

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 17 <sup>th</sup> January 2017	<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>	<b>25 - 26 Albemarle Street, London, W1S 4HX,</b>		
<b>Proposal</b>	Use of the ground and basement floors as a restaurant (Class A3), installation of plant at rear first floor level and roof level with a high level extract duct on the rear elevation. Installation of two high level gas flues on the rear elevation and installation of a replacement rooflight at rear first floor level.		
<b>Agent</b>	Daniel Rinsler & Co		
<b>On behalf of</b>	Aldwych Properties		
<b>Registered Number</b>	16/10126/FULL	<b>Date amended/ completed</b>	4 November 2016
<b>Date Application Received</b>	21 October 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional planning permission.

## 2. SUMMARY

25-26 Albemarle Street is an unlisted building located in the Mayfair Conservation Area and the Core Central Activities Zone but outside of any designated stress area. The building comprises basement, ground and first to fourth floor levels, with a retail unit at basement and ground floor levels (last occupied by a hairdressers) and office accommodation on the upper floors.

Planning permission is sought for the change of use of the retail floorspace to a restaurant, with a high level extract duct and gas flues on the rear elevation to terminate at main roof level. At rear first floor level it is proposed to install new plant and replace a roof light.

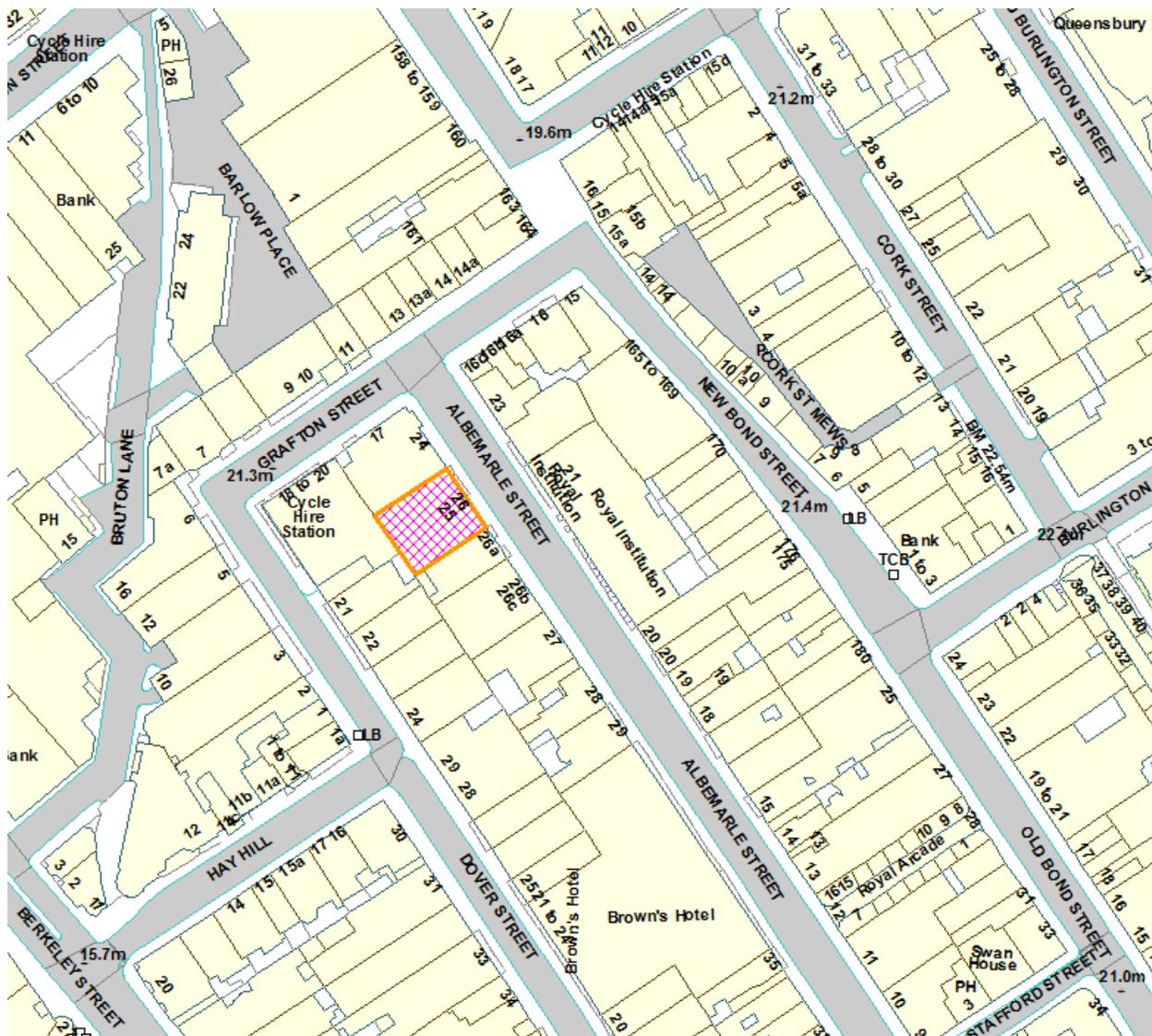
The key issues are:

- The loss of existing retail accommodation.
- The impact of the proposed restaurant on the amenity of nearby sensitive occupiers.

The loss of the retail accommodation is considered acceptable in this instance taking into account the

built form of the property and its location. Subject to appropriate conditions it is also considered the proposed restaurant use will be acceptable in terms of its impact upon residential amenity in the vicinity. The proposal is therefore considered acceptable in land use, transport, design and amenity terms. The application is recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and City Plan policies.

### 3. LOCATION PLAN



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

PHOTOGRAPHS



#### 4. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S  
Any response to be reported verbally.

ENVIRONMENTAL HEALTH  
No objection subject to conditions.

HIGHWAYS  
No objection subject to conditions.

CLEANSING  
No objection subject to conditions.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 60  
Total No. of replies: 30; No. of objections: 0

30 letters of support on the following grounds:

\* Improved vitality of the street and the area.

\*The existing shopfront and window arrangement of the unit mean it is inappropriate for a retail use.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

#### 5. BACKGROUND INFORMATION

##### 5.1 The Application Site

25-26 Albemarle Street is an unlisted building located in the Mayfair Conservation Area and the Core Central Activities Zone. The property is located outside of the designated stress areas and the West End Special Retail Policy Area and comprises basement, ground and first to fourth floor levels. There is a retail premises (Class A1) at basement and part ground floor level which was previously occupied by a hairdressers but is now vacant, the upper floors (with ground floor entrance) are utilised as office accommodation (Class B1). The building is located on the western side of Albemarle Street at the northern end near the junction with Grafton Street.

##### 5.2 Recent Relevant History

None relevant.

#### 6. THE PROPOSAL

The existing retail premises are currently vacant but were previously occupied by Michael John hairdressers until they vacated on 19th July 2016. Permission is sought to change the premises to a restaurant use and install a high level extract duct to serve the kitchen with two gas flues to serve internal fires on the rear elevation of the property. The kitchen

extract duct would run to the main roof level of the property and would terminate above the height of the roof of the adjoining building to the south (26a Albemarle Street).

At rear first floor level, there is an existing roof lantern serving the retail unit which is to be replaced and enlarged and it is also proposed to install plant on this flat roof area.

The change of use of the retail floor space to restaurant results in an entertainment use measuring 614 m<sup>2</sup> (GEA)

	<b>Proposed restaurant incorporating basement and ground floor level</b>
Total A3 Floorspace (m <sup>2</sup> )	614m <sup>2</sup>
No. of covers in restaurant	120
Hours of Operation	10.00 to 00.00 Monday to Thursday, 10.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday, 12.00 to 23.00 on Sundays.
Ventilation arrangements	Full height kitchen extract duct and associated plant
Refuse Storage arrangements	To be stored within separate refuse and recycling storage areas at basement level.

## 7. DETAILED CONSIDERATIONS

### 7.1 Land Use

#### Loss of retail accommodation

The ground and basement floors are considered to be in lawful retail use (Use Class A1).

Policy S21 of the City Plan states that 'existing A1 retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let'. The supporting text advises that this approach will ensure that the needs of customers and retailers across the city are met through the retention of the number of shops and overall amount of retail floorspace.

Policy SS5 of the UDP also seeks to resist the loss of retail floorspace within the Central Activities Zone; outside of the Prime Shopping Frontages the policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

In support of the proposal the applicant has argued that a number of former restaurants in Albemarle Street have recently changed to retail accommodation using permitted development rights resulting in a lack of entertainment facilities to complement the retail provision in the vicinity. Further they consider the lightwell at the front of the property prohibits the unit having a 'traditional' shopfront as required by certain retailers and this has also been noted in some of the letters of support of the application which have been

received. Whilst this argument is of some merit, in this location popular with luxury, 'destination' retailers it is not considered a 'traditional shopfront' would be essential to enable a viable retailer to occupy the retail unit. The applicant has also provided an assessment of the viability of the unit submitted by Savills who marketed the unit for retail purposes when the hairdressers wanted to surrender the lease on the property. The information submitted by Savills is not a full marketing report for the property and is more a commentary on the retail market in Albemarle Street and how a high end restaurant in the street would be complimentary to the luxury offering in the vicinity. As such the City Council has not had the document independently assessed and little weight can be attached to the information provided in the document besides the general assessment of the area.

The unit is located at the northern end of Albemarle Street, close to the junction with Grafton Street, this part of the street does not have such a strong retail character compared to the southern end of the street which is closer to Piccadilly, and a large part of the frontage on the opposite side of Albemarle Street is dominated by the Royal Institution. The adjoining property to the north is a retail jewellery store on the junction with Grafton Street, the neighbouring property to the south is in use as residential flats, and this adjoins a restaurant. Browns Hotel is further south along Albemarle Street on the western side and also takes up a large part of the street frontage which further breaks up the retail character and function at this end of the street.

It is acknowledged that the proposal would result in three consecutive ground floor premises on the western side of Albemarle Street in non-A1 use, contrary to Part C of Policy SS5. However, Policy SS5 does allow for some flexibility for the introduction of a non-A1 use where it would not be detrimental to the character or function of the area. As set out above, given its location, it is not considered that the loss of the unit would undermine the function of the area, and for this reason it is not considered the loss of retail floor space can be resisted in this instance.

### **Proposed restaurant use**

This application proposes a new restaurant premises at part basement and ground floor levels measuring 614m<sup>2</sup>. The proposal must therefore be considered against the relevant City Council policies relating to entertainment uses. Policy S24 of Westminster's City Plan 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'. The policy also states that new large scale late night entertainment uses measuring in excess of 500m<sup>2</sup> (GEA), will not generally be appropriate within Westminster.

Policy TACE 10 of the UDP is also applicable and this states that entertainment uses over 500m<sup>2</sup> will only be permissible in exceptional circumstances'.

The site is located within the Core CAZ which is identified within Policy S6 of the City Plan as being an appropriate location for a range of commercial uses. The immediate vicinity is characterised mainly by commercial uses with most of the neighbouring buildings in use as office accommodation on the upper floors and retail / restaurants on the lower floor

levels. The nearest residential accommodation are the five flats in the adjoining building to the south (No. 26A). It is noted that no objections have been received to the current application from the occupiers of these flats. Besides these flats, Council records indicate the next nearest residential units are at 13 Grafton Street being a distance of approximately 40 m away.

The 'exceptional' circumstances the applicant has put forward are primarily with regard to the location of the premises within the Core CAZ but outside of a designated Stress Area, the type of use proposed with a high degree of management and that there are very few sensitive properties in the vicinity. It is acknowledged that there are very few residential properties in the vicinity of the premises (with the exception of the neighbouring property to the south) and this is reflected in the fact that no objections have been received to the application.

The applicant has also referenced a number of other properties along Albemarle Street (further south) where over the past few years the occupiers have exercised their permitted development rights to change from a restaurant / café use to retail accommodation. Whilst this is noted, there is no policy justification for alternative retail units to be changed to restaurant use, unless the application forms part of a formal land use swap.

The applicant has also provided an Operational Management Plan which they consider could be conditioned and is tailored to reduce noise and disturbance for residential occupiers in the vicinity, through controls on deliveries and customers entering and leaving the premises. There will be a qualified person at the door of the premises at all times to ensure customers leave the premises quickly and quietly and to ensure no vehicles are left idling in the street or parked inappropriately. Staff will also seek to ensure taxis are booked prior to customers leaving the premises.

For these reasons detailed above, the applicant considers that the proposals would have a limited impact and that this constitutes 'exceptional circumstances' under Policy TACE 10. Conditions are proposed requiring the restaurant operation to accord with the Operational Management Plan and the Servicing Management Plan which have been submitted to ensure that the operation and servicing of the unit does not negatively impact upon the amenity of residents in the vicinity. Conditions are also proposed to ensure that there is no takeaway service provided from the property or a home delivery service which might result in increased vehicular movements. A condition is also proposed to ensure that any music played in the premises is not audible externally or within adjacent premises.

The opening hours of the premises are proposed as 10:00 till 00:00 Monday to Thursday, 10:00 till 00:30 Friday, Saturday (and Sundays before a Bank Holiday) and 12:00 till 23:00 on Sundays. These proposed opening hours are considered reasonable and accord with Paragraph 8.88 of the UDP which states; 'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'. The applicant has requested 120 covers, which again is considered modest and a condition is proposed to ensure this is the case.

The applicant has advised that part of the concept of the new restaurant premises involves the introduction of new wines and some wine tasting sessions taking place at the premises and it is noted there is a large wine cellar proposed in the basement. The wine cellar could accommodate up to ten people for informal wine tasting before lunch or dinner as people choose a wine to have with their meal. It is also proposed to have supplier / producer sampling sessions with 30-50 participants, which would take place either before lunch or dinner and approximately 10 times in a year. It is considered at this scale the proposed wine tasting and producer events are ancillary to the main proposed function of the premises as a restaurant (Class A3). An informative is proposed to advise the applicant the proposal has been determined on this basis and any greater level of wine tasting / sampling would not be considered an ancillary function to the main restaurant use and may constitute a sui generis use of the premises.

Environmental Health consider the proposed high level extract duct suitable to enable the discharge of cooking odours without detriment to neighbouring residential amenity.

There are a number of other 'entertainment' type premises in the vicinity including the Isabel restaurant two doors along at 26c Albemarle Street which has a license to open between 09:00 and 01:30 Monday to Saturday and 12:00 and 23:00 on Sundays. The Chor Bizarre restaurant at 16 Albemarle Street has a license to open between 10:00 and 01:00 Monday to Saturday and 12:00 and 00:00 on Sundays whilst the Albemarle Club at 36 Albemarle Street is licensed to be open between 09:00 and 06:00 Monday to Saturday.

Whilst it is acknowledged that the restaurant premises constitute a large entertainment premises, the number of covers (120) is relatively modest, and the hours of use accord with the City Council 'core hours'. Taking this into account and considering the stipulations in the Operational Management Plan which details a high degree of management and control at the premises it is not considered the proposal would have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality. In these circumstances, the application is recommended for conditional planning approval.

It is also acknowledged that the proposed operation would help generate further passing trade for neighbouring businesses being a 'destination' in its own right as opposed to reliant on passing trade which should further support the growth of this part of Albemarle Street. A number of the letters received in support of the application have commented on the benefits to the area which might result from the operation of the restaurant and the increased footfall in Albemarle Street being of benefit to nearby businesses. The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE10 and City Plan Policy S24.

## **7.2 Townscape and Design**

The primary design implications of the proposal is the effect of the new extract duct, and gas flues, on the rear and at roof level of the building and the surrounding Mayfair Conservation Area.

The building currently has a large flat topped mansard with air handling units and a large water tank toward the front elevation. The rear of the property has been modernised whilst the front elevation retains a traditional appearance. The new proposed duct is large and will project quite some distance above the top of the mansard. It is however set towards

the rear and the southern partition wall. Provided it is clad in brick slips it will have the appearance of a more traditional chimney, especially in long views. A condition requiring the gas flues to the rear to be similarly treated but these are much smaller and do not rise to a height above that of existing flues.

Window valances and an entrance canopy are shown on the proposed front elevation, but to date no detailed drawings have been provided to demonstrate whether these would be acceptable in design terms. An amending condition is proposed to exclude these from this permission. A separate application would be required for these canopies.

In design terms the proposals are acceptable and in accordance with DES1; DES6; DES9; S25; S28 and the NPPF.

### **7.3 Residential Amenity**

The acoustic report includes an assessment of the acoustic properties of the new proposed rooflight at rear first floor level and the expected external noise levels generated by the internal activity within the restaurant. It concludes noise levels at the nearest sensitive window, being in the first floor at 26a Albemarle Street would be compliant with the City Council criteria. In order to achieve this, a condition is imposed which requires the rooflight to be non-openable.

#### **Plant**

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant.

An acoustic report has been submitted in relation to the installation of the high level extract duct at the rear of the property and the condenser units located on the flat roof area at rear first floor level with regard the potential noise and vibration impacts of the operation. The nearest residential windows affected by the first floor plant are at first floor level in 26a Albemarle Street, whilst the windows affected by the extract operation are at fourth floor level in 26a. Background noise levels have been measured in both locations to allow accurate design criteria to be measured. It has been demonstrated that noise from the duct and associated equipment will be compliant with the City Council requirements at these windows and this has been considered acceptable by Environmental Health. Conditions are proposed in relation to the noise and vibration levels from the plant and the installation of the specified associated acoustic mitigation measures.

The acoustic report demonstrates that the ducting is compliant with the City Council noise criteria over a 24 hour period and as some of this is used for ventilation / refrigeration it is not considered appropriate to condition the hours of use of the plant.

### **7.4 Transportation/Parking**

Servicing from the street is considered acceptable subject to a condition requiring the submission of a Servicing Management Plan to ensure that the servicing does not negatively impact upon the highways network to the detriment of other users.

Cycle parking would be provided in the basement for four cycle parking spaces which accords with the requirements of the London Plan. The cycle parking provision would be secured by condition.

#### **7.5 Economic Considerations**

No economic considerations are applicable for a development of this size.

#### **7.6 Access**

Currently there is no level access to the property and despite being informed that the City Council would welcome the installation of a permanent ramp over the lightwell to allow for level access to the property the applicant has declined to provide this. They consider ramped access would look unsightly and is unsuitable for a 'prestigious venue', instead the applicant proposes the provision of a portable ramp in the property which could be temporarily installed to provide level access. Whilst clearly this would prove an added inconvenience for anyone in a wheelchair the application could not be reasonably refused on these grounds alone.

An accessible wc is provided at ground floor level.

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

##### **Waste / Recycling**

Following negotiation sufficient provision is now shown on the drawings for the provision of waste (including food waste) and recycling materials. A condition is proposed to ensure these facilities are provided and retained if the permission is implemented.

#### **7.8 London Plan**

This application raises no strategic issues.

#### **7.9 National Policy/Guidance Considerations**

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

#### **7.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application and as the application is for a change of use without additional floor area, the proposal does not attract CIL.

#### **7.11 Environmental Impact Assessment**

Not applicable for a scheme of this scale.

## 8. BACKGROUND PAPERS

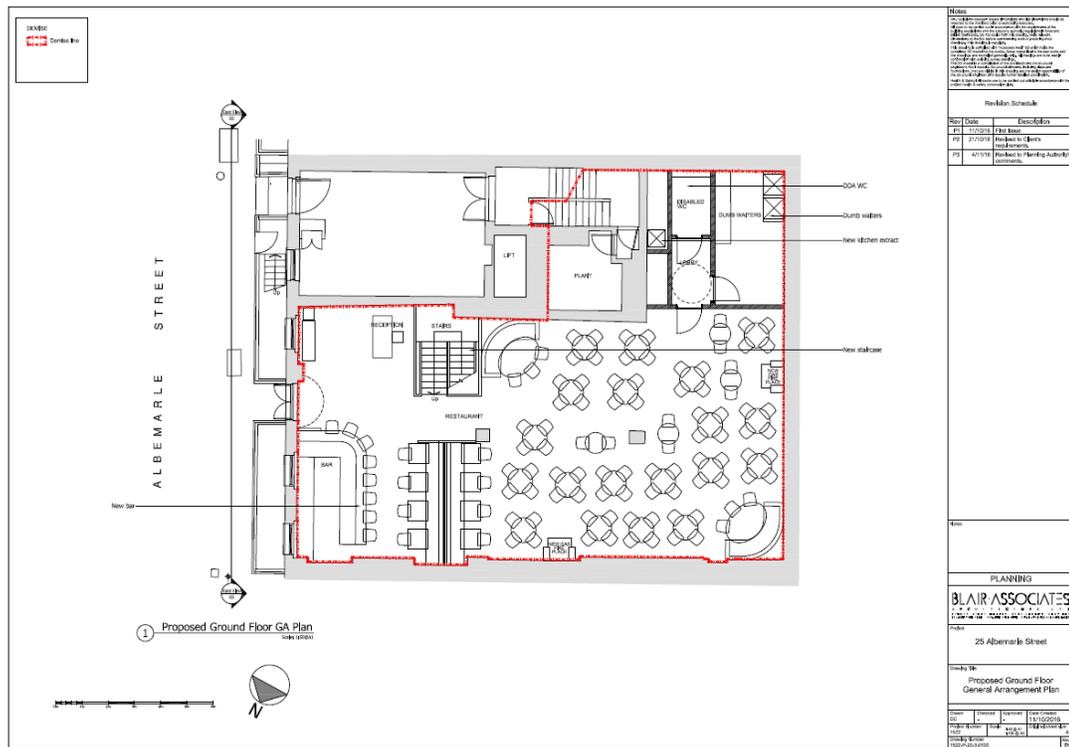
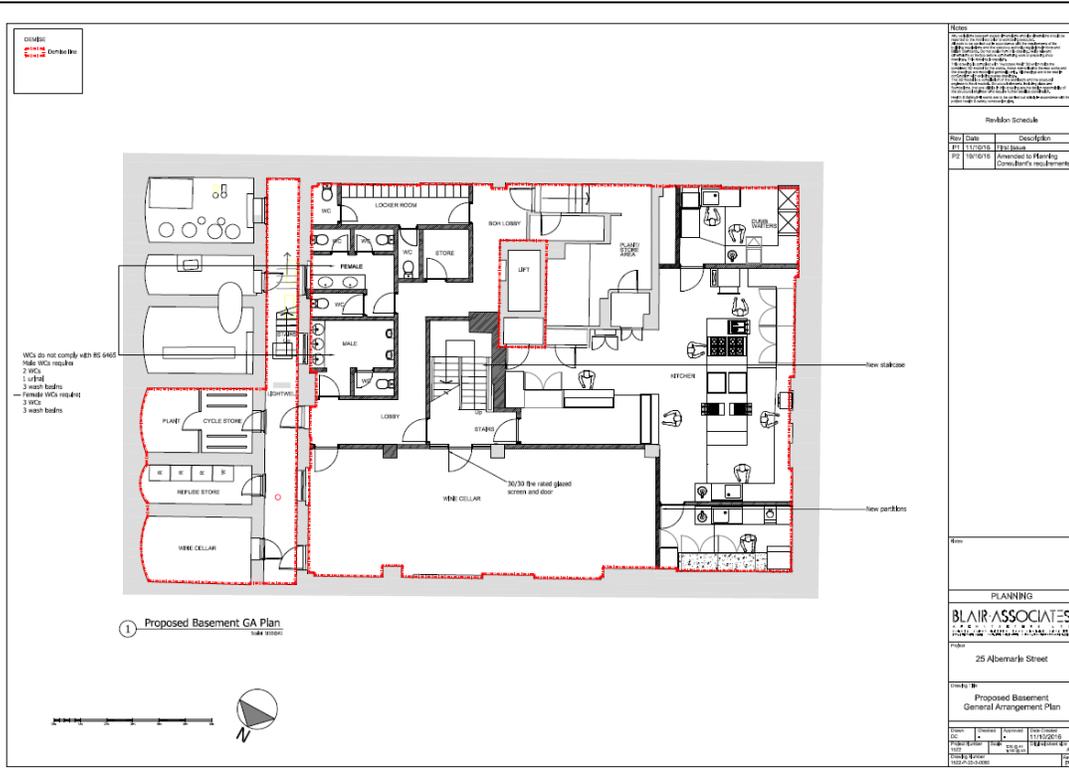
1. Application form
2. Response from Environmental Health dated 23 November 2016
3. Response from the Highways Planning Manager dated 13 December 2016
4. Response from the Cleansing Manager dated 14 December 2016
5. Letter from occupier of 18-20 Grafton Street, London, dated 30 November 2016
6. Letter from occupier of 14 St George Street, London, dated 28 November 2016
7. Letter from occupier of J R J Group, 61 Conduit Street, dated 28 November 2016
8. Letter from occupier of Queensbury House, 3rd Floor, dated 28 November 2016
9. Letter from occupier of EPIC UK Ltd, 3 Burlington Gardens, dated 28 November 2016
10. Letter from occupier of 10 New Burlington Street dated 28 November 2016
11. Letter from Castleforge Partners, 36 Dover Street, London, dated 28 November 2016
12. Letter from occupier of Vogue House, 1 Hanover Square, received 29 November 2016
13. Letter from occupier of Marlborough Fine Art (London) Limited, dated 29 November 2016
14. Letter from Conde Nast International, 25 Maddox Street, dated 29 November 2016
15. Letter from occupier of 40 New Bond Street, London, dated 29 November 2016
16. Letter from CERNO CAPITAL, 34 Sackville Street, dated 29 November 2016
17. Letter from occupier of 36 Dover Street, London, dated 29 November 2016
18. Letter from occupier of Clerville Investment Management, 14 - 15 Conduit Street, dated 29 November 2016
19. Letter from The Ritz London, 150 Piccadilly, dated 29 November 2016
20. Letter from dsam partners, 14-15 Conduit Street, London, dated 29 November 2016
21. Letter from occupier of 7 Clifford Street, London, dated 29 November 2016
22. Letter from occupier of 180 New Bond Street, London, dated 30 November 2016
23. Letter from LMR Partners, 55 New Bond Street, received 30 November 2016
24. Letter from occupier of 50 New Bond Street, London dated 30 November 2016
25. Letter from the occupier Penthouse 9, Savile Row, London, dated 30 November 2016
26. Letter from occupier of New West End Company, 3rd Floor, dated 1 December 2016
27. Letter from Lombard Odier, 3 Old Burlington Street, London, dated 5 December 2016
28. Letter from occupier of 41 Dover Street, London, received 5 December 2016
29. Letter from occupier of 16 Conduit Street, London, W1S 2XL dated 12 December 2016
30. Letter from occupier of Hauser & Wirth, 23 Savile Row, dated 29 December 2016
31. Letter from Graff, 28-29 Albemarle Street, London, W1S 4JA dated 29 December 2016
32. Letter from occupier of 18-20 Grafton Street, London, undated.
33. Letter from 26 Dover Street, London, undated.
34. Letter from occupier of 178 New Bond Street dated 21 December 2016
35. Letter from occupier of 3 Logan Place dated 21 December 2016

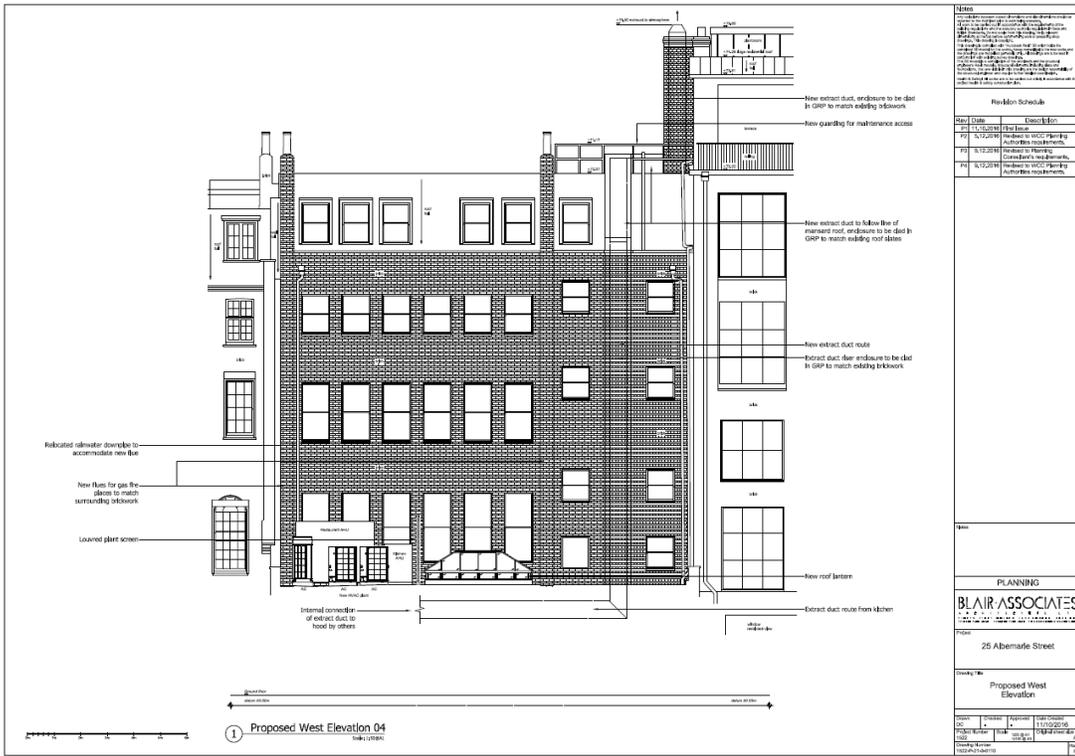
### Selected relevant drawings

(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: JO PALMER BY EMAIL AT [jpalm@westminster.gov.uk](mailto:jpalm@westminster.gov.uk)

9. KEY DRAWINGS





**DRAFT DECISION LETTER**

- Address:** 25 - 26 Albemarle Street, London, W1S 4HX,
- Proposal:** Use of the ground and basement floors as a restaurant (Class A3), installation of plant at rear first floor level and roof level with a high level extract duct on the rear elevation. Installation of two high level gas flues on the rear elevation and installation of a replacement rooflight at rear first floor level.
- Reference:** 16/10126/FULL
- Plan Nos:** Operational Management Plan, Servicing Management Plan, Acoustic Report (7666/AAR Rev1), Drawings: 1522-P-20-3-0090 RevP3, 1522-P-20-3-0100 RevP3, 1522-P-20-3-0110 RevP1, 1522-P-21-3-0100 RevP3, 1522-P-21-3-0110 RevP4, 1522-P-22-3-0090 RevP4, 1522-P-27-3-0120 RevP4.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

**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 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:

\*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.

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

\*between 08.00 and 18.00 Monday to Friday; and

\*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 (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 (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 (November 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.

- 4 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.

- 5 You must install the acoustic mitigation measures as detailed in the approved acoustic report at the

same time as the plant is installed. These mitigation measures must thereafter be retained in place for as long as the plant is in operation.

Reason:

To safeguard the amenity of occupiers of adjoining premises by preventing noise and vibration nuisance as set out in STRA 16, STRA 17, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R41BB)

- 6 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 in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 You must not allow more than 120 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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 You must not play live or recorded music within the restaurant premises that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 9 The high level extract ducting shown on the approved drawings shall be fully installed before the restaurant use commences and thereafter maintained for as long as the Class A3 restaurants are in operation.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 10 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours:

10.00 to midnight Monday to Thursday,  
10.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and  
12.00 to 23.00 on Sundays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 11 The restaurant use hereby approved must be operated in accordance with the submitted Servicing Management Plan.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 12 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 13 You must operate the restaurant use hereby approved in accordance with the stipulations of the submitted Operational Management Plan.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1522-P-20-3-0090 Revision P3. You must clearly mark them and make them available at all times to everyone using the premises. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 15 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 (November 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 paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

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 (November 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)

- 17 Any external plant that is to be removed must be removed along with associated pipework and fixtures / fittings before the plant hereby permitted is installed.
- 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 (November 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)
- 18 Notwithstanding the details shown on the approved drawings, the rear extract duct and gas flues must be clad in brick or slate slips to match the existing adjoining brickwork and roofslates as appropriate. The brick/slate slips must be installed at the same time as the flues / duct are installed and maintained in situ for as long as the plant remains in place.
- 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 (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)
- 19 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.
- 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.
- 20 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)
- Reason:  
In the interests of public safety as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)
- 21 The proposed rooflight at rear first floor level shall be non-openable and the acoustic attenuation measures as outlined in the acoustic report by RBA Acoustics, dated 10th November 2016 shall be installed prior to commencement of the use of the restaurant.
- Reason:  
To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)
- 22 Notwithstanding the details shown on the approved drawings, this consent does not authorise either the entrance canopy or window valances. You must apply for planning permission for these

works.

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 (November 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 (November 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 Conditions 3 and 5 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)
- 3 You are advised that the described level and function of wine sampling / tasting at the property is considered to be ancillary to the main function of the premises as a restaurant (Class A3), however, if this described operation were to change in the future to place greater emphasis on wine sampling / tasting then it may be considered that a change of use of the premises has occurred for which planning permission would be required. The City Council will take appropriate enforcement action to prevent any unauthorised change of use of the premises.
- 4 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, [siteenquiries@ccscheme.org.uk](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://www.ccscheme.org.uk).
- 5 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 6 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk). , , If you are

building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk) , , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 7 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
  
- 8 Kitchen Extract Informative:, - The kitchen extract ducts should be designed to discharge vertically at highest roof level and clear of all existing and proposed windows in the vicinity. We accept systems with a flue height level which is higher than any building within 20 metres of the building housing the commercial kitchen. , - A scheme of odour reduction will need to be incorporated together with full height discharge if there are surrounding premises that are between 20 m - 50 m distance and which are also higher than the discharge point of the building housing the commercial kitchen., - All odour producing processes/cooking must be placed under the extract canopy hood in the kitchen to avoid low level odour escape from kitchen windows and doors., - All kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance at approximately 3 metre intervals and also complying with the H & S safe access standards (Informative 180CB).