

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 th November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	104 Great Portland Street, London, W1W 6PE		
Proposal	Use of the basement and ground floors as a restaurant (Class A3), installation of a new shop front and replacement roof light at rear first floor level. Installation of an internal high level extract duct to terminate at main roof level.		
Agent	Savills		
On behalf of	Darko Investments Ltd.		
Registered Number	17/03402/FULL	Date amended/ completed	26 April 2017
Date Application Received	19 April 2017		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

1. Grant conditional planning permission subject to a legal agreement to secure:

- i) Upon implementation of this permission the planning permission (15/07544/FULL) for the residential use of the upper floors of the building shall not be implemented.
- ii) Or, that this permission shall not be implemented should the planning permission (15/07544/FULL) for the residential use of the upper floors of the building be implemented.
- iii) Costs for monitoring the legal agreement.

2. If the S106 legal agreement has not been completed within six weeks of the date of the Committee resolution, then:

(a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

(b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

2. SUMMARY

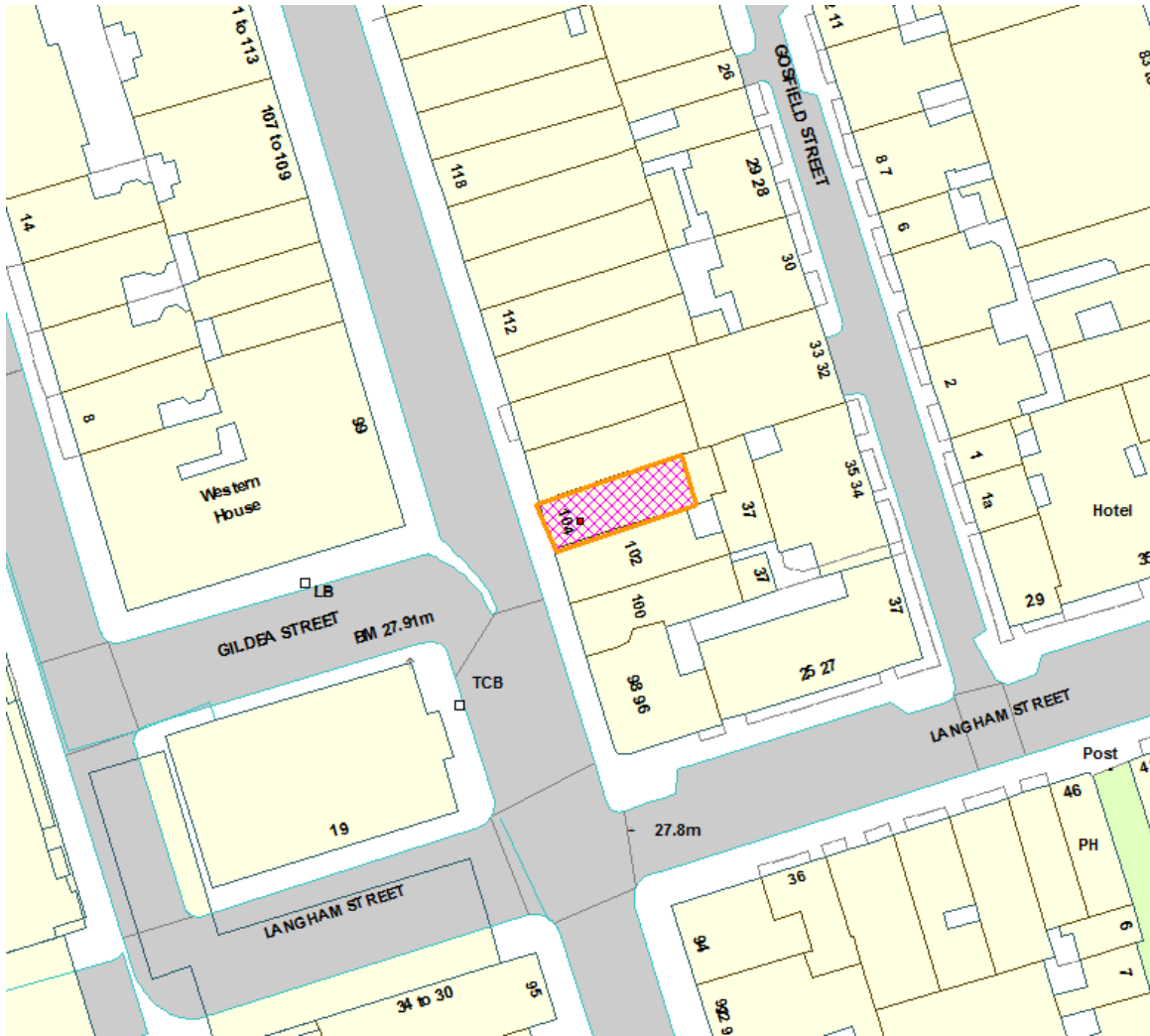
104 Great Portland Street is an unlisted building located within the East Marylebone Conservation Area, outside of a designated Stress Areas but located on a named street within the 'Marylebone and Fitzrovia' area. The property comprises of basement, ground and first to fourth floor levels. The first to fourth floors of the property are currently in use as office accommodation (Class B1) whilst the basement and ground floors are in use as retail accommodation (Class A1). Planning permission is sought for the change of use of the basement and ground floors to a restaurant, the installation of a new shop front and the installation of a high level extract duct, routed internally through the upper floors to terminate at main roof level.

The key issues are:

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

The loss of the retail accommodation is considered acceptable in this instance taking into account the proposed use, location of the property and the character of the immediate vicinity. 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



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4. PHOTOGRAPHS



Item No.

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5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

CLEANSING

Requested further details with regard waste / recycling storage.

HIGHWAYS

No objection subject to conditions.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 75

Total No. of replies: 3

No. of objections: 2

No. in support: 0

One letter of comment has been received requesting opening hours are no later than 22:30 daily, the plant operation is carefully assessed to ensure compliance with City Council noise policies and that deliveries do not take place late into the evening.

Two letters of objection on the following grounds:

Amenity:

Increase in noise disruption to residents from the operation of the restaurant and the associated plant items.

Light pollution to neighbouring residential occupiers resulting from the sky-light at the rear of the property.

Odour nuisance from the restaurant operation affecting residential amenity.

Lack of information relating to the noise levels of the extraction equipment.

Highways:

Traffic disruption from deliveries.

There needs to be adequate storage facilities for the waste and recycling within the demise of the premises to ensure it is not left on the highway.

Smokers outside the premises would restrict the depth of pavement available for pedestrians.

Landuse:

Saturation of restaurant premises in the vicinity.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

104 Great Portland Street is an unlisted building located within the East Marylebone Conservation Area and on a 'named street' outside of any designated stress area. The building comprises a retail unit on the basement and ground floors with office accommodation on the first to fourth floor levels.

As detailed below planning permission was granted on the 6th October 2015 for the change of use of the upper floors of the property to three residential flats, however this permission has not been implemented but remains extant.

6.2 Recent Relevant History

Planning permission was granted on the 6th October 2015 for the 'use of the first to fourth floors as residential accommodation (Class C3) comprising 2 x 1 and 1 x 3 bedroom flats.' The consent has not been implemented.

7. THE PROPOSAL

Permission is sought for the change of use of the existing retail unit at basement and ground floor levels to a restaurant use. The basement of the premises would house the commercial kitchen, toilets and storage areas with some seating whilst the majority of the ground floor would be utilised as a seating area with a disabled access toilet. A replacement rooflight is proposed above the rear ground floor accommodation and a high level extract duct would be routed internally through the office accommodation, terminating externally at main roof level.

The existing retail unit comprises a convenience shop with a trading area at the front of the ground floor level with ancillary storage at rear ground and at basement level.

Land Use Table:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail	220	0	-220
Restaurant	0	220	+220
Total	220	220	0

Restaurant Use Table:

	Proposed restaurant incorporating basement and ground floor levels
Restaurant floor space (m2)	220m ²
No of covers	55
Hours of Operation	12:00 (midday) until 22:30 daily.
Ventilation arrangements	New kitchen extract to be routed internally to terminate at main roof level.
Refuse Storage arrangements	Relevant conditions proposed.

8. DETAILED CONSIDERATIONS**8.1 Land Use and Amenity****Loss of retail accommodation:**

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 floor space.

Policy S8 of the City Plan identifies certain streets within the Marylebone and Fitzrovia areas which are designated as 'named streets'. One of these is Great Portland Street. Named streets are defined as, 'specific streets in Marylebone and Fitzrovia which are treated as part of the Core Central Activities Zone and as designated on the Policies Map.' Therefore, for the purposes of determining the application, the site is considered as being within the Core CAZ. Certain policies of the UDP have been 'saved' including ones relating to retail policies which are relevant to proposals for the loss of retail floor space.

As the City Plan states that named streets are to be treated as part of the Core CAZ and that policies should be applied as if they are, this supersedes any prior definition of the Core CAZ from the UDP. Therefore the applicable policy from the UDP relating to the loss of retail floor space is Policy SS5. This also seeks to resist the loss of retail floor space within the Core CAZ, and 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.

Policy SS5 (A) states that A1 uses at ground, basement or first floor level in the CAZ and CAZ Frontages will be protected.

Policy SS5 (B) says that planning permission for the introduction of a non-A1 town centre use at basement, ground and first floor level will only be granted where the proposal would

not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality.

Policy SS5 (C) states that proposals for non-A1 uses must not:

1. Lead to, or add to, a concentration of three or more consecutive non-A1 uses.
2. Cause or intensify an existing overconcentration of A3 and entertainment uses in a street or area.

The unit is located on the eastern side of Great Portland Street approximately half way between Oxford Street and Marylebone Road. The area is very commercial in nature with ground floor uses comprising either retail, restaurant or office accommodation and the upper floors of buildings either being in use as offices or residential flats. It is noted that a Co-operative supermarket has recently opened at 118-122 Great Portland Street being 40m from the application site and the applicant contends this has resulted in a reduction of trade for the existing business (although no evidence has been provided to support this assertion). There are existing retail units at ground floor level in the adjoining buildings to the north and south of the application site.

It is therefore not considered that the loss of this retail unit to another use serving visiting members of the public would be 'detrimental to the character and function of the area or to the vitality or viability of a shopping frontage or locality' such that the proposal would be contrary to the stipulations of Part B of Policy SS5 of the UDP. The proposal would also not result in three or more consecutive non-retail uses as the adjoining ground floor units to the north and south are both in use as retail accommodation which complies with the requirement of Part C (1) of the Policy.

With regard Part C (2) of the policy in relation to the proposal not generating an overconcentration of entertainment uses in the area, this is discussed in the section below. The main thrust of Policy SS5, however, is to ensure that the character and function of an area or the vitality or viability of a shopping frontage or locality is not harmed by the replacement of shops with non-A1 town centre uses. As detailed above the proposal is considered to accord with the requirements of the relevant retail policies from the City Plan and UDP and for these reasons it is not considered the loss of retail floor space can be resisted.

Provision of restaurant use:

The proposed restaurant over ground and basement levels of the building would measure 220m². An entertainment unit of this type and size located on a named street outside of a designated stress area would be considered against Policies TACE 8 of the UDP and S24 of the City Plan.

Policy S24 of the City Plan requires that, *'New entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.'*

Policy TACE8 of the UDP has similar stipulations and relates to new entertainment uses which 'will generally be permissible'. Where the City Council considers the proposal will

not have an adverse impact (including cumulative effects) resulting from noise, vibration, odour, late night activity or traffic implications permission may be granted but conditions would be required to restrict opening hours, capacity, servicing, arrangements for waste and recycling, any take-away from the premises, deliveries, music, bar areas and suitable arrangements should be made to prevent noise nuisance and to disperse cooking odours.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floor space to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The immediate vicinity along Great Portland Street is characterised mainly by restaurant and retail units on the lower floors and office or residential uses on the upper floors. The nearest residential units are located on the upper floors of 102 Great Portland Street and 106 Great Portland Street, being the adjoining properties to the north and south of the application site. Objections have been received to the application from residential occupiers living at 102 and 108 Great Portland Street.

Other licensed premises in the vicinity include the Picture restaurant at 110 Great Portland Street with licensed opening hours of 10:00 till 00:30 Monday to Saturday and 12:00 till 00:00 on Sundays and Love Die Late at 114 Great Portland Street with licensed opening hours of: 07:00 till 23:45 Monday to Thursday, 07:00 till 00:15 Friday to Saturday and 07:00 to 22:45 on Sundays.

It is proposed for the new restaurant premises to have 55 covers and opening hours of 12:00 (midday) until 22:30 daily. Paragraph 8.88 of the UDP 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 proposed opening hours therefore accord with this approach and the proposed premises would close considerably earlier than other licensed premises in the vicinity so the proposal would not introduce additional noise from patrons at a later hour.

Conditions are proposed to control the opening times and activity in order to limit the impact of the proposal. These conditions would ensure that the use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) and this could be used only by diners before and after meals with no take-away service (including home delivery) operating from the premises.

Objections have been received from neighbouring residential occupiers concerned that the new restaurant unit may result in additional noise nuisance including from smokers congregating outside the premises. However, the proposal is for a relatively small restaurant unit with limited covers and restricted opening hours. A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties and requiring the submission of an Operational Management Plan to show management processes that will be adopted to ensure no noise nuisance

from the restaurant operation. The Operational Management Plan will also consider how smokers outside the premises will be dealt with to ensure there is no obstruction to other pedestrians or a noise nuisance.

The proposed restaurant would have a high level extract duct terminating at main roof level which would provide suitable odour dispersal and a condition is proposed to ensure that the duct is provided and retained in association with the extended restaurant premises. Objections have been received to potential odour nuisance from the operation of the restaurant. However, the high level extract duct will provide adequate odour dispersal and has been deemed acceptable by Environmental Health so the objections on these grounds cannot be sustained.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE8 and City Plan Policy S24 subject to these safeguarding conditions.

Impact on character and function of the area

The area is mixed use in character comprising commercial offices, retail and entertainment uses and a number of residential properties. There are some licensed premises in the vicinity although it is not considered that the area is saturated with such uses. The nearest licensed premises are restaurants at 110 Great Portland Street and 114 Great Portland Street.

Objections have been received from neighbouring residential occupiers concerned about the number of restaurants in the vicinity of the site and 'over-saturation' of the area with entertainment uses. A land use survey has been undertaken of the ground floor uses along the section of Great Portland Street between Langham Street to the south and New Cavendish Street to the north. It identifies that there are 26 commercial units, of these 12 are in use as retail shops, 4 restaurants, 1 public house, 4 offices, 1 medical and 4 in use as professional services. Restaurants and public houses constituted 26% of the number of individual units within the immediate area and this is considered acceptable for a named street such as Great Portland Street (treated as part of the Core CAZ) and compliant with the stipulations of Part C of Policy SS5. Whilst objections have been received to the application with regard the number of entertainment uses in the area, as detailed above this is not considered to be the case and the objections on these grounds are not considered sustainable.

Upper Floors

The current lawful use of the upper floors of the property is as office accommodation, however planning permission was granted on the 6th October 2015 for the change of use of the upper floors to residential flats. The proposed extract duct forming part of this application is routed internally through the upper floors and, should the upper floors be changed to residential, there would be a duct routed through the centre of the flats, the implications of which have not be considered as part of this application. Further, no information has been provided to show that the operation of the restaurant could take place without causing noise disruption to the occupants of the flats on the upper floors. The applicant has agreed to a legal agreement stating that should this restaurant use be implemented the residential permission on the upper floors will not be implemented.

Further, should the residential permission on the upper floors be implemented the permission for the restaurant will not be implemented.

8.2 Townscape and Design

In design terms the proposals are relatively minor with a replacement timber shopfront to the front elevation which is an improvement on the existing situation. To the rear an extract duct will terminate at roof level. Subject to a condition requiring it to be painted black to blend in with the dark slate, this would not be harmful to the character and appearance of the East Marylebone Conservation Area.

The application is acceptable in design terms and accords with the relevant adopted policies of the Unitary Development Plan and the City Plan.

8.3 Transportation/Parking

The Highway Planning Manager has advised that the proposed restaurant operation would not result in any additional servicing requirements when compared to the lawful retail use. An objector has commented on potential disruption due to deliveries but, as set out above, the proposed restaurant use is unlikely to generate any additional servicing requirement compared to the existing use as a shop.

The site is also within a Controlled Parking Zone and therefore all customers wishing to drive to the premises will have to accord with the on-street parking restrictions.

To minimise the impact of the proposed use on the highway network a condition is proposed to ensure no delivery service takes place from the premises. Delivery vehicles can reduce the availability of parking for other users and generate additional noise and pollution.

The Highways Planning Manager has requested the addition of a condition requiring the provision of two cycle parking spaces within the demise of the premises. However, these cycles would need to be taken in and out through the main entrance and then down the restaurant stairs to the basement level. This is not considered practical and in this instance cycle parking is not deemed necessary.

8.4 Economic Considerations

The economic implications of the change of use from retail to restaurant floor space are likely to be neutral.

8.5 Access

Level access will be provided to the ground floor of the premises and a disabled access toilet will be provided at ground floor level.

8.6 Other UDP/Westminster Policy Considerations

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 with regard the potential noise and vibration impacts of its operation. The nearest residential windows were identified as being the top floor residential units in Nos. 102 and 106 Great Portland Street. The noise producing item comprises solely of the duct fan which is located within the kitchen area at ground floor level, the operating hours are 09:00 till 23:00. It has been demonstrated that noise from the plant equipment will be compliant with the City Council requirements at the identified windows and this has been considered acceptable by Environmental Health. Conditions are proposed in relation to the noise and vibration levels from the plant.

Objections have been received with regard potential noise disruption from the plant operation but the acoustic report has been assessed by Environmental Health who has confirmed that the plant will be compliant with the standard noise criteria. The objections on these grounds are not therefore considered sustainable.

Light Pollution

An objection has been received to the application from a neighbouring residential occupier concerned about an increase in light pollution resulting from the replacement of the rooflight at rear first floor level. The replacement rooflight is of the same dimensions as the existing rooflight and it is not therefore considered it will result in any additional light pollution. There are no current controls over the rooflight and it is not therefore considered necessary to control the use of the proposed rooflight.

8.7 London Plan

This application raises no strategic issues.

8.8 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.

8.9 Planning Obligations

The draft 'Heads' of agreement are proposed to cover the following issues:

- i) Upon implementation of this permission the planning permission (15/07544/FULL) for the residential use of the upper floors of the building shall not be implemented.

- ii) Or, that this permission shall not be implemented should the planning permission (15/07544/FULL) for the residential use of the upper floors of the building be implemented.
- iii) Costs for monitoring the legal agreement.

As the application is for a change of use without additional floor area, the proposal does not include a requirement for a CIL payment.

8.10 Other Issues

Refuse /Recycling

Storage areas are identified in the basement of the premises which could easily accommodate the waste and recycling requirements of the premises. The Cleansing Manager has requested the addition of a condition to any approval to require amended drawings to show the provision of separate food, waste, recycling and cooking oil storage areas to be provided and made permanent. A condition is attached to request this information. An objector has raised concerns about waste storage at the premises and mentioned issues with regard other premises in the street placing their rubbish on the highway, as detailed there is sufficient space in the basement 'storage' areas of the basement for waste and more detailed information will need to be provided before the restaurant operation could be in operation.

9. BACKGROUND PAPERS

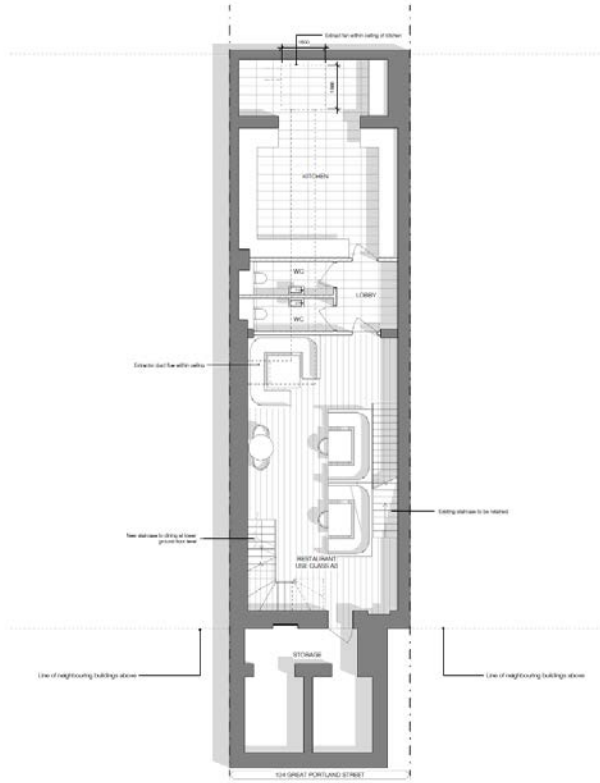
1. Application form
2. Response from the Highways Planning Manager dated 2 June 2017
3. Response from Environmental Health dated 13 June 2017
4. Letter from occupier of Flat 2, 108 Great Portland Street, dated 9 May 2017
5. Letter from occupier of Flat 2, 102 Great Portland Street, dated 11 May 2017
6. Letter from occupier of Flat 1, 108 Great Portland Street, dated 25 May 2017

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

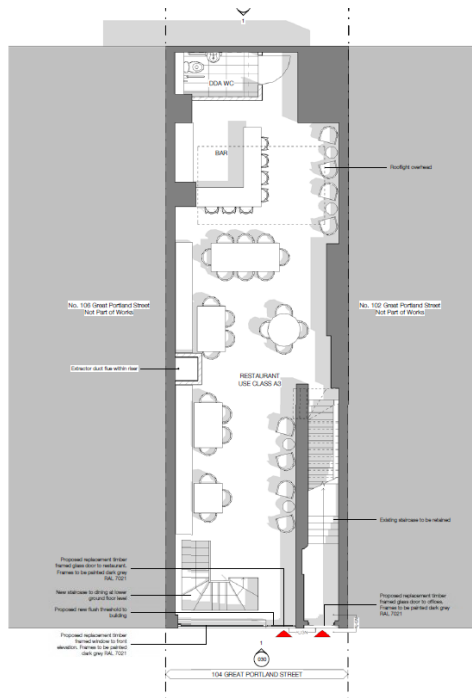
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

10. KEY DRAWINGS

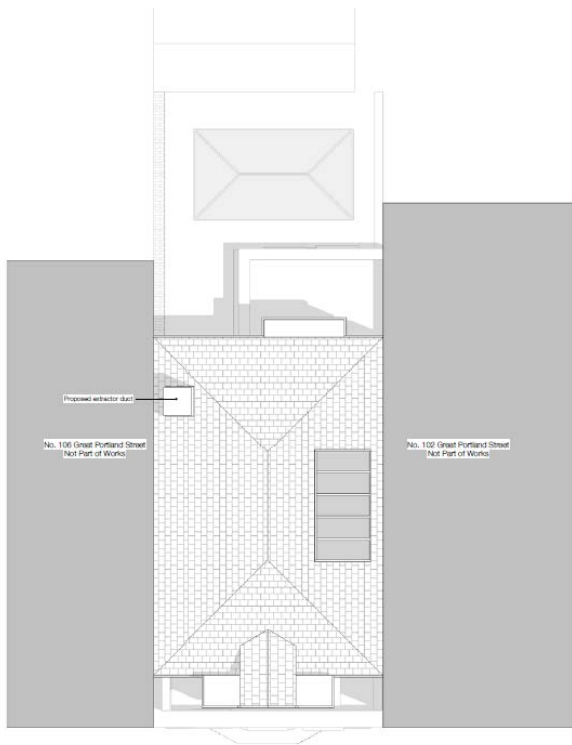
Proposed Basement:



Proposed Ground:



Proposed Roof:



DRAFT DECISION LETTER

Address: 104 Great Portland Street, London, W1W 6PE,

Proposal: Use of the basement and ground floors as a restaurant (Class A3), installation of a new shopfront and replacement rooflight at rear first floor level. Installation of an internal high level extract duct to terminate at main roof level.

Reference: 17/03402/FULL

Plan Nos: Acoustic Report (16501/001revB/ha, Drawings: 009 RevC, 010 RevC, 011 RevC, 012 RevA, 015, 013 RevA, 014 RevA, 030 RevB, 031 RevB.

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 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 Harley Street 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.

- 4 The proposed external parts of the extract duct should be finished / painted black and maintained in this form for as long as the duct 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 Harley Street 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)

- 5 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not occupy the approved restaurant use until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the property.

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)

- 6 (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 5 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 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.

(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:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) of our Unitary Development Plan that we adopted in January 2007 (UDP), 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.

- 7 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.

- 8 You must install the high level duct as shown on the approved drawings before you can operate the restaurant hereby approved, the duct must thereafter be maintained in situ for as long as the restaurant remains in place.

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)

- 9 You must not sell any hot-food take-away from the restaurant premises, nor operate a delivery service, even as an ancillary part of the primary Class A3 use.

Reason:

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

- 10 You must not allow more than 55 customers into the property at any one time. (C05HA)

Reason:

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

- 11 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)

- 12 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the hours: 12:00 till 22:30 daily.

Reason:

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

- 13 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)

- 14 If you provide a bar and bar seating within the restaurant premises, it must not take up more than 15% of the floor area of the restaurant premises. You must use the bar (if provided) 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 Mayfair Conservation Area. This is in line with S24 of Westminster's City Plan (November

2016) and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

- 15 You must apply to us for approval of a management plan for the approved restaurant premises to show how you will prevent customers who are leaving the premises from causing nuisance for people in the area, including people who live in nearby buildings. You must not occupy the approved 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 restaurant is in use.

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 (November 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 16 The plant/machinery hereby permitted shall not be operated except between 09:00 hours and 23:00 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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.

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 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 3 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 4 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)

- 5 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public. Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992.
www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm. The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>: BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances, BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 6 Conditions 6 and 7 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)

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.