



CITY OF WESTMINSTER

# MINUTES

## Planning Applications Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 18th October, 2022**, Rooms 18.01 & 18.03, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Jason Williams (Chair), Md Shamsed Chowdhury, Ed Pitt Ford and Ryan Jude

#### 1 MEMBERSHIP

- 1.1 Councillor Ed Pitt Ford was present as a substitute for Councillor Jim Glen and Councillor Ryan Jude was present as a substitute for Councillor Ruth Bush.

#### 2 DECLARATIONS OF INTEREST

- 2.1 Councillor Jason Williams explained that a week before the meeting, all four Members of the Sub-Committee were provided with a full set of papers including a detailed officer's report on each application; together with bundles of every single letter or e-mail received in respect of every application, including all letters and emails containing objections or giving support. Members of the Sub-Committee read through everything in detail prior to the meeting. Accordingly, if an issue or comment made by a correspondent was not specifically mentioned at this meeting in the officers' presentation or by Members of the Sub-Committee, it did not mean that the issue had been ignored. Members would have read about the issue and comments made by correspondents in the papers read prior to the meeting.
- 2.2 Councillors Williams, Jude and Chowdhury declared that they had a personal friendship with Councillor Fisher who was present at the Sub-Committee to speak against Item 4 but they had held no discussions with him regarding the application.

### **3 MINUTES**

#### **3.1 RESOLVED:**

That the minutes of the meeting held on 23 August 2022 be signed by the Chair as a correct record of proceedings.

### **4 PLANNING APPLICATIONS**

#### **1. ECCLESTON YARD**

- 1.1 Use of Eccleston Yards courtyard for markets and events. (A market, selling goods and food, to be held up to twice per week; and Ancillary performance events, such as sports screenings, wellness and fitness classes, workshops like flower arranging and art classes, community events, live theatre, outdoor exhibitions and live music).
- 1.2 Additional representations were received from 8 local residents in support and 6 local residents in objection. No late representations were received.
- 1.3 No amendments were tabled to the conditions.
- 1.4 Ms Jane MacDiarmid addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY that conditional permission, as amended, be granted subject to the following additional informatives:**

- i) the Operational Management Plan to include a contact number at Grosvenor for complaints; and
- ii) noise measurements to be carried out (in consultation with the council's Environmental Sciences Noise Team) during at least two potentially busy and noisy events with the findings to be reported in any future application to continue the use.

#### **2 TROCADERO 40-48 SHAFTESBURY AVENUE LONDON W1D 7EA**

- 2.1 The application involves the use of the ground floor of one of the units within the Trocadero complex as a public house. The intended operator is Coyote Ugly saloon who intend to provide an American style bar and restaurant, with recorded and live music and other entertainment (a Sui Generis use).

The key considerations in this case are:

- The acceptability of the proposal in land use terms
- The impact on the amenity of neighbouring occupiers.

For the reasons set out in the report, it is considered that the proposal, with conditions, is acceptable in land use, amenity and highways terms and neighbouring occupiers would not be unduly harmed.

2.2 No additional representations were received. Late representations were received from Councillor Tim Mitchell in objection.

2.3 The presenting officer tabled the following amendments to the conditions:

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.

(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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

3 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: To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

4 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more

than 30 dB LAeq 8 hrs in bedrooms at night. For any music noise; the indices of Leq and LFM<sub>ax</sub> in the octave bands 31.5 Hz, 63 Hz Page 47 Item No. 2 and 125 Hz should be at least 10 dB below the existing background noise level measured in terms of L<sub>90,5mins</sub> (31.5Hz, 63Hz, 125Hz) inside the neighbouring premises. For music noise where access to relevant habitable spaces is unavailable; the design of the separating structures should be such that the received music noise level in the habitable spaces, with music playing, should be demonstrated through calculation to not exceed a rating of NR20 (Leq, day time), NR15 (Leq, night time) and NR30 (LF<sub>Max</sub>, night time).

Reason: Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R47AC)

5 You must not allow more than 350 customers into the property at any one time. (C05HA)

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)

6 Customers shall not be permitted within the public house premises before 08:00 or after 03:00 each day. (C12AD)

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)

7 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 Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

8 You must apply to us for approval of an operational management plan to show how you will prevent customers who are either arriving or leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the public house use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the public house is in use. (C05JC)

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)

9 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises, until details of how cooking fumes will be discharged have been submitted to and been approved by us. The ventilation must run internally within the building terminating at roof level. The approved ventilation system thereafter be retained whilst any primary cooking takes place on the premises.

Reason: To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

10 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 restaurant. (C14EC)

Reason: To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

11 You must apply to us for approval of details of secure cycle storage for the public house use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the building. You must not use the cycle storage for any other purpose. (C22HA)

Reason: To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

12 You must provide the entrance lobby shown on the approved ground floor plan prior to the commencement of the public house use hereby approved. The doors fitted to this lobby shall be self-closing doors and you must not leave these doors open except in an emergency or to carry out maintenance. This lobby shall be retained in situ for the life of the development.

Reason: To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

13 No goods, including fuel, delivered or collected by vehicles arriving at or departing from the building shall be accepted or despatched if unloaded or loaded on the public highway. You may accept or despatch such goods only if they are unloaded or loaded within the curtilage of the building. (C23BA)

Reason: To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

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 The whole of the City of Westminster is a Smoke Control Area under the Clean Air Act 1993. Thus premises cannot emit smoke unless burning an 'authorized fuel' or using 'exempt appliances'. Further information can be found at the following government website: <https://www.gov.uk/smoke-control-area-rules>

2.4 Mr Steve Lews addressed the Sub-Committee in support of the application.

**RESOLVED UNANIMOUSLY that conditional permission, as amended, be granted**

### **3 MALVERN HOUSE 15-16 NASSAU STREET LONDON W1W 7AB**

3.1 Permission is sought for the erection of a single storey mansard roof extension to 15-16 Nassau Street and 40-46 Riding House Street to provide two residential flats.

The key considerations in this case are:

- The impact of the proposed buildings on the character and appearance of the East Marylebone Conservation Area.
- The impact on the amenity of neighbouring residential properties.

For the reasons set out in the main report, it is considered that the proposal, with conditions, is acceptable in land use, design and amenity a terms and neighbouring residential occupiers would not be unduly harmed. As such, the application is recommended for approval.

3.2 Additional representations were received from 4 local residents. No late representations were received.

3.3 The presenting officer tabled the following amendments to the conditions:

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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

3 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49BB)

4 The design and structure of the building shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. (C49AA)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

5 You must apply to us for approval of details of secure cycle storage for the residential use use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the approved residential units. You must not use the cycle storage for any other purpose. (C22HA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

6 You must apply to us for approval of details of how waste is to be stored on 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 in writing what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the residential accommodation at fourth floor level. (C14ED)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

7 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 East Marylebone Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

8 You must apply to us for approval of (photographs of) samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the work using the approved materials. (C26BD)

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 East Marylebone Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

9 You must apply to us for approval of detailed drawings at 1:5 and 1:20 of the following parts of the development - new dormer windows. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these drawings. (C26DB)

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 East Marylebone Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

10 The metal portion of the mansard roof must be patinated to a dark grey colour.

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 East Marylebone Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

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.

**RESOLVED UNANIMOUSLY that conditional permission, as amended, be granted.**

#### **4 80-82 WARDOUR STREET LONDON W1F 0TF**

- 4.1 The application premises has frontages onto Wardour Street and Meard Street. The ground and basement floors are in use as a restaurant pursuant to permission granted in May 1995. A Condition on this permission restricted the use of doors on Meard Street to being used in the case of emergencies only. Permission is sought to enable the doors to be used as general access to the restaurant.

The key issue is the impact on the residential amenity of neighbouring occupiers.

With conditions controlling the hours of use of the doors and that they must be fitted with a self-closing mechanism and not be held open it is not considered the use of the doors by staff and customers would result in an unacceptable impact upon residential amenity in the vicinity. The application is therefore considered acceptable and recommended for approval.

- 4.2 Additional representations were received from 11 local residents, one former Westminster City Councillor, 3 current Westminster City Councillors. Late representations were received from 2 local residents and the Soho Society in objection.

- 4.3 The presenting officer tabled the following amendments to the conditions:

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 doors from the unit onto Meard Street must be fitted with a self-closing device which must be retained and maintained in this form unless agreed otherwise in writing with the City Council as Local Planning Authority. You must not leave these doors open except in an emergency or to carry out maintenance.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

The doors from the restaurant unit onto Meard Street can only be used for general purposes between the hours of 08:00 and 22:00. Outside these hours the doors can only be used in the case of an emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

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.

4.4 Councillor Paul Fisher in his capacity as Ward Councillor addressed the Sub-Committee to object to the application.

Mr David Bieda addressed the Sub-Committee to object to the application.

Mr Peter Schulz addressed the Sub-Committee to object to the application.

Ms Marina Tempia representing the Soho Society addressed the Sub-Committee to object to the application.

**RESOLVED (Grant: Councillor Pitt Ford; Refuse: Councillors Williams, Jude and Chowdhury)**

That the Sub-Committee refused the application on the grounds that the noise escape from the open doors would be harmful to residential amenity.

The Meeting ended at 8.15 pm

**CHAIR:** \_\_\_\_\_

**DATE** \_\_\_\_\_

This page is intentionally left blank