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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 6 th March 2018 | Classification For General Release | |
| Report of Director of Planning | | Ward(s) involved Bryanston And Dorset Square | |
| Subject of Report | 55 Crawford Street, London, W1H 4JQ | | |
| Proposal | Use of the ground floor and basement as an estate agent (Class A2). | | |
| Agent | ASK Planning | | |
| On behalf of | Winchester International Limited | | |
| Registered Number | 17/09223/FULL | Date amended/ completed | 27 October 2017 |
| Date Application Received | 17 October 2017 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Portman Estate | | |

1. RECOMMENDATION

Grant conditional planning permission

2. SUMMARY

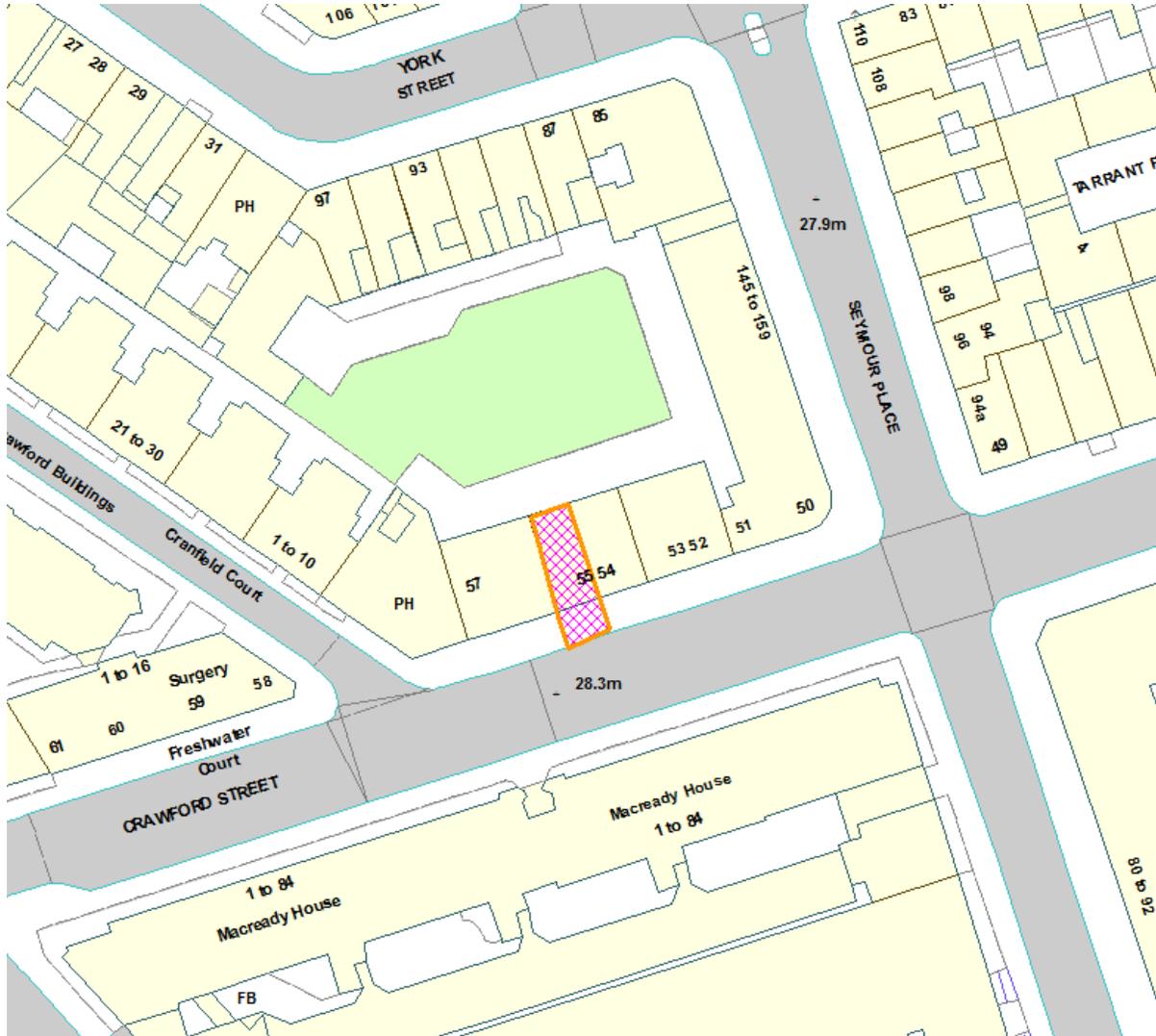
This application relates to a vacant ground and basement floor retail unit within the Portman Estate Conservation Area. The site lies within the Central Activities Zone, and within a non-core frontage of the Crawford Street/Seymour Place/York Street local shopping centre.

The submission seeks permission for use of the ground and basement floors as an estate agent (Class A2) and the main issue is the acceptability of the loss of the A1 retail unit.

In 2010 permission was refused for the use of the basement as a restaurant, on the grounds of harm to the retail character and function of the area and adverse impact on amenity. The decision was upheld at appeal, and the inspector considered that the proposal would subdivide the ground and basement level into two planning units, which would compromise the viability of the ground floor as a retail unit.

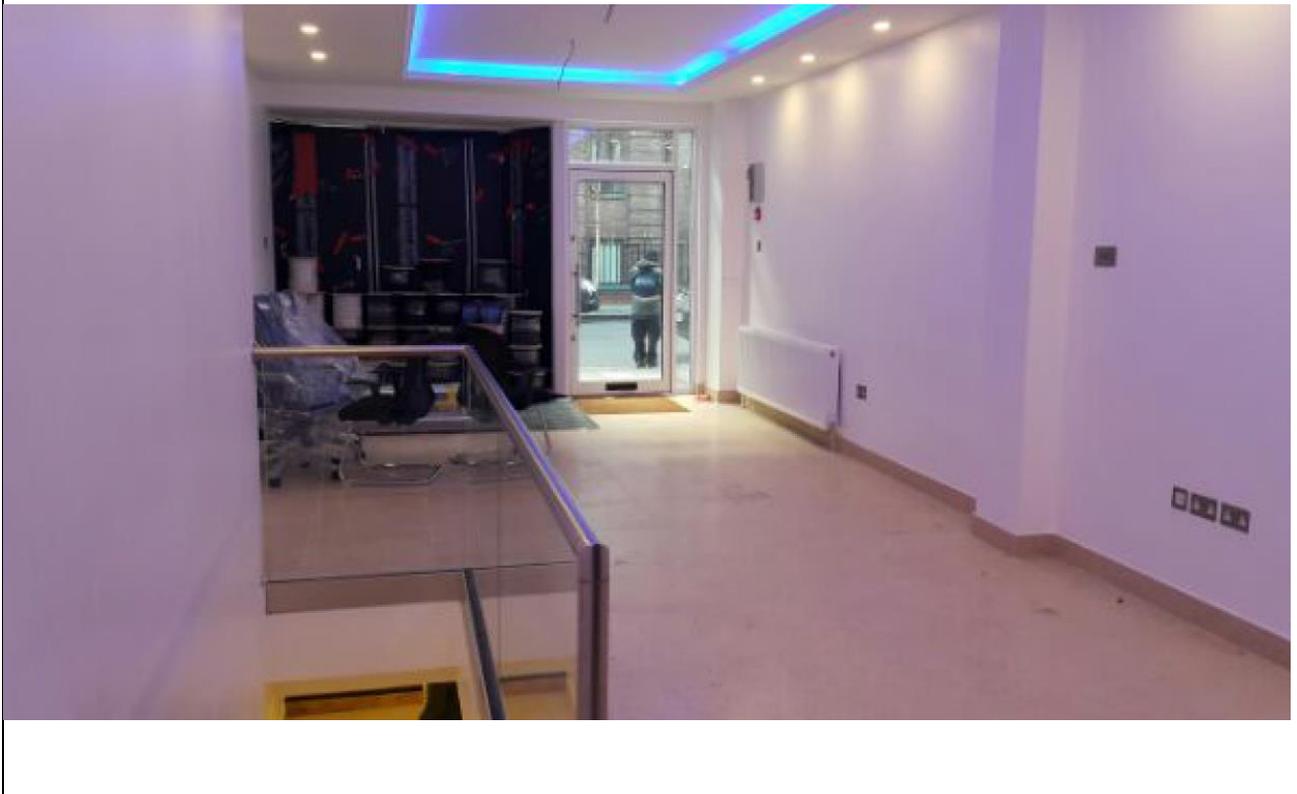
The application site has been vacant for approximately two years, although the unit has not been marketed during this time. Given this lack of marketing evidence, the application is considered to be contrary to City Plan policy S21. However, the proposal meets the tests of UDP policy SS7 as it would not result in three or more adjoining non-retail premises in this part of Crawford Street. Given the number of other retail uses along Crawford Street shopping parade, it is not considered that the proposed estate agency use would harm the vitality or viability of the parade or wider area. It is recommended that conditional planning permission be granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

MARYLEBONE ASSOCIATION

No comment

CLEANSING MANAGER

Raises no objection subject to conditions to secure details of waste and recycling storage.

ADJOINING OWNERS / OCCUPIERS

No. Consulted: 31; No. comments: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is 55 Crawford Street, which is an unlisted building located in the Portman Estate Conservation Area. The site lies within the Central Activities Zone, and within a non-core frontage of the Crawford Street/Seymour Place/York Street local shopping centre.

The basement and ground floor of the site are currently vacant, and were last occupied by 'Al-Madina Express', a café in Class A1 retail use. The upper floors of the property are occupied as residential flats and to the rear, there is emergency access at basement level, to a communal courtyard garden which belongs to the residents of Seymour Buildings.

6.2 Recent Relevant History

10/02339/FULL

Planning permission was refused on 2 June 2010 for the "Use of the basement as restaurant (Class A3) and installation of low level extract duct with extractor grill above rear external door." for the following reasons:

- loss of a retail in the non--core frontage of a local shopping centre would harm the retail character and function of the area.
- proposed use would result in the loss of amenity to the area and adjoining residential properties, in particular by way of noise and disturbance and fumes from cooking.

The decision to refuse this application was appealed ref. X5990/A/10/2141890. The appeal was dismissed. The inspector notes that there was ambiguity as to the lawful use of the ground floor premises which at the time, was in use as a café/retail/takeaway whilst the basement was in use as a restaurant. Paragraphs 6 and 7 of the appeal decision raise concerns that the proposal would result in the subdivision of a single planning unit which was considered to result in the loss of ancillary retail floorspace thereby compromising the viability of the ground floor retail use, contrary to Council policy. Further to this, the inspector considered that the restaurant use at basement level

would result in harm to neighbours amenity by way of noise and odour from extract equipment, and from customers.

08/02812/FULL

Planning permission was refused on 23 May 2008 for “Removal of part of existing restaurant shopfront and replacement set back to create an outside space and to erect an awning with side panels.” for design and amenity reasons

03/04882/FULL

Planning permission was refused on 15 September 2003 for “Use of the basement as a cafe and 'shisha parlour' (for smoking a shisha pipe) (sui generis) in association with the middle eastern cafe (Class A1) at ground floor level.” for the following reasons:

- The proposal would lead to the loss of a retail floor space on a main shopping frontage which would harm the retail character and function of the area.
- The proposed use would result in the loss of amenity to adjoining residential properties, in particular by way of noise and disturbance and fumes from smoking.

01/02850/FULL

Planning permission refused on 11 July 2001 for “Use of basement and ground floor as a restaurant (Class A3) and installation of full height extract duct at rear.” for the following reasons:

- Loss of amenity by increased noise and odour nuisance and late night activity.
- The proposal would result in the loss of a retail floorspace within a Main shopping frontage
- Rear extract would harm the character and appearance of the building and area.

7. THE PROPOSAL

The application proposes the use of the ground floor and basement as an estate agency (Class A2)

Typically, the change of use from class A1 (retail) to class A2 (financial and professional services) would be allowed under permitted development rights, however in January 2017 the Council imposed an Article 4 direction to remove these permitted development rights. It follows that full planning permission is required to change the use of the unit from class A1 retail to class A2 estate agents.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The lawful use of the property is for retail (Class A1) use. The site is located in the Crawford Street/Seymour Place and York Street Local Centre. It should be noted that since the 2010 appeal decision there has been a material change in policy. UDP policies STRA10, and SS1 have been deleted and the Council's City Plan has now been adopted.

Westminster City Plan: Strategic Policies; Policy S21 states that existing 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.

Whilst the unit has been vacant for approximately 2 years no evidence of marketing has been submitted with the application, and as such, the Council considers that the proposal would be contrary to policy S21.

There have been a number of applications for restaurant/café uses on this site, all of which have been refused. The most recent application for restaurant use, submitted in 2010, was refused on the grounds of harm to the retail character and function of the area. The decision was upheld at appeal in 2011, however, the inspector concluded in paragraph 9 of the appeal decision, that there would be no presumption in principle against the loss of retail, provided that the viability of the centre is maintained. In the same paragraph, the inspector notes that no empirical evidence or subjective assessments were made by either the applicant or the Council as to whether the viability of the shopping centre would be impacted. The inspector concluded that since the 2010 application would subdivide the ground and basement level into two planning units, this would compromise the viability of the ground floor as a retail unit.

The applicant argues that the loss of retail floorspace would not impact on the viability of the shopping centre or parade; that the number of estate agencies within the vicinity is limited and that there is a variety of retail provision for both residents and visitors.

Policy SS7 (C) of the Unitary Development Plan states that outside the Core Frontages, permission will be granted for the loss of an A1 use at ground floor level if the proposal:

- a) would not be detrimental to the character of function of the centre, nor have a harmful effect on the vitality or viability of the centre;
- b) would not reduce the range of local convenience shops or have a detrimental effect on local shopping facilities;
- c) would not result in more than three non-A1 units located consecutively in a frontage; and
- d) would not undermine the balance of A1 to non-A1 uses within the frontage or centre as a whole.

The following land uses currently occupy the Crawford Street Shopping parade between Homer Street and Seymour Place:

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|------------------------|---------------------------------|
| 50-51 Crawford Street: | A1 (Audio-visual shop) |
| 52 Crawford Street: | A1 (Supermarket) |
| 53 Crawford Street: | A1 (Dry cleaners) |
| 54 Crawford Street: | Sui generis (Health and beauty) |
| 55 Crawford Street: | A1 (Vacant, application site) |
| 56 Crawford Street: | A1 (Pharmacy) |
| 57 Crawford Street: | D1 (Dental clinic) |
| 58 Crawford Street: | A3 (Restaurant) |

The use of 55 Crawford Street for non-A1 purposes would therefore not lead to three or more non-A1 units consecutively in the frontage. The parade would continue to offer a

range of A1 uses that serve visiting members of the public, including a local convenience store at No. 52, and in this regard it is considered that the proposal would satisfy the tests of policy SS7 (C).

On balance, it is considered that the change of use to A2 would not result in unacceptable harm to the vitality and viability of the parade since an estate agent would still serve visiting members of the public. Furthermore, since the ground and basement floors would be retained as a single planning unit, the proposal would not impact on the long term viability of the site. It is considered that the loss of the retail unit is acceptable in accordance with the tests set out in policy SS7.

8.2 Townscape and Design

There would be no external changes to the premises, and therefore no harm to the character or appearance of the area. A condition is proposed to prevent the windows from being obscure glazed and to ensure the provision of a window display.

8.3 Residential Amenity

It is not considered that the proposed use would give rise to any harm to neighbours living conditions.

8.4 Waste & Recycling

Details of waste and recycling storage are to be secured by condition.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 London Plan

This application raises no strategic issues.

8.7 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.

8.8 Planning Obligations

Planning obligations are not relevant in the determination of this application.

9. BACKGROUND PAPERS

1. Application form
2. Appeal decision dated 16th March 2011 ref. APP/X5990/A/10/2141890 by David Kaiserman
3. Response from Cleansing dated 16 January 2018

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

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| IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk |
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10. KEY DRAWINGS

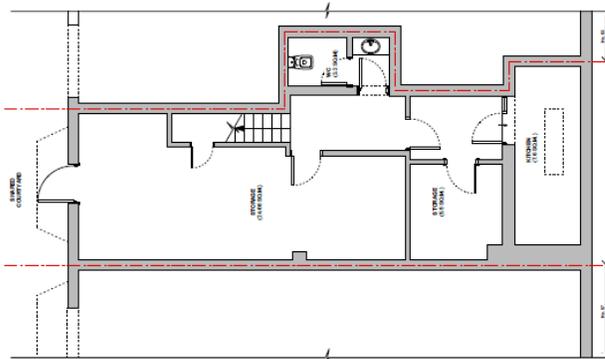
EXISTING PLANS AND ELEVATIONS



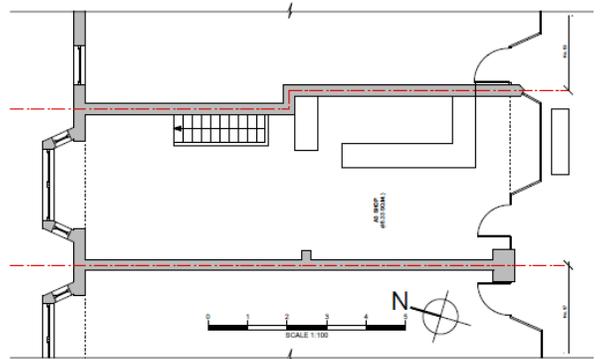
EXISTING SOUTH ELEVATION (FRONT)



EXISTING NORTH ELEVATION (REAR)

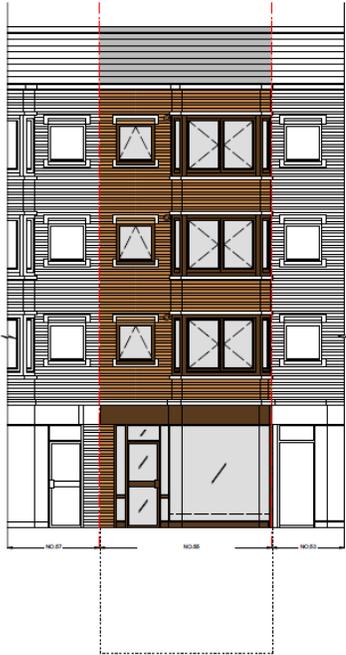


EXISTING LOWER GROUND FLOOR PLAN



EXISTING GROUND FLOOR PLAN

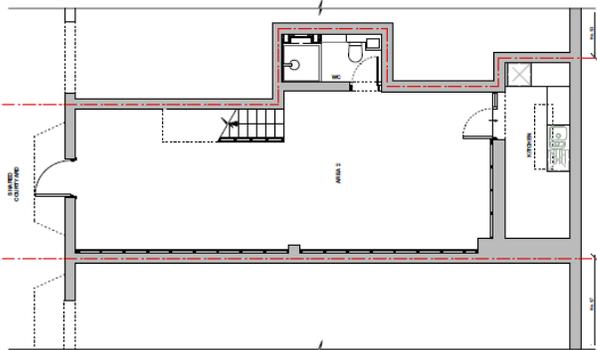
PROPOSED PLANS AND ELEVATIONS



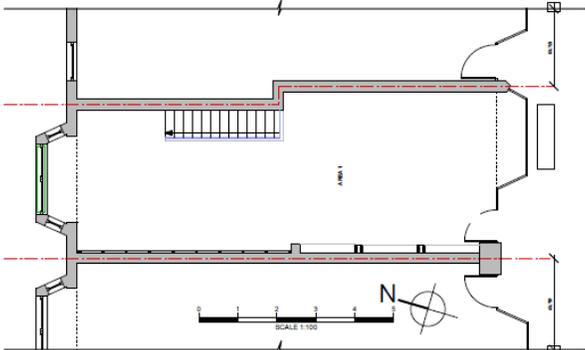
PROPOSED SOUTH ELEVATION (FRONT)



PROPOSED NORTH ELEVATION (REAR)



PROPOSED LOWER GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

DRAFT DECISION LETTER**Address:** 55 Crawford Street, London, W1H 4JQ**Proposal:** Use of the ground floor and basement as an estate agent (Class A2).**Reference:** 17/09223/FULL**Plan Nos:** 0361(PL)01**Case Officer:** Gemma Bassett**Direct Tel. No.** 020 7641 2814**Recommended Condition(s) and Reason(s)**

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| 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 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 start work on the relevant part of the development 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 A2 unit. (C14EC) |
| | 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) |
| 3 | You must not occupy the premises for A2 use until a detailed scheme for the shop windows of the unit has been submitted to and approved in writing by the local planning authority. The scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows. The development shall thereafter be carried out in accordance with the approved scheme and no further modifications shall be made. |
| | 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 Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and |

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| | 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.

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.