

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	28 May 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved West End	
Subject of Report	37-38 Margaret Street, London, W1G 0JF,		
Proposal	Variation of Condition 3 of planning permission dated 31 January 2017 (RN: 16/10306/FULL) for 'Use of part of the ground floor as a restaurant (Class A3)'; NAMELY, to extend opening hours (from between 08.00 and midnight Sunday to Tuesday, between 08.00 and 01.00 on Wednesday and Thursday and between 08.00 and 02.00 on Friday and Saturday) to between 08.00 and 03.00 daily for a temporary period of one year.		
Agent	Mr Mark Browning		
On behalf of	Mr SCOTT COLLINS		
Registered Number	19/01611/FULL	Date amended/ completed	4 March 2019
Date Application Received	3 March 2019		
Historic Building Grade	Unlisted		
Conservation Area	Regent Street		

1. RECOMMENDATION

Grant conditional permission for a temporary period of 1 year

2. SUMMARY

The application premises is a vacant ground floor unit which has been in use as restaurant/bar since 1999. The premises was occupied by the Match bar in which customers could purchase drinks, snacks and full meals between 1999 and 2016. It was then occupied by 'The Jazz Suite' as a wine and cocktail bar with food from January 2017 to April 2018. The unit is currently vacant a premises licence was granted on 15 February 2019 for use of the premises by Meat Liquor as a restaurant.

This application relates to the hours of use. The permitted opening hours are; between 08.00 and midnight Sunday to Tuesday, between 08.00 and 01.00 the following morning on Wednesday and Thursday and between 08.00 and 02.00 the following morning on Friday and Saturday. On 31st January 2017 permission was granted for an extension to the opening hours to between 08.00 and

03.00 daily for a temporary period of 1 year. The current application again seeks permission to enable the premises to open between 08.00 and 03.00 daily for a further temporary period of 1 year.

The key issues for consideration are:

the impact that the proposed extended hours would have on the character and function of the area, the impact on residential amenity.

Further to consultations 3 objections have been received. These objections are from the occupants of 2 x residential flats at No14 John Princes Street situated to the west and from an office occupant at 40 Margaret Street to the east of the site. The objections are made primarily to the principle of use of the premises as a restaurant. Specifically, that there is an overconcentration of entertainment uses in the area, reference is also made to potential nuisance from cooking smells and smoking odours. One of the objections does however also refer to late night drinking establishments adding to noise nuisance and anti- social behaviour.

As already stated the premises have been in use as a longstanding entertainment facility. Use as a restaurant is also permitted by the original permission. This application relates only to the opening hours and consideration centres solely on whether the later closing time of one additional hour on Friday and Saturday mornings, two hours on Wednesday and Thursday mornings, and three hours on Sunday to Tuesday mornings are acceptable.

In response to the objections received the applicant states that

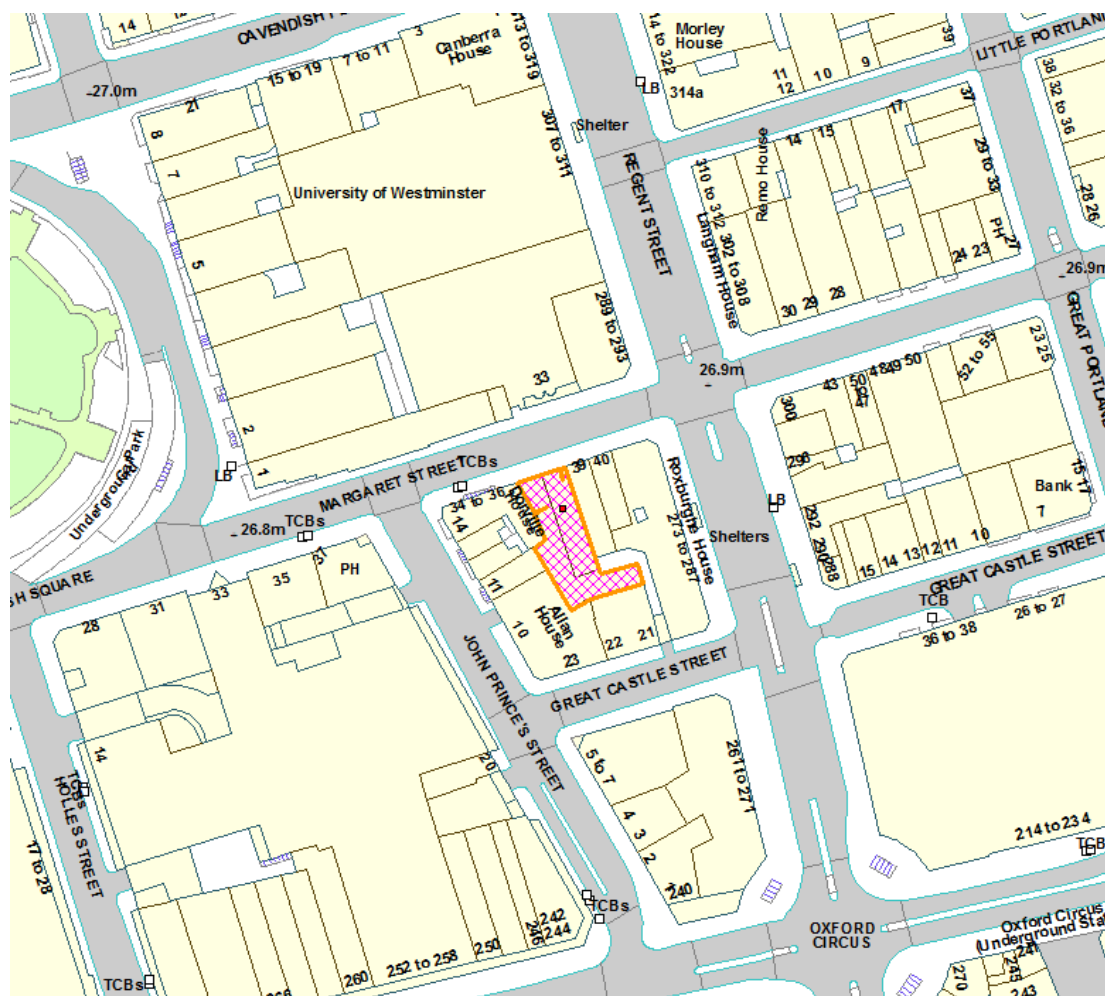
- The proposed operator is becoming a food-led restaurant, instead of the previous drink-led clubs and bars.
- The ventilation system is new and vents above roof level.
- There is an existing Premises Licence in force with a daily terminal hour of 0300.
- There is a specific condition requiring all patrons to exit on the Great Castle Street side after 2300. This must additionally appear on all advertisement for the restaurant.
- The premises are required to have full CCTV coverage, noise limiters and attenuated plant. Windows and doors must be closed after 2300.
- Strict conditions exist on the management of smokers, and the numbers permitted to smoke.
- A direct telephone number is made available to the manager, with notices reminding patrons to respect neighbours.
- Door supervisors are stationed on Thursday, Friday and Saturday. A condition requires supervisors to prevent congregation and move any patrons towards Oxford Circus.
- There is a requirement to clean the pavement.

The area is mixed use in character there are a number of other licensed premises in the immediate vicinity, namely; All Bar One at 291 Regent Street, The Finery Public House at 23 Great Castle Street, The Phoenix Public House at 37 Cavendish Square and Swingers mini golf bar and restaurant at 15 John Princess Street. The latest closing time of these licensed premises is 01.00.

It is acknowledged that the proposed terminal hour at the application property would be later than other licensed premises in the immediate locality. However as referred to above the premises license permits opening until 3am daily, and a condition on the license prevents the entrance on Margaret Street being used after 23.00 hours (other than for emergency purposes). The condition requires all access and egress between 23.00 and 03.00 to be from Great Castle Street, where there is no residential. It is recommended that this is also a condition on any planning permission.

There were no complaints during the previous temporary 1 year permission. Although there will be a change in the user, restrictions on the operation of the restaurant will ensure that local amenity is protected. It is therefore recommended that permission is granted for a further temporary year, which will enable the position to be monitored.

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

4. PHOTOGRAPHS



5. CONSULTATIONS

ENVIRONMENTAL HEALTH

No objection

MARYLEBONE ASSOCIATION

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 81

Total No. of replies: 3

3 objections raising some or all of the following issues:

Land Use

Overconcentration/saturation of entertainment uses within the West End

Amenity

Nuisance loss of amenity from cooking fumes and smoking;

Increased air pollution

Increase in crime

Increase in pests

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 Recent Relevant History

Planning permission was originally granted in February 1996 for use of the basement/ ground floor as a restaurant/bar - (Council ref: 95/05549).

On 30 September 1999, planning permission was granted for a variation of conditions 3 & 8 of 95/05549 to allow opening hours of 0800-2400 daily and use of the plant operation from 0800-2430 daily (Council ref: 99/02795).

On 8 April 2014, temporary planning permission was granted at appeal for a variation of conditions 3 & 8 of 99/02795 to allow opening hours of 0800-midnight on Sundays to Tuesdays; 0800-0130hrs on Wednesdays and Thursdays; and 0800-0230hrs on Fridays and Saturdays and hours of use for associated plant of 0800-2430hrs on Sundays to Tuesdays; 0800-0130hrs on Wednesdays and Thursdays; and 0800-0230hrs on Fridays and Saturdays (Council ref: 13/02825/FULL; PINS Ref: APP/X5990/A/13/2201970). The permission was granted on a 12-month trial basis.

On 8 April 2015, permanent planning permission was granted for a variation of conditions 3 & 8 of 99/02795 to allow opening hours of 0800-midnight on Sundays to Tuesdays; 0800-0130hrs on Wednesdays and Thursdays; and 0800-0230hrs on Fridays and Saturdays and hours of use for associated plant of 0800-2430hrs on Sundays to Tuesdays; 0800-0130hrs on Wednesdays and Thursdays; and 0800-0230hrs on Fridays and Saturdays (Council ref: 15/01461/FULL).

On 31 January 2017 permission was granted for variation of condition 3 of planning permission dated 8 April 2015 (RN 15/01461/FULL) which in itself varied condition 3 of planning permission dated 8 April 2014 for use of part of the ground floor as a restaurant (Class A3) (which allowed an extension to opening hours); NAMELY, to extend opening hours from 08.00 - 03.00 daily (RN 16/10306/FULL).

On 15 February 2019 a premises license was granted which permits the opening from 10.00 until 03.00 daily ref 19/01318/LIPT

(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: MICHAEL WALTON BY EMAIL AT mwalton@westminster.gov.uk.

DRAFT DECISION LETTER

Address: 37-38 Margaret Street, London, W1G 0JF,

Proposal: Variation of Condition 3 of planning permission dated 31 January 2017 (RN: 16/10306/FULL) for 'Use of part of the ground floor as a restaurant (Class A3)'; NAMELY, to extend opening hours (from between 08.00 and midnight Sunday to Tuesday, between 08.00 and 01.00 on Wednesday and Thursday and between 08.00 and 02.00 on Friday and Saturday) to between 08.00 and 03.00 daily for a temporary period of one year.,

Reference: 19/01611/FULL

Plan Nos:

Case Officer: Mike Walton

Direct Tel. No. 020 7641 2521

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 (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. (R46AB)

- 3 Customers shall only be permitted within the restaurant premises between the hours of 08.00 and 03.00 the following morning daily for a temporary period of 1 year from the date of this permission. After which time customers shall not be permitted within the restaurant premises before 08.00 or after 12.00 midnight on Sunday to Tuesday, and before 08.00 or after 01.00 the following morning on Wednesday and Thursday and before 08.00 or after 02.00 the following morning on Friday and Saturday.

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 TACE9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 The plant and associated equipment shall not operate except between the hours of 08.00 or after 00.30 the following morning on Sunday to Tuesday, and before 08.00 or after 01.30 the following morning on Wednesday and Thursday and before 08.00 or after 02.30 the following morning on Friday and Saturday.

Item No.
2

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. (R46CB)

- 5 After 23:00 hours access and egress from the premises shall be from the Great Castle Street entrance/exit and the entrance on Margaret Street shall only be used in the case of emergencies after this time.

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)

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.

Item No.
2

BACKGROUND PAPERS - 37-38 Margaret Street, London, W1G 0JF, 19/01611/FULL

1. Application form
2. Response from Plant And Equipment, dated 23 March 2019
3. Letter from occupier of 48a Connaught Street, London, dated 12 March 2019
4. Letter from occupier of 14 John Princes Street, flat 3, dated 28 March 2019
5. Letter from occupier of Flat 1, 14 John Prince's Street, London, dated 29 March 2019