

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 22 March 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	34 Grosvenor Square, London, W1K 2HD		
Proposal	Variation of conditions 3 and 4 of permission dated 24/11/2020 for 'Alterations in connection with the construction of platform within lightwells fronting South Audley Street to provide space for tables and chairs for use in association with restaurant (Class A3)' Namely to enable the platform to be used for dining until 16 May 2023 (condition 3) and requiring the removal of the platform and the reinstatement of railings and plinth by 16 June 2023 (condition 4) (Application under Section 73 of the Act).		
Agent	DP9		
On behalf of	Caprice Holdings Ltd		
Registered Number	21/07888/FULL	Date amended/ completed	9 March 2022
Date Application Received	18 November 2021		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional permission for a temporary period of 1 year

2. SUMMARY

34 Grosvenor Square is a mixed-use building comprising a restaurant on basement, ground and first floors with flats on the second to fifth floors. On 24 November 2020, permission was granted for the erection of a platform within a front lightwell for use as external dining area for the restaurant with 13 tables and 26 chairs.

Front basement lightwells are a traditional feature, and an important characteristic, of many conservation areas, including the Mayfair Conservation Area, and the infilling of these lightwells is not normally considered acceptable. It was previously accepted that the creation of this external dining area would aid the restaurant re-opening during the pandemic. In recognition of the unprecedented circumstances, permission was granted with conditions including one which permitted

external dining for a period of one year from the use first commencing and another requiring the removal of the dining platform and reinstatement of the lightwell to its previous position within 13 months of the use commencing. The tables and chairs were first used on 17 May 2021.

The current application seeks to vary the aforementioned conditions to enable the retention of the decking, and its use for 13 tables and 26 chairs, for a further year and the reinstatement of the lightwell within one month of the cessation of this use.

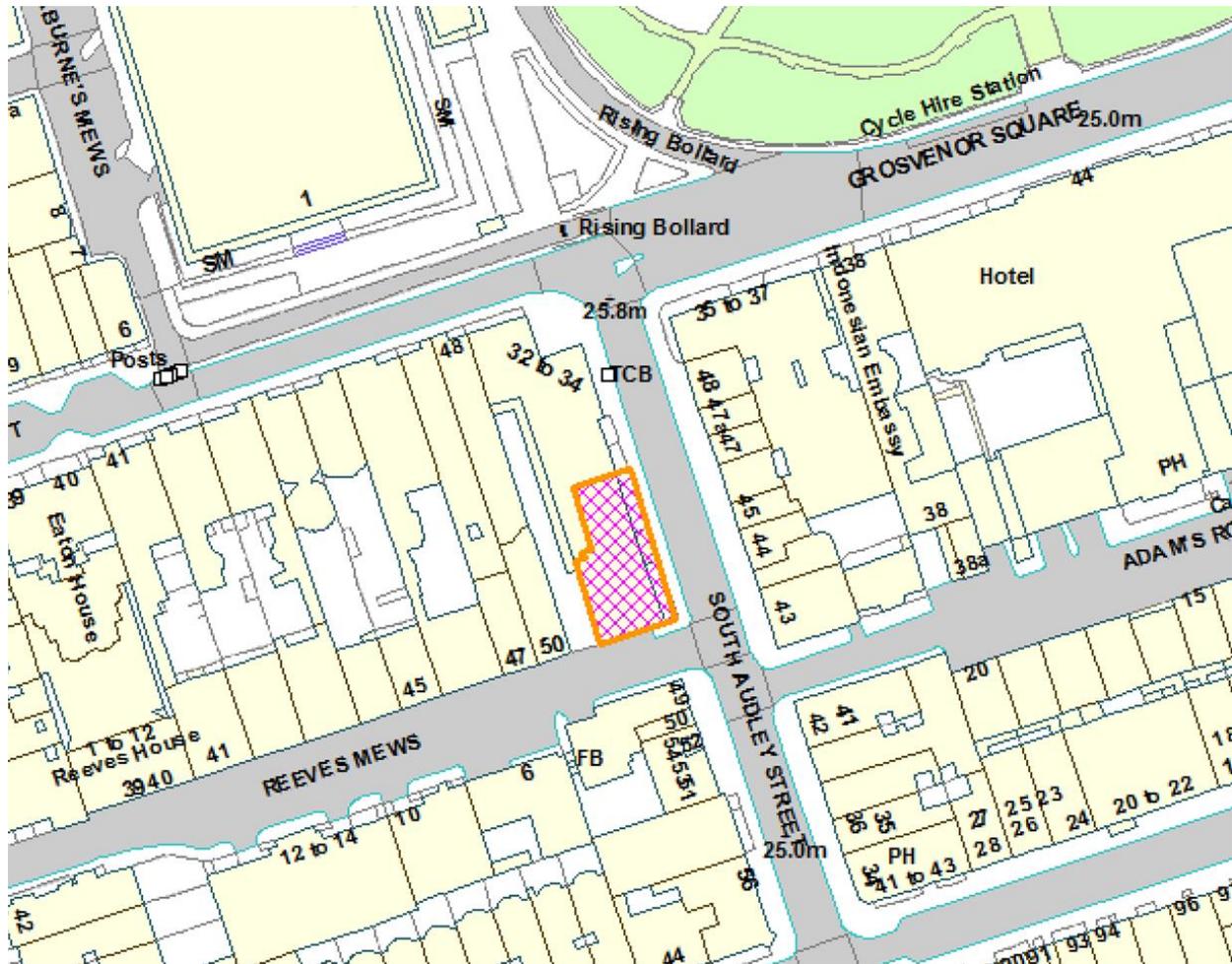
The key issues for consideration are:

- The impact of the use on neighbours' amenity
- The acceptability of permitting the lightwell structure, which is harmful to the appearance of the building and the Mayfair Conservation Area, for a further temporary period of 1 year.

Subject to operational conditions, including a condition which limiting the use of the dining area to between 8am and 10pm, the application is considered acceptable in amenity terms.

In design terms, the retention of the platform and the loss of the front lightwell does detract from the appearance of the building and its setting in the Mayfair Conservation Area, contrary to policies in the City Plan. However, the application is made in the light of ongoing difficulties faced by the hospitality industry during its recovery from the Covid 19 pandemic. Given these exceptional circumstances the application is considered acceptable for a further temporary period.

3. LOCATION PLAN



4. PHOTOGRAPHS





5. CONSULTATIONS

RESIDENTS' SOCIETY OF MAYFAIR & ST. JAMES'S

No response received

MAYFAIR RESIDENTS' GROUP

No response received

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 28 Total No. of replies: 2 (from one respondent)

- The terms of the original permission have not been adhered to as between 28-32 covers have been provided, exceeding the 26 covers permitted
- Applicant does not adhere to obligations in the proposed (new) Operational Management Plan as the awnings are not retracted and the tables and chairs are not put against the wall when the restaurant closes.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

No. 34 Grosvenor Square is a building on basement ground and five upper floors, with frontages on South Audley Street and Reeves Mews. Part of the basement, ground and first floors are in restaurant use, accessed from South Audley Street, and the remainder of the building is occupied as flats. The site lies within the Central Activities Zone (CAZ) and the Mayfair Conservation Area,

The restaurant use, commenced in November 2011, with 108 covers, occupying the basement, ground and a small area at first floor level. Permission was granted, on appeal, on 26 March 2013, to extend the restaurant use to the entire first floor of the restaurant unit, providing an additional 60 covers. A further permission, granted on 24 November 2020, increased the total restaurant capacity to 194 covers, including a maximum of 26 covers on any permitted external dining terrace.

The restaurant opening hours are 08.00 to 01.00 (the following morning) on Monday to Saturday and 08.00 to 23.00 on Sundays.

6.2 Recent Relevant History

On 2.09.2010 permission was granted for use of the lower ground, ground and part first floor as a restaurant (Class A3) and associated alterations including a full height extract duct (RN 10/00743/FULL).

On 26. 03.2013 permission was granted, on appeal, for use of the first floor as a restaurant in connection with an existing restaurant at basement and ground floors and for the installation of new plant at roof level (RN 12/01295/FULL/ Appeal Reference APP/X5990/A/12/2183693).

On 24.05.2013 an Operational Management Plan was approved pursuant to Condition 8 of planning permission dated 26 March 2013 (RN: 12/01295/FULL) 13/04008/ADFULL.

On 01.09.2015 permission was granted for the variation of Conditions 4 and 7 of planning permission granted on appeal dated 26 March 2013 (RN: 12/01295/FULL) to allow the restaurant opening hours and operation of plant as follows: 08.00 to 01.00 (the following morning) on Monday to Saturday and 08.00 to 23.00 on Sundays (RN 15/05750/FULL). Condition 2 on this permission restricted the capacity of the premises to a maximum of 168 covers including 60 covers on the first floor.

On 24 November 2020 permission was granted for 'Alterations including the construction of platform within lightwell fronting South Audley Street to provide space for tables and chairs for use in association with restaurant (Class A3) RN 20/04702/FULL.

Also, on 24 November 2020 permission was granted for the Variation of Condition 2 of planning permission dated 01 September 2015 (RN: 15/05750/FULL) for, 'Use of first floor as restaurant (Class A3) in connection with the existing restaurant at basement and ground floor and new plant at roof level'. NAMELY, to allow the increase the capacity of the restaurant from 168 to 194 (RN 20/04701/FULL). The amended condition limited the restaurant capacity to 194 persons, with no more than 108 covers at ground floor level , no more than 60 covers on the first floor and no more than 26 external dining spaces.

On expiry of any temporary permission for the external dining spaces the capacity of the restaurant will be limited to 168 customers (108 on the ground floor and 60 at first floor level).

7. THE PROPOSAL

The permission of 24 November 2020 permitted the infilling of the front basement lightwell to create an external restaurant dining area (13 tables and 26 chairs). Approved works included the removal of railings and alteration to steps to provide access onto the platform. (20/04702/FULL)

The permission granted on 24 November 2020 RN was subject to various conditions including: .

Condition 3

"You must write to the City Council to notify us when the platform has been erected and the first date that the use of the tables and chairs will commence. The platform may be used for dining for one year from this date, after which the tables and chairs must be removed from the platform and the use of the platform must cease".

Condition 4

“You must reinstate the railings and plinth and complete any works of making good to match existing in materials, design and finished appearance and remove the platform from the lightwell in its entirety within 13 months of the first use of the platform”.

A further condition limits the use of the tables and chairs to between the hours of 08.00 and 22.00 daily.

The use of the external dining area commenced on 17 May 2021.

This application, made under S73 of the Act, and seeks to vary the above conditions to enable the retention of the external dining terrace for another year, until 16 May 2023, and requiring the platform to be removed and the lightwell to be reinstated within one month of the cessation of this use.

The proposed wording of the conditions is as follows:

Condition 3

“The platform may be used for dining until 16 May 2023, after which the tables and chairs must be removed from the platform and the use of the platform must cease.”

Condition 4

“You must reinstate the railings and plinth and complete any works of making good to match existing in materials, design and finished appearance and remove the platform from the lightwell in its entirety on or before 16 June 2023.”

This application initially sought to increase the number of tables and chairs on the dining platform to 18 tables and 36 chairs. However, following the receipt of comments from a local resident that the number of tables and chairs in situ exceed the numbers permitted, the application has been amended. As revised, permission is now sought for 13 tables and 26 chairs on the decking, for a further temporary period one year.

8. DETAILED CONSIDERATIONS

8.1 Land Use

City Plan 2019-2040 Policy 7 (Managing Development for Westminster’s People) seeks to ensure proposals are ‘neighbourly’ by protecting ,and where appropriate enhancing. local environmental quality. Policy 33 (Local Environmental Impacts) seeks to protect the local environment from adverse impacts from developments including from noise pollution. The proposal to continue to use the decking as external dining for an additional year need to be assessed against these policies.

In response to consultations, an objection has been received on the grounds that that up to 32 chairs have been in use, exceeding the permitted number . The application has subsequently been revised to reduce the proposed number of tables and chairs from 18 tables and 36 chairs to 13 tables and 26 chairs, as originally approved. .

No further comments have been received and the objectors does not suggest that the use of the external dining area has resulted in noise disturbance to neighbouring residents, including occupants of flats within the same building.

The previous application was not supported by an Operational Management Plan (OMP). However, an OMP has been submitted as part of the current application which details proposed arrangements for the management of the external dining area including:

- smoking will only be permitted on the western side of the terrace. The eastern side of the terrace is strictly non-smoking;
- all customers wishing to dine outside are clearly told about the 22.00 hour closing time;
- at 21.30 hours, staff will assess which customers need to move inside to ensure the permitted hours of use are adhered to.

The objection received states that the terms of the proposed OMP are not being adhered to, specifically that the ground floor awnings are not being retracted and the tables and chairs are not put against the wall of the restaurant when it closes in the evening, although they confirm that this did happen when the use of the dining terrace commenced. However, there are no conditions on the original permission relating to the use of the awnings or the moving of tables and chairs on the platform, (which is ordinarily a requirement relating to tables and chairs on the public highway to enable the highway to be cleaned). However, the key point is that the permitted hours of use are being strictly adhered to

The applicants have confirmed that the obligations within the new OMP will be complied with. On the basis that use of the platform is limited to a capacity of 13 tables and 26 chairs, that the hours are restricted to 08.00 and 22.00 daily (as previously permitted) and that the use is operated in accordance with the new OMP, it is considered that the proposal would not result in any significant disturbance to neighbouring residents and is acceptable in land use and amenity terms.

8.2 Townscape and Design

The key legislative requirements in respect to designated heritage assets are as follows:

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

34 Grosvenor Square is an unlisted building located in the Mayfair Conservation Area. The ground floor is faced in stone with a fixed canopy over the principal entrance. While it dates from the twentieth century, the multi-paned sash windows, first floor keystones, lightwell and railings reflect details found elsewhere within the conservation area.

The approved development has resulted the removal of two sections of railing and the loss of the open area. The platform, with external dining, is an unusual addition to the streetscape which fails to reflect its character. Lightwells form a common feature within the conservation area and contribute to its character and appearance. The proposals, therefore, fail to respond to Westminster's policies 38, 39 and 40 of Westminster's City Plan 2019-2040 (adopted April 2021) and MD3 of the 'Mayfair Neighbourhood Plan (2018-2038)'.

Given that the works are contrary to the Council's design policies and harmful to the character and appearance of the Mayfair Conservation Area, under normal circumstances the application would not be supported by Officers and would be recommended for refusal. However, the original proposals were made to help the restaurant operation during the COVID-19 pandemic. Over the period of the pandemic the restaurant was closed for three periods; between 20th March 2020 and 1st October 2020; between 5th November 2020 and 3rd December 2020, and between 16th December 2020 and 17th May 2021. The restaurant has remained open since 17th May 2021.

In accordance with Government advice the Council adopted a more pragmatic approach to support businesses through unprecedented times. Despite the clear design policy position, on the basis that the harm to the character and appearance of the Mayfair Conservation Area was temporary and reversible, it was considered that the proposal's contribution to the economic recovery was a clear public benefit which outweighed any temporary harm.

The current application is made on the basis that the retention of the dining will further assist the restaurant's economic recovery and it is recommended, as previously, that permission is granted for a further temporary period. However, an Informative is also recommended to advise the applicant that permission is unlikely to be granted for any further application for the retention of the dining platform given the clear harm to the appearance of the building and the wider Mayfair Conservation Area .

It is recommended that a pragmatic approach is again taken. it is recommended that temporary permission is again granted.

8.3 Residential Amenity (Daylight, Sunlight, Sense of Enclosure)

The provision of the decking has no material impact on the amenity of the occupants of any nearby properties in terms of daylight, sunlight or sense of enclosure.

8.4 Transportation/Parking

Not applicable

8.5 Economic Considerations

As set out within Section 8.2 of this report, the ability of the proposal to assist in the economic recovery of the restaurant during the COVID-19 pandemic is given considerable weight.

8.6 Access

The approved scheme permitted alterations to steps and side railings leading onto the proposed platform. The works are reversible upon expiry of any temporary permission.

8.7 Other UDP/Westminster Policy Considerations

Not applicable

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

The Mayfair Neighbourhood Plan includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2021 unless stated otherwise.

8.12 Planning Obligations

Not applicable

8.13 Environmental Impact Assessment

The development does not require an EIA under the regulations.

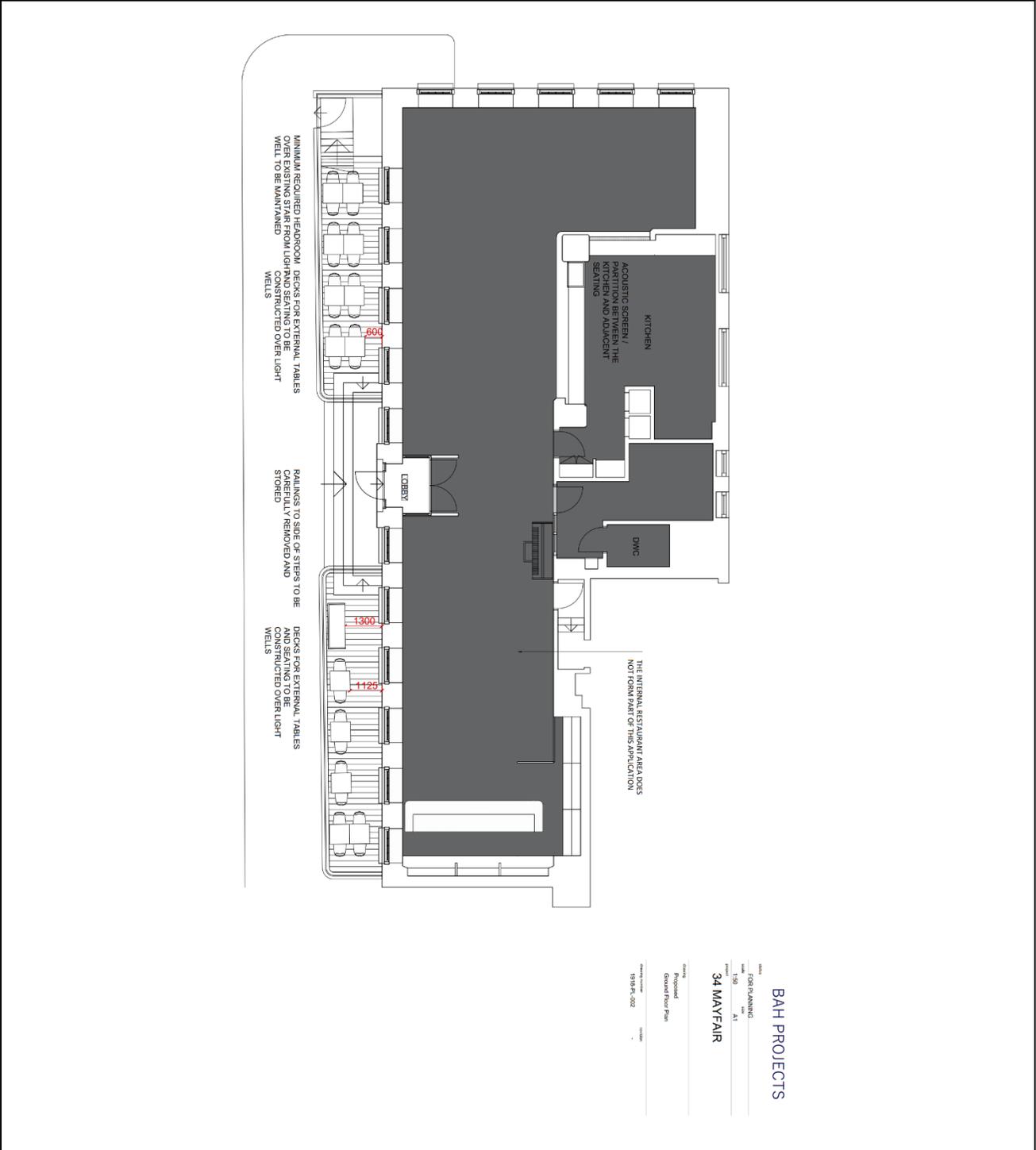
8.14 Other Issues

Not applicable

(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: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk

9. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 34 Grosvenor Square, London, W1K 2HD

Proposal: Variation of conditions 3 and 4 on permission dated 24/11/2020 for 'Alterations in connection with the construction of platform within lightwells fronting South Audley Street to provide space for tables and chairs for use in association with restaurant (Class A3) Namely to enable the platform to be used for dining until 16 May 2023 (Condition 3) and requiring the removal of the platform and requiring the reinstatement of railings and plinth by 16 June 2023 (Condition 4) (Application made under Section 73 of the Act).

Reference: 21/07888/FULL

Plan Nos: As approved under application RN 20/04702/FULL - 1A3-GA-G-01, Unnumbered drawing titled section exterior drawing dated 4/9/2020, ,Application RN 21/07888/FULL,1918-00-P002; Operational Management Plan received 9 March 2022.

Case Officer: Mike Walton

Direct Tel. No. 020 7641
07866039922

Recommended Conditions and Reasons

- 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 The platform may be used for dining until 16 May 2023 after which the tables and chairs must be removed from the platform and the use of the platform must cease.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 3 You must reinstate the railings and plinth and complete any works of making good to match existing in materials, design and finished appearance and remove the platform from the lightwell in its entirety by 16 June 2023.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 You must not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing 1918-PL-002

Reason:

In the interests of public safety and to avoid blocking the road as set out Policies 25 and 43 of the City Plan 2019 - 2040 (April 2021). (R25AD)

- 5 You can only use the tables and chairs hereby approved within the lightwell between 08.00 and 22.00 hours.

Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021). (R25BE)

- 6 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: ,
- o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and ,
 - o not at all on Sundays, bank holidays and public holidays..

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

- o between 08.00 and 18.00 Monday to Friday; and ,
- o 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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 7 Use of the tables and chairs on the external decking must be carried out in accordance with the Operational Management Plan received on 9/ March 2022. You must then carry out the measures included in the approved management plan at all times that the tables and chairs are in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 You are advised that permission has been granted in recognition of the exceptional circumstances created by the pandemic. The loss of the front lightwell is considered to detract from the appearance of the building and its setting in the Mayfair Conservation Area, as such it is unlikely that permission will be granted for a further temporary period once this permission has expired.

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.