or post meal drinks. The opening



hours will be in line with the Council's core opening hours for entertainment uses of Monday - Thursday 08:00 - 00:00, Friday – Saturday 08:00 – 00:30 and Sunday 09:00 – 00:00.

The application proposes a full height extract duct which will rise up the southern elevation from the basement across the rear of the building at second floor level, then extend to roof level of 38 Dover Street. A smoking area has been relocated from the front entrance to an area to the rear of the site adjoining the existing Arts Club terrace (40 Dover Street).

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Loss of offices**

An objection has been received stating that the loss of offices is a concern for Mayfair's daytime "vibe". Office floorspace is protected in the City Plan but only where the proposed use would be residential, as this proposal is for a different commercial use, the loss of offices is acceptable. It is not considered that the loss of these offices will have an impact on the daytime activity in Mayfair and therefore the objection is not considered to be sustainable.

#### **Restaurant Use**

Policy S24 of the City Plan applies to all entertainment uses and 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 residential amenity, health and safety, local environmental quality and the character and function of the area. Policy S24 states that new large scale late night entertainment uses of over 500sqm will not generally be appropriate.

The proposed restaurant comprises 499.5m<sup>2</sup> and is located outside any stress area and therefore Policy TACE8 of the UDP is applicable. The proposed restaurant will include a bar, but this will only be used by customers of the restaurant before, during and after their meals. It is noted that the proposed floorspace is very close to the next floorspace threshold of 500m<sup>2</sup>. Any entertainment uses with a floorspace of 500m<sup>2</sup> and above are assessed under Policy TACE10 where entertainment uses are only permissible in exceptional circumstances. The applicants have kept an area at ground floor level as a void to prevent the floorspace breaching the 500m<sup>2</sup>, a condition is recommended to ensure that this void is kept in situ.

TACE 8 states that permission will only be granted for proposals where the City Council is satisfied that the proposed development has no adverse effect upon residential amenity or local environmental quality or upon the character or function of its area paying particular regard to noise and vibration, smells prevention of smells, service arrangements and increase in late night activity.

The City Council will take into account the need for conditions, and where relevant, necessary and appropriate, will impose them to control the number of customers who may

be present on the premises, the opening hours, the arrangements to be made to safeguard amenity and prevent smells, noise and vibration disturbance (including that from the use of ventilation and air conditioning plant) from the premises and servicing arrangements etc.

The site is located within a predominately commercial location; there is some residential in the area, notably the upper floors of 10 Berkeley Street, which contains 19 flats, immediately next door. There have been a number of objections from residents in this building to the introduction of entertainment uses in this area and the impact on residential amenity.

There are other entertainment uses in close proximity to the site, including established uses at No.15 (Nobu), No.17 (Park Chinois), No.19 (Bocconciono Restaurant), No.20 (Café Pushkin), No.39 (Mayfair Bar) and No.50A Berkeley Street (Novikov Restaurant and Bar). There is also a private members club to the rear of the site at 40 Dover Street, this club has a large outdoor terrace, which operates without any planning restrictions.

More recently permission was been granted in November 2014 at 4-6 Berkeley Square for a restaurant with over 800sqm floorspace with extended opening hours (up to 02:00 for a trial period). However, it is acknowledged that nearby residential properties are separated from this site by Bruton Lane and thus offers greater protection to nearby residential occupiers.

As a result of the content and number of objections, negotiations have been undertaken with the applicant to seek a more acceptable entertainment use in close proximity to neighbouring properties. Originally, the applicant proposed that the restaurant would be open until 01.15, it is now proposed that the restaurant will comply with the Council's entertainment core hours (Monday - Thursday 08:00 - 00:00, Friday – Saturday 08:00 – 00:30 and Sunday 09:00 – 00:00). The smoking area has been relocated from the front of the building to the southern elevation at the side of the rear extension, adjacent to a terrace which is used in connection with the Arts Club at 40 Dover Street. However, it is questioned whether this smoking terrace will comply with Environmental Health legislation.

The application is supported by a draft operational management plan, indicating how patrons will leave the premises to ensure the impact on neighbouring occupiers is reduced. This includes self-closing doors at the main entrance to ensure that internal noise is not carried onto the street and a doorman to manage patrons leaving and coordinate the arrival of taxis in order to limit the number of people outside the premises, a designated taxi/limousine firm for the restaurant, and a direct contact number for local residents to report any disturbances.

There are no residential properties within the building itself. The agent has confirmed that no windows serving the restaurant would be openable. Music would be for background atmosphere only, with no live music performed on the premises. With the implementation of self-closing doors, no live or recorded music being audible outside and no windows being openable, it is considered that the measures are sufficient to protect neighbouring occupiers from noise nuisance emanating from the proposed restaurant. On this basis it is considered that the restaurant is acceptable and the objections are considered to have been addressed as far as reasonably possible.

Servicing (loading and unloading good from vehicles and putting waste outside building) will take place between 07:30 and 11:30 on Mondays to Saturdays. Deliveries will be normally undertaken in transit style vehicles or smaller and will take place from Berkeley Street. It is not considered the size of the proposed restaurant will generate significant vehicular traffic and the proposed restaurant use is not considered to have an adverse impact on the highway. A servicing management plan has been submitted detailing how the effect of any servicing generated by the site on the public highway will be limited. A condition is recommended requiring an updated servicing strategy. The applicant indicates that no delivery service is intended to operate from the site and a condition shall be imposed to restrict this.

Suitable storage arrangements for waste and recycling material will be provided and conditioned, as shown on the submitted plans.

Given the busy nature of this area, in close proximity to Piccadilly, the proposed opening hours and servicing times are considered acceptable. It is considered that the proposed mitigation measures as detailed above will minimise potential disturbance from customers and deliveries, and conditions are recommended in order to secure these measures.

With regards to concerns that the proposals will lead to an unacceptable relationship with existing late night uses, it is acknowledged that there are other late-night uses within the surrounding area and this part of Mayfair is mixed in character, with surrounding uses including a hotel, commercial premises and residential units. It is not considered that the proposed restaurant, especially given its relatively small capacity, would increase this to an unacceptable level given the Core CAZ location.

Following negotiations to the scheme, these changes were the subject of a second round of consultation, and no further objections were raised.

Objections have also been raised stating that the restaurant use would attract anti-social behaviour. Whilst these concerns are noted, it is not considered that they are a justifiable planning reason to warrant refusal.

The applications are therefore considered acceptable in line with Policy TACE8 and S24.

## **8.2 Townscape and Design**

11 Berkeley Street is within the Mayfair Conservation Area and is not listed. None of the adjacent buildings are listed; the nearest listed buildings are at 37 and 42 Dover Street are visible with the site.

The small area to the rear of the recent extension of the application site has a utilitarian appearance, characterised by existing plant, fire escape stairs and tall featureless walls.

At low levels the proposed location for plant is essentially in a lightwell of windowless walls. There are numerous items of plant proposed and a condition is recommended to ensure that these items are screened.

The extract duct will run up the side wall of 38 Dover Street, terminating above roof level, in line with the existing chimneys. The amount of equipment that will be visible is modest and the main views of the equipment will be from the site itself and from 12 Berkeley Street and 39 Dover Street. It is considered that the extract duct should be boxed in and rendered to match the adjoining brickwork.

No changes are proposed to the consented scheme for the shopfront to Berkeley Street.

The proposals are not considered to have a significant impact in terms of the appearance of the building or the character of the Mayfair Conservation Area.

### **8.3 Residential Amenity**

All properties immediately surrounding the site, other than 10 Berkeley Street, are in commercial use, comprising generally of galleries at lower levels and offices located within the upper floors. As detailed above there would be a modest view of the plant and ducting from surrounding commercial properties. The position, size and scale of the extract duct and plant in relation to these properties, particularly No. 10, is acceptable in terms of height, bulk and mass.

Objections have been raised from one of the occupiers of the commercial building to the rear of the site, regarding the outlook onto plant and extract ducts. Whilst these concerns are noted, the views from commercial properties are not protected and carry very little weight in the determination of the application. Nevertheless, the duct will be clad to match the external side wall of 38 Dover Street therefore reducing its impact and a visual screen to conceal the plant at the rear of 11 Berkeley Street.

### **8.4 Transportation/Parking**

#### **Car parking**

The site is located within a Controlled Parking Zone, meaning that anyone driving to the site would be subject to these controls. The impact of the change of use on parking levels is expected to be minimal and would be similar to the existing use and objections on this basis are unsustainable in this regard.

#### **Cycle parking**

Further Alterations to the London Plan (FALP) standards indicate that three cycle spaces should be provided for the restaurant floor space. The documents detail that cycle parking is included but this is not indicated on the submitted plans. A condition is recommended requiring the submission of details showing three cycle parking spaces. These spaces should be secure, accessible and weatherproof.

### **8.5 Economic Considerations**

The proposal provides an economically viable use that enables continued use of this unit.

### **8.6 Access**

Access to the restaurant will be unchanged from the consented scheme for the shopfront, which allows level access from street level. Within the entrance lobby a sesame lift will enable access into the restaurant where there is also a DDA complaint lift and WC internally.

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

### **Plant**

Policies ENV6 and ENV7 of the UDP seek to protect occupants of adjoining noise sensitive properties from the impacts of noise from new development, including from plant. The property has been assessed as being in an area in which existing ambient noise levels exceed WHO guideline Levels. Objections are raised in respect to noise from plant being located close to residential and commercial properties.

Environmental Health have not objected to the proposed extract duct subject to specified noise attenuation measures, distance attenuation and shielding as specified in the accompanying acoustic report. The duct and plant will be conditioned to minimise noise levels and vibration. It is not considered that the objections on noise arising from the plant could be sustained.

## **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. The development would not be liable for Westminster's CIL.

## **8.11 Environmental Impact Assessment**

The proposal is of an insufficient scale to require an environmental assessment.

## **8.12 Other Issues**

Objectors have stated that work is already being undertaken which is causing disturbance. As the building is unlisted, internal works can be undertaken within requisite planning consent and therefore this is not a sustainable objection.

An objector commented that sufficient plans were not submitted as part of the application. Additional plans, elevations and details were provided by the agent during the course of the application that detailed the proposed external alterations. Additional neighbour consultation has been undertaken and the plans demonstrate sufficiently the works that are proposed.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 29 March 2016
3. Response from Environmental Health, dated 7 March, 5 July, 28 September and 12 October 2016
4. Response from Cleansing, dated 8 March 2016 and 14 June 2016
5. Response from Highways Planning, dated 10 March 2016 and 14 June 2016
6. Letter from occupier of Flat 1, 10 Berkeley street, dated 20 March 2016
7. Letter from occupier of 17 Berkeley Street, London, dated 17 March 2016
8. Letter from occupier of ERCO, 38 Dover Street, dated 12 April 2016
9. Letter from occupier of Flat 8, 10 Berkeley Street, dated 15 March 2016
10. Letter from occupier of ERCO Lighting Limited, dated 22 March 2016
11. Letter from occupier of Flat 19, 10 Berkeley Street, dated 12 March 2016 and 11 April 2016
12. Letter from occupier of 10, Berkeley Street, dated 11 April 2016
13. Letter from occupier of Flat 2, 10 Berkeley St, dated 15 March 2016
14. Letter from occupier of Flat 3, 10 Berkeley Street, London, dated 20 March 2016

(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: HELEN MACKENZIE BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk).

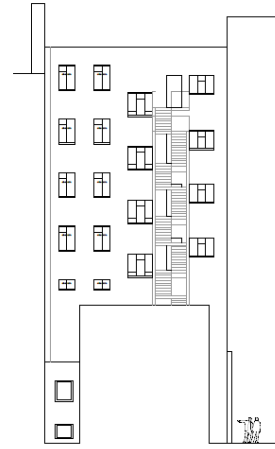




### Existing south elevation



Existing South Elevation

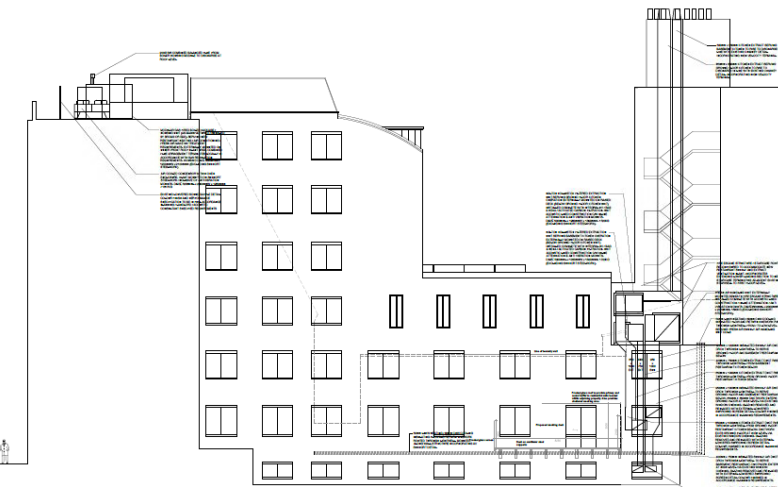


Existing West Elevation

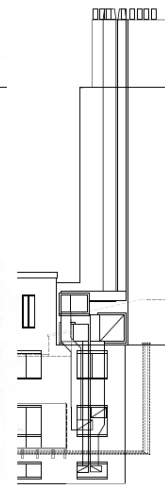


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London  
Title:  
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Date:  
2021-P-055  
Sheet:  
A  
Franklin  
design  
The Coach House, 28 Kings Parade West  
Oxford, Bucks, HP8 5PE  
01753 634200  
info@frankindesign.co.uk  
www.frankindesign.co.uk

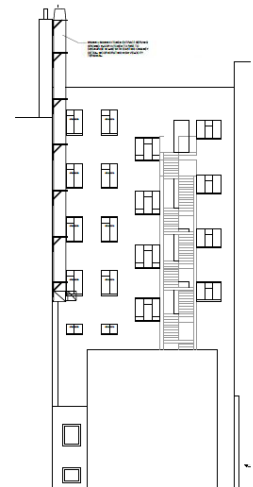
### Proposed south elevation



Proposed South Elevation



Proposed Part South Elevation  
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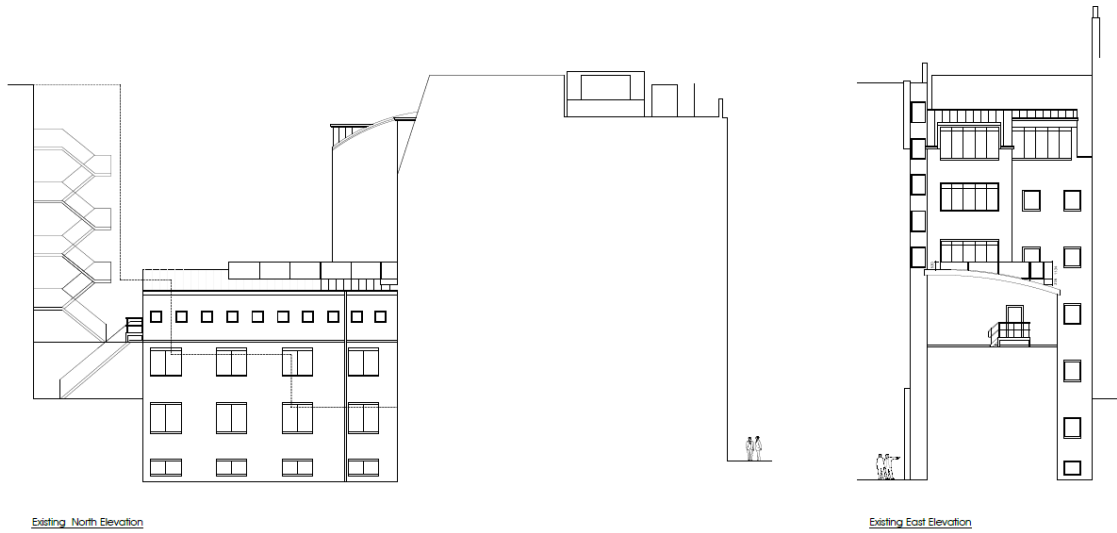


Proposed West Elevation



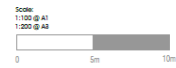
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London  
Title:  
Proposed South  
& West Elevations  
Drawn:  
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1:200@A2  
Date:  
2021-P-155  
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Franklin  
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The Coach House, 28 Kings Parade West  
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www.frankindesign.co.uk

### Existing north and east elevation



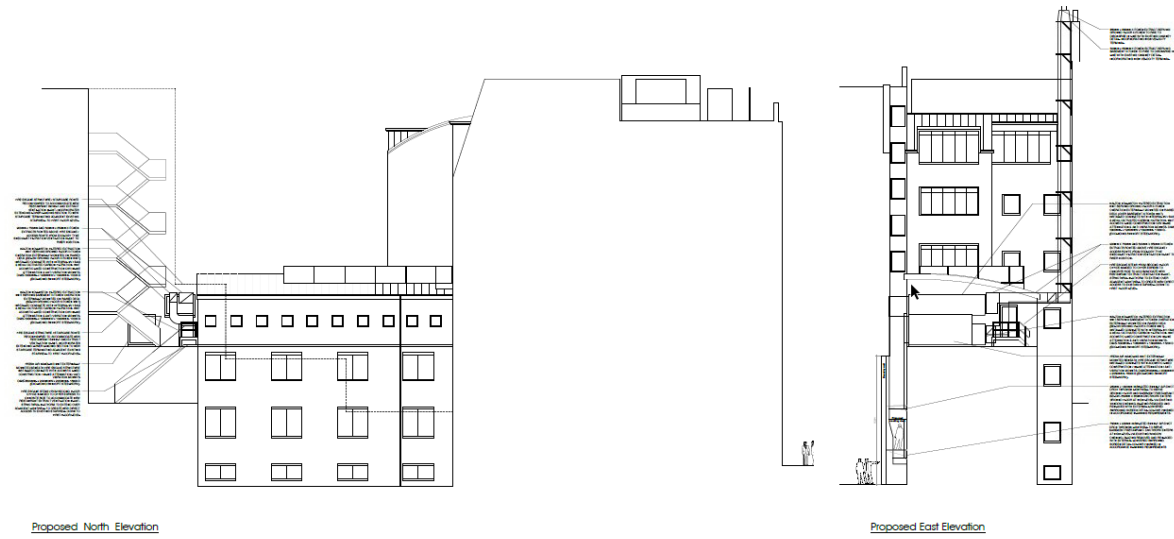
Existing North Elevation

Existing East Elevation



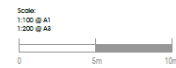
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11 Berkeley Street London	
Title	
Existing North & East Elevations	
Scale	Sheet No.
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1:200 @ A3	
Revision	Author
2021-P-058	A
Franklin design	
architects	
The Clapham House, 29 Kings Parade Mews Clapham, South East London CR1 1 1AA, UK 0203 918 8000 info@frankindesign.co.uk www.frankindesign.co.uk	

### Proposed north and east elevation



Proposed North Elevation

Proposed East Elevation



Project	
11 Berkeley Street London	
Title	
Proposed North & East Elevations	
Scale	Sheet No.
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1:200 @ A3	
Revision	Author
2021-P-150	A
Franklin design	
architects	
The Clapham House, 29 Kings Parade Mews Clapham, South East London CR1 1 1AA, UK 0203 918 8000 info@frankindesign.co.uk www.frankindesign.co.uk	

Item No.
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<b>6</b>
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**DRAFT DECISION LETTER**

**Address:** 11 Berkeley Street, London, W1J 8DS,

**Proposal:** Use of part-ground and part-basement levels as a restaurant (use class A3). Installation of associated plant including air condenser unit and combined gas boiler and flue at main roof level and 4no. external kitchen extract ducts and 3no. air supply ducts rising from to basement to first floor levels on the rear southern elevation and across the roof at second floor level leading to 2no. filtered extraction units and a fresh air handling unit, extension of the 2no. extract ducts from second floor level to high level positioned on the side wall of 38 Dover Street. Creation of a smoking terrace on southern elevation within lightwell comprising of decking on cantilever steel supports and a frosted glass roof.

**Reference:** 16/01377/FULL

**Plan Nos:** 2921-P-100 Rev H, 2921-P-102 Rev A, 2921-P-155-Rev A, 2921-P-156-Rev A.

**Case Officer:** Lindsay Jenkins

**Direct Tel. No.** 020 7641 5707

**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 must carry out any building work which can be heard at the boundary of the site only:,

- \* between 08.00 and 18.00 Monday to Friday,;
- \* between 08.00 and 13.00 on Saturday; and,
- \* not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

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)

- 3 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 TACE8 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 4 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S25 of Westminster's City Plan (July 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 5 You must not allow more than 175 customers into the property at any one time. (C05HA)

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S25 of Westminster's City Plan (July 2016) and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 6 Customers shall not be permitted within the restaurant (Class A3) before 08:00 or after 00:00 on Monday to Thursday, or before 08:00 or after 00:30 Fridays and Saturdays (not including bank holidays and public holidays) and before 08:00 or after 00:00 on Sundays, bank holidays and public holidays.

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. (R12AC)

- 7 The Class A3 use allowed by this permission must not begin until you have fitted self-closing doors at the front onto Berkeley Street. You must not leave these doors open except in an emergency or to carry out maintenance. (C13MA)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 8 You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant (Class A3) use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant (Class A3) is in use. (C05JB)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 9 You must provide the waste store shown on drawing 2921-P-100 Revision H before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the restaurant (Class C3). 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 (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 10 You must not commence the A3 use allowed by this permission until a Servicing Management Plan has been submitted to and approved by the City Council. You must not commence the A3 use until we have approved what you have sent us. You must then carry out the measures included in the servicing management plan at all times that the A3 (restaurant) is in use. The service management plan should identify the hours of servicing, delivery process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and should clearly outline how servicing will occur on a day to day basis.

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 TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 11 You must apply to us for approval of details of secure cycle storage for the restaurant (Class A3) use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 12 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 13 (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.

- 14 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 15 You must apply to us for approval of a detailed scheme for the treatment of the external duct where it rises up the rear of 38 Dover Street, whereby the duct is boxed in, rendered and painted to match the colour and material of the building against which the duct rises. This scheme must

include specific details relating to the regular repainting and future maintenance of the external duct.

You must not start any work on the external duct until we have approved what you have sent us. You must then carry out the work and maintain the duct in accordance with this scheme.

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 16 You must keep the void at ground floor level open at all times that the A3 restaurant is in use.

**Reason:**

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 17 You must apply to us for approval of details a visual screen to conceal the air handing equipment and ducting attached to the rear of 11 Berkeley Street.

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

**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 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 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)

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.