

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 13 th June 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	57-59 Beak Street, London, W1F 9SJ		
Proposal	Dual/ alternative use of the basement and ground floor for either retail (Class A1) or restaurant (Class A3) purposes with associated shopfront alterations, relocation of existing plant and the installation of extract duct and screening at roof level and an air handling unit at rear first floor level.		
Agent	Five Development Consultancy LLP		
On behalf of	Smoke and Mirrors Group Limited		
Registered Number	17/02418/FULL	Date amended/ completed	17 March 2017
Date Application Received	17 March 2017		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

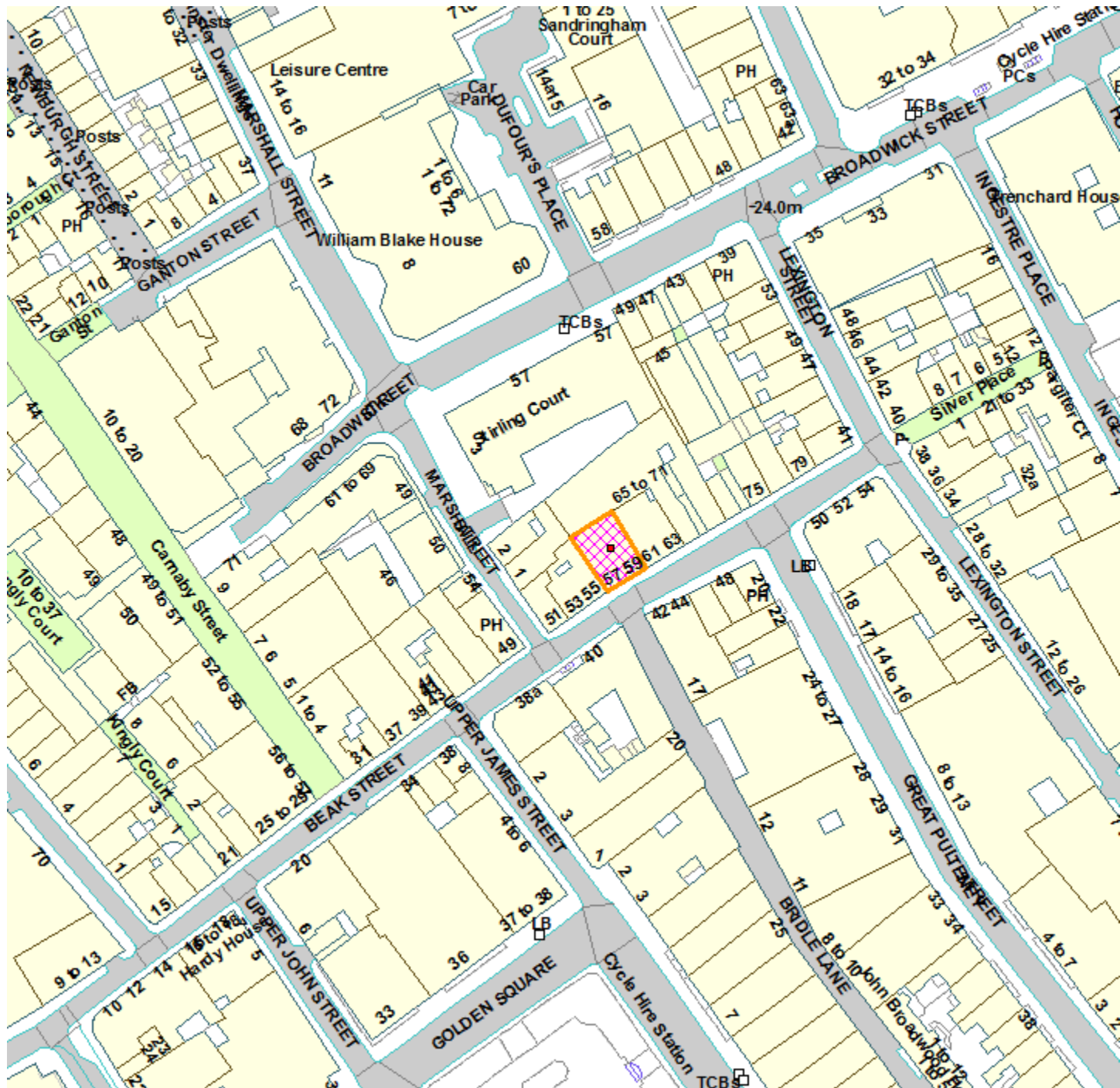
The application site is part of a vacant office building. It comprises five storeys plus basement and is an unlisted building of merit located on the north side of Beak Street adjacent to Bridle Lane. Permission is sought for the use of the basement and ground floors to be used for either retail (Class A1) or restaurant purposes (Class A3). A full height extract duct is proposed and this will be routed internally through the building terminating at roof level. Two existing air conditioning units are being relocated and the proposal has been amended to include a visual screen across the rear of the roof; an air handling unit is proposed to be located at rear first floor level. Alterations to the shopfront are also proposed. The rest of the building will continue to be used for office purposes.

The key issues for consideration are:

- The impact of the external alterations on the character and appearance of the Soho Conservation Area;
- The impact of the proposed plant on residential amenity;
- The increase of restaurant floorspace in the West End Stress Area.

The proposal is considered acceptable in land use, amenity, design and conservation terms and complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan and is therefore recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

SOHO SOCIETY

Object on the following grounds:

- New restaurant unacceptably intensifies the West End Stress Area;
- Loss of residential amenity (noise).

No objection to the proposed retail (Class A1) use.

HIGHWAYS

No objections

ENVIRONMENTAL HEALTH

Initial objection overcome by redirecting extract flue and inclusion of screening

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 14 - Total No. of replies: 7

No. of objections: 7

Objections on the following grounds:

Land Use

- Restaurant floorspace in West End Stress Area is unwelcome.
- Loss of offices.

Amenity

- Increased noise, odour and disturbance from music, customers and extract/plant.
- Increase in odour from extract duct.

Highways

- Vehicular conflict.
- Pavement will become congested from customers and impassable for pedestrians.

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is situated on the north side of Beak Street adjacent to Bridle Lane and comprises basement, ground and four upper storeys. The building as a whole represents a later Victorian office building of brick and white stucco detailing. It has been extensively sub-divided with different office tenants occupying each floor.

The basement and ground floor to which the application relates equates to 221 m² GIA. This was formerly in office use but has been vacant since June 2014.

The immediate surrounding properties are largely in commercial use at ground floor level with a mix of residential and commercial on the upper floors. The nearest residential is located to the east of the site at third and fourth floor level of 61-63 Beak Street.

The site is located within the Soho Conservation Area, the West End Stress Area and the core Central Active Zone (CAZ).

6.2 Recent Relevant History

There was an enforcement investigation in July 2008, concerning 19 air conditioning units. Subsequently, an application for retention of the units was refused in 2009. However, it was subsequently determined that the majority of the units had been there for more than four years and were thus immune from enforcement action.

Planning permission for an identical shopfront to that now currently proposed was granted in 2008 but was unimplemented.

7. THE PROPOSAL

Permission is sought for the use of the basement and ground floors for either retail (Class A1) or restaurant (Class A3) purposes totalling 221 m² GIA. It is proposed that an extract duct will be routed internally and vent at roof level and two air conditioning units will be relocated to accommodate the access and an air handling unit is to be located at rear first floor level. A new glazed double entrance door will be provided in lieu of the existing middle window on the current shopfront: this will ensure separate access is maintained for the proposed A1/A3 use and the existing office uses on the upper levels.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of Offices (Class B1)

Objections have been received in relation to the loss of office accommodation. There is no policy to protect the loss of B1 offices to another commercial use in the CAZ and therefore a refusal on this basis cannot be justified.

Potential Increase of Restaurant floorspace (Class A3)

City Plan Policy S6 accepts that, in principle, entertainment uses are appropriate for the Core Central Activities Zone. However, as the site is located within the West End Stress Area the introduction of new entertainment uses is considered more sensitive.

The proposed restaurant use comprises 221m² GIA and Policy TACE9 of the UDP applies. This relates to entertainment uses which may be permissible in principle, subject to certain criteria. TACE9(B) 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 as a result of noise, vibration, smells, increased late night activity, increased parking and traffic and no adverse effect on the character or function of its area.

The Soho Society has objected to the new restaurant floorspace commenting that it will result in an intensification of entertainment uses within the West End Stress Area and

have referenced a recent consent at 40 Beak Street which permitted a restaurant at part ground and basement level. (This scheme was approved by the Planning Applications Sub-Committee in 2015, notwithstanding objections.) A number of objections have also been received from residential occupiers to the current proposals, relating to the increase in noise disturbance from customers and music, deliveries, saturation of restaurant uses and the cumulative impact in the immediate area.

The restaurant proposals are speculative with no end-user identified, and therefore it is not possible at this time to consider the likely impact by assessing the track record of the intended occupier. However, conditions could be used to control the opening times and activity to limit the impact. These conditions would ensure that the use would essentially be a sit-down restaurant, limited to 88 covers (based on approximate figures provided by the applicant). Any ancillary bar could be limited to a small part of the premises, to be used only by diners before and after meals: a condition has been recommended to ensure that the bar area shall not exceed 15% of the proposed restaurant. The hours of opening would be restricted to the terminal hour of 23:00 with breakfast opening at 07.00hrs - despite the objection on the hours proposed, this is within the generally acceptable hours set out in the UDP. The proposal incorporates an internal kitchen extract terminating at high level.

The nearest residential properties are located opposite the application site at 61-63 Beak Street, with other residential properties being located towards the junction with Lexington Street. The ground floor units along Beak Street are characterised by restaurant and retail uses. In the immediate vicinity of the site along Beak Street (from No.38/47 to the west to No.50/75 to the east) there are four restaurants, four retail units, four office units/receptions, one residential dwelling and two public houses. In view of the mix of other uses in the area, the proposal is considered to be acceptable in principle. Although there are other restaurants in the vicinity, it's not considered that the proposal will create an adverse cumulative impact, given the dispersed nature of these premises. Furthermore, the proposal will enhance the street level activity in place of the existing blank office frontage.

It is recommended that there is a condition requiring an Operational Management Plan (OMP) and Servicing Management Plan (SMP) to:

- prevent customers queuing on the street,
- management of customers who wish to smoke;
- methods preventing customers from taking their drinks with them:
- methods ensuring deliveries and refuse are not stored on the highway and are carried out in a sensitive manner to ensure noise is minimised within agreed hours.

A condition is also recommended to ensure that no live or recorded music which is audible externally or in neighbouring properties can be played. With the imposition of the above conditions including a restriction on the capacity of 88, it is considered that there will be no material increase in noise disturbance or other amenity issues as a result of the restaurant use, thereby overcoming the objections.

Potential Increase of Retail floorspace (Class A1)

Policy SS4 of the Unitary Development Plan (2007) and policies S6 and S21 of the City Plan promote the introduction of new retail floorspace within the CAZ. Therefore the use of the premises for retail purposes is considered acceptable in land use terms.

8.2 Townscape and Design

57-59 Beak Street is an unlisted building in the Soho Conservation Area Audit. It is identified in the audit as an unlisted building of merit – that is, one which makes a positive contribution to the character or appearance of the conservation area.

Shopfront

The proposed shopfront is acceptable in design terms. Planning permission for an identical shopfront was granted in 2008.

Plant

The existing rooftop plant is lawful as it is in situ for greater than four years. Further plant on the roof might contribute to the harm caused by the existing plant. However the additional harm is limited because the new equipment does not rise above the height of the existing equipment. Views from the front would be unchanged, and the new plant would appear in the foreground of existing plant in private view from the rear. Plant screening is proposed across the rear of the roof which will mitigate sufficiently the harm caused by the additional plant when viewed for the upper floors of buildings at the rear.

8.3 Residential Amenity

Mechanical plant is being relocated at roof level and an air handling unit installed to the rear at first floor level. A full height extract duct is also proposed but this will be routed internally (from basement level) and extract at roof level. The scheme has been amended so that the duct extracts vertically one metre above the height of the application building (a requirement of Environmental Health) and to include a screen running the full length of the rear of the building to further deflect noise and odour from residential properties. The point of extraction is above the height of residential openings (windows/doors) within 20m of the duct. Objections have been received from the neighbouring residential occupants on the grounds that there will be an increase in noise from the plant and odours from the extract duct. Environmental Health has no objection to the proposal and the plant is likely to comply with the City Council's standard noise conditions. The objections on these grounds are therefore not considered to be sustainable.

8.4 Transportation/Parking

The Highways Planning Manager raises no objections to the proposal and considers that the proposal is unlikely to have a significant impact on car parking in the area. The site is also well served by public transport, and despite the objections raised on the grounds of vehicular conflict, it is not considered that the application could be refused on these grounds. As detailed above, a condition is recommended requiring an OMP. Anticipated measures include procedures to ensure customers remain in the premises until taxis arrive, measures to prevent queues and management of customers wishing to smoke, which will help to address objector's concerns relating to pavement congestion.

Servicing

UDP TRANS20 requires off street servicing. No off-street servicing is proposed. The site is located within a Controlled Parking Zone, which means that single/double yellow lines

in the vicinity can allow loading and unloading to occur. The largest regular servicing vehicle expected to be associated with the development is the refuse collection vehicle.

Due to the potential impact of delivery and servicing, it is recommended that a condition is attached to ensure that the retail (Class A1) is not used as a food retail unit without prior approval from the Council.

The imposition of a condition has also been recommended to ensure no delivery service operates from the application site to ensure highway congestion is minimised.

The Highways Planning Manager is satisfied that given the floor area concerned, the servicing requirements are not expected to have an adverse impact on the public highway; however, a condition has been recommended requiring a Servicing Management Plan (SMP) to ensure servicing is conducted in a sensitive manner and residential amenity is not unduly impacted by the proposal. Given these safeguards, it is considered that objections on the grounds of increased servicing activity and associated noise are not sustainable.

Cycle parking

No cycle parking has been shown on the submitted drawings. To comply with the London Plan (as amended) a minimum of two cycle spaces are required, which will be secured by condition.

8.5 Economic Considerations

Any economic benefits generated are welcomed.

8.6 Access

A new glazed double entrance door with level access will be provided in lieu of the existing middle window on the current shopfront.

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

No specific waste store for waste and recyclable materials is illustrated on the plans. This will be secured by a planning condition prior to the commencement of the use.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

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

8.10 Planning Obligations

The application does not trigger any CIL requirements nor planning obligations.

8.11 Environmental Impact Assessment

The proposal is of insufficient scale as to trigger an environmental assessment.

9. BACKGROUND PAPERS

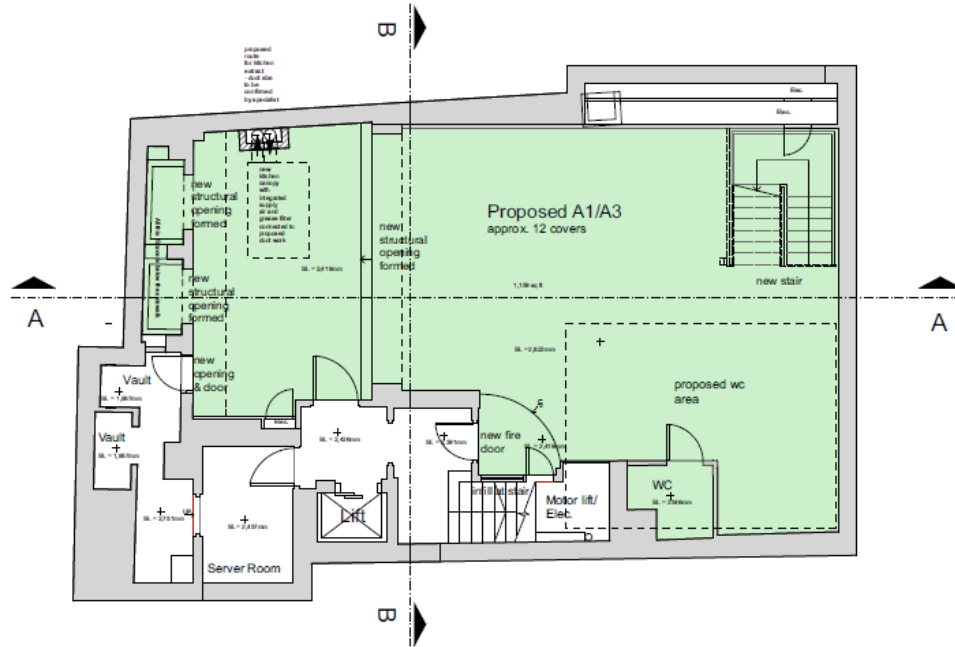
1. Application form
2. Response from Soho Society, dated 11 April 2017
3. Response from EH Consultation, dated 28 March 2017
4. Response from EH Consultation, dated 19 May 2017
5. Response from Highways Planning dated 25 May 2017
6. Letter from occupier of Flat 2, 61-63 Beak Street., London, dated 11 April 2017
7. Letter from occupier of Flat 1, 41 Lexington Street, dated 19 April 2017
8. Letter from occupier of Stirling Court, Marshall Street, dated 12 April 2017
9. Letter from occupier of 65c Beak Street, London, dated 13 April 2017
10. Letter from occupier of First Floor Flat, 61-63 Beak Street, dated 11 April 2017
11. Letter from occupier of Marshall Street, London, dated 12 April 2017
12. Letter from occupier of Flat 3, 61-63 Beak Street, London, dated 11 April 2017

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

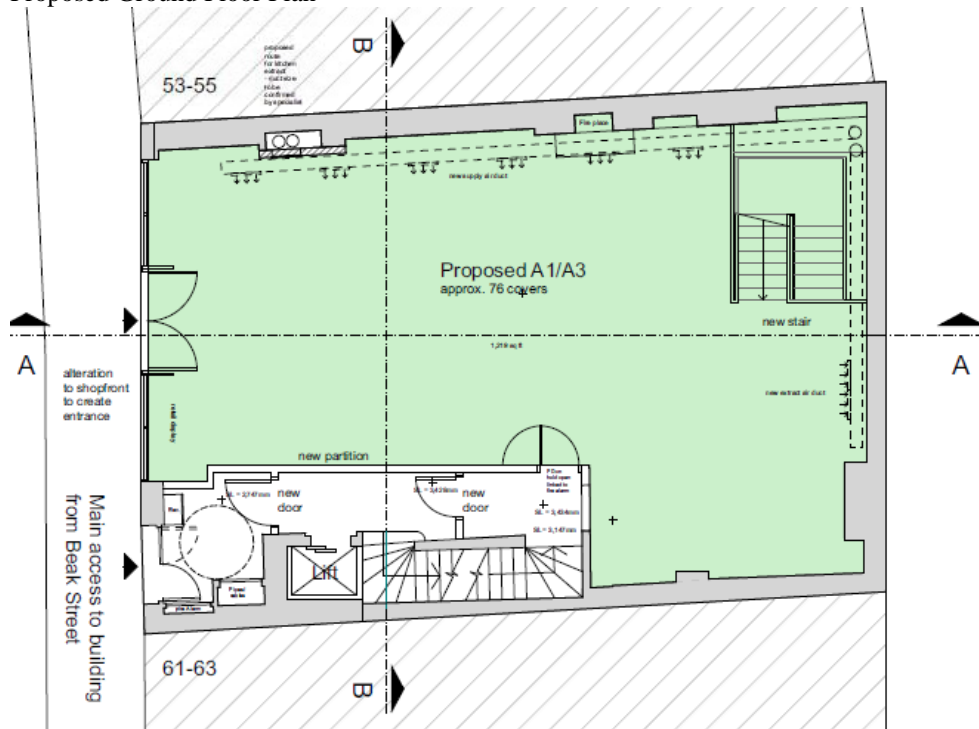
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT PQUAYLE@WESTMINSTER.GOV.UK.

10. KEY DRAWINGS

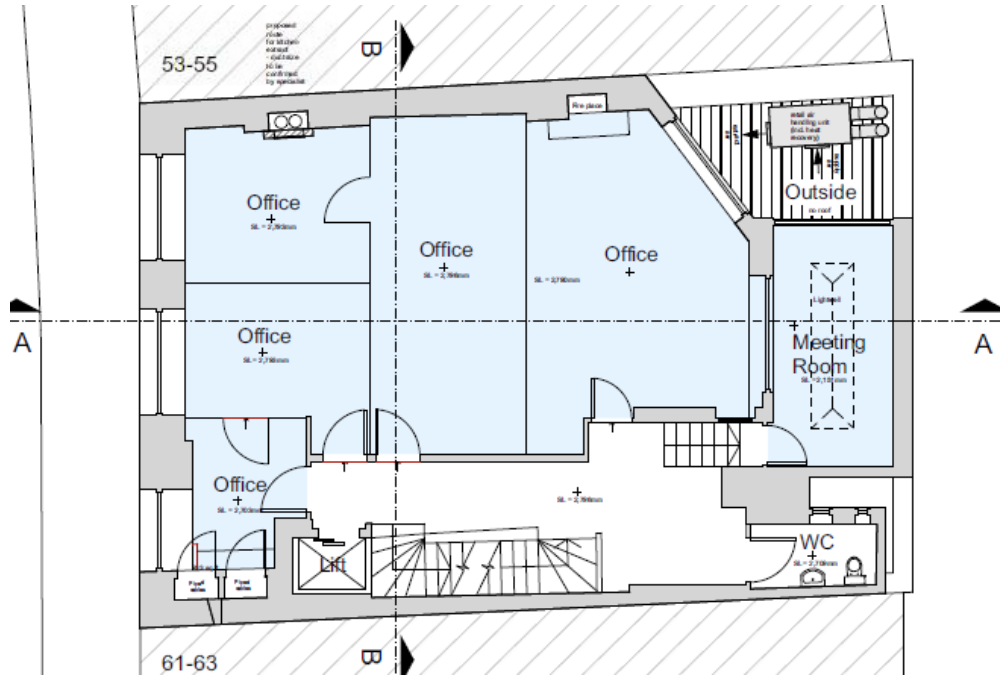
Proposed Basement Floor Plan



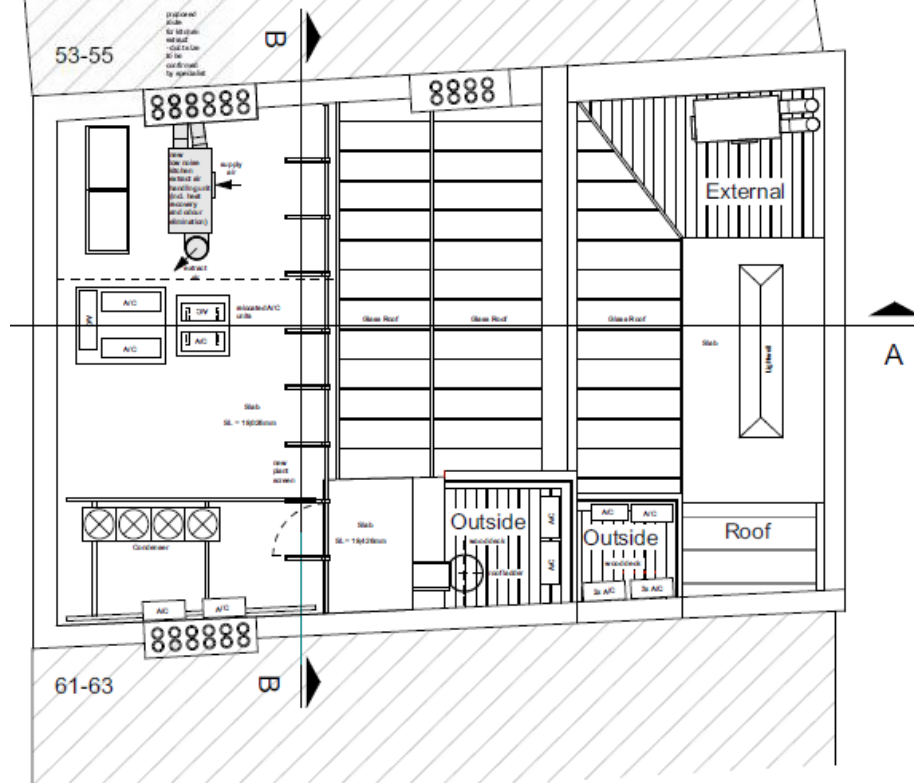
Proposed Ground Floor Plan



Proposed First Floor Plan



Proposed Roof Plan

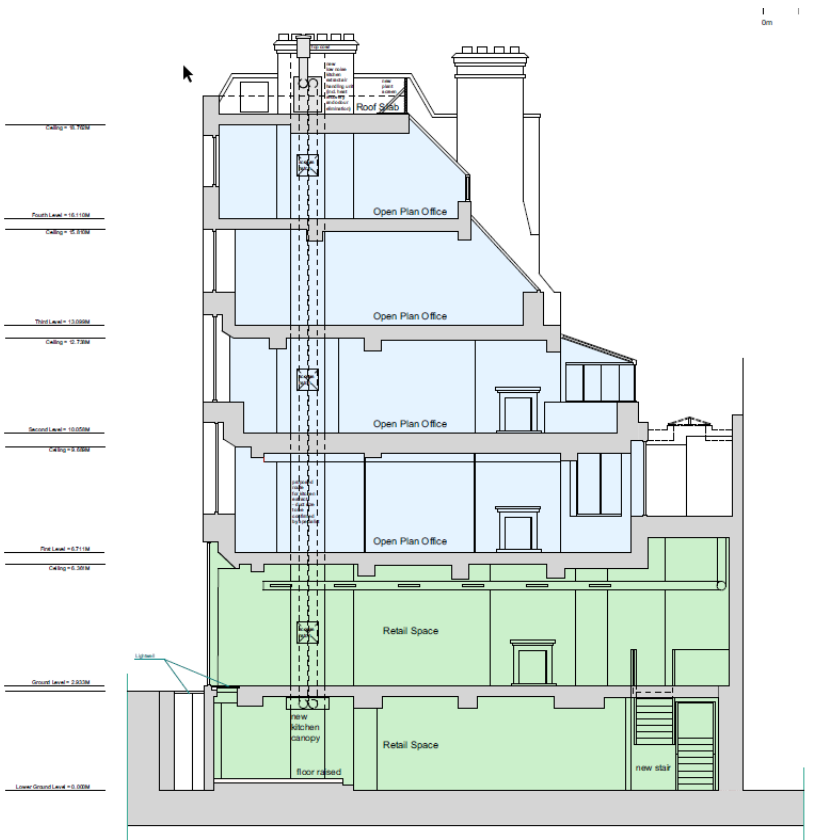


Proposed Shopfront



57-59 Beak St Proposed South Elevation 120

Proposed Section



57-59 Beak St Proposed AA Section 150

DRAFT DECISION LETTER

Address: 57-59 Beak Street, London, W1F 9SJ,

Proposal: Dual alternative use of the basement and ground floor for either retail (Class A1) or restaurant (Class A3) purposes with associated shopfront alterations and installation of extract duct at roof level and installation of an air handling unit at rear first floor level.

Reference: 17/02418/FULL

Plan Nos: 1871 - PL13, 1871 - PL14, 1871 - PL15, 1871 - PL19, 1871 - PL20, 1871 - PL21, 1871 - PL22, 1871 - PL23.

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

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

- 3 You must not sell any hot-food take-away or drink on the premises, nor operate a delivery service, 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 Class TACE 9 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 4 The provision of a bar and bar seating must not take up more than 15% of the floor area of the restaurant premises. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

- 5 You must not allow more than 88 customers into the property at any one time (including any customers waiting at a bar).

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 9 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must not play live or recorded music on your property 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)

- 7 Customers shall not be permitted within the restaurant premises before 07.00 or after 23.00 hours daily.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 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 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 premises is in use. (C05JB)

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 plant/machinery hereby permitted shall not be operated except between 07:00 hours and 23:00 hours daily.

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.

- 10 (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.

- 11 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.

- 12 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 13 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 premises. 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 (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 14 You must apply to us for approval of details of secure cycle storage for the basement and ground floor retail/restaurant 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.

- 16 You must hang all doors 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)

- 17 You must apply to us for approval of a Servicing Management Plan. You must not commence the A1 or A3 use until we have approved what you have sent us. You must then carry out the servicing of all the units according to the 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)

- 18 Notwithstanding the provision of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that class in statutory instrument revoking or re-enacting that order) the retail accommodation hereby approved shall not be used for food/supermarket purposes

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TRANS 20 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

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 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the floor can change between the retail (Class A1) and restaurant (Class A3) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)

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.