

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 6 December 2022	<b>Classification</b> For General Release	
<b>Report of</b> Director of Town Planning & Building Control		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>24 - 26 Maddox Street, London, W1S 1PN</b>		
<b>Proposal</b>	Variation of Condition 13 of planning permission dated 20 April 2021 (RN: 21/00946/FULL) for, 'Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays' NAMELY, to allow the terrace areas at fourth and fifth floor levels to be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays on a permanent basis. (Application under Section 73 of the Act).		
<b>Agent</b>	Monmouth Planning		
<b>On behalf of</b>	Allbright Group Limited		
<b>Registered Number</b>	22/03962/FULL	<b>Date amended/ completed</b>	16 June 2022
<b>Date Application Received</b>	16 June 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair Neighbourhood Plan		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

24-26 Maddox Street is an unlisted building in the Mayfair Conservation Area and West End Retail and Leisure Special Policy Area. The entire premises are currently occupied by Allbright, who

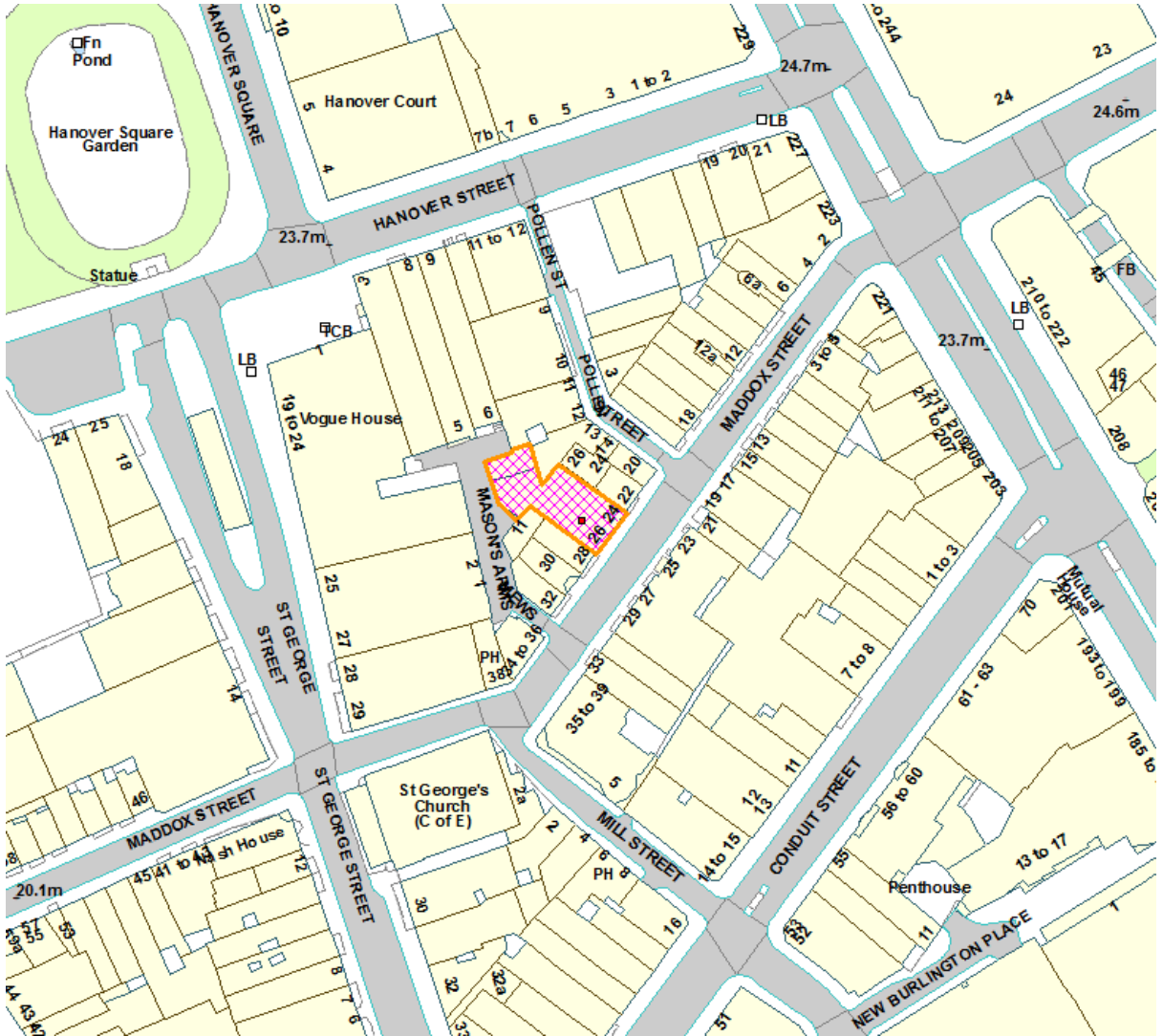
operate two sites in London providing members-only premises with a focus on women and business. The site itself provides a mixture of office space, fitness studio, three spa rooms, a hairdressers, restaurant and bar areas. There are two terrace areas used in association with the members club at fourth and fifth floor levels.

Planning permission was granted on the 20<sup>th</sup> April 2021 to allow the fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays for a temporary period of one year from the date of consent. In part this was in response to the covid pandemic and the applicant's desire to make more use of their outside space. After the expiry of one year the terraces could again only be used between the hours of 09:00 and 20:00. Permission is now sought to vary the wording of the varied condition 13 to allow the terraces to be permanently used until 22:00 on Monday to Saturday and Bank Holidays.

The key issue is the impact on residential amenity in terms of potential noise nuisance arising from use of the terraces.

An objection has been received from a neighbouring resident on the grounds of noise disturbance in relation to the use of the terraces impacting residential amenity. Taking into account the existing and proposed terminal hour of the use of the terraces it is considered the proposal complies with relevant adopted City Plan 2019-2040 policies and the application is therefore recommended for conditional approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Aerial Photograph showing the terraces and the objectors windows –





View of the fourth floor terrace –



## **5. CONSULTATIONS**

### **5.1 Application Consultations**

MAYFAIR RESIDENTS GROUP

No response.

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

No response.

ENVIRONMENTAL HEALTH

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 22

Total No. of replies: 1

No. of objections: 1

No. in support: 0

Objection on the following grounds -

Increased noise nuisance later into the evening.

PRESS NOTICE/ SITE NOTICE:

Yes

### **5.2 Applicant's Pre-Application Community Engagement**

The Early Community Engagement Guidance encourages developers carrying out development to engage with those living adjacent or very close to the site at an early stage prior to the submission of a formal application. The agent has confirmed there has been no discussion between the applicant and neighbours in relation to the current application.

## **6. WESTMINSTER'S DEVELOPMENT PLAN**

### **6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

## 6.2 Neighbourhood Planning

The Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. 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 later in this report.

## 6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

## 7. BACKGROUND INFORMATION

### 7.1 The Application Site

This application is located within the Mayfair Conservation Area, the Central Activities Zone and the West End Retail and Leisure Special Policy Area. The application building is used in its entirety as a private members club with a focus on women in business. There are two terraces to the rear of the building at fourth and fifth floor levels.

### 7.2 Recent Relevant History

20/04986/FULL

Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels.

Application Permitted                      20 October 2020

Condition 13 of this consent required the following:

*The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 20.00 and cannot be used outside these hours other than in the case of an emergency.*

21/00946/FULL

Variation of condition 13 of planning permission dated 20 October 2020 (RN:

20/04986/FULL) for the: Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels. NAMELY, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays.

Application Permitted 20 April 2021

The varied condition 13 was worded as follows:

*The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays and cannot be used outside these hours other than in the case of an emergency. The use of these terraces until that time can continue for one year from the date of this planning permission. After the expiry of the temporary year of extended time the terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 20.00 daily.*

## **8. THE PROPOSAL**

Permission is sought to vary Condition 13 (the wording of which is directly above). Consent is sought to vary this condition to allow the use of the terraces permanently for the extended time period of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays.

The proposed wording of Condition 13 is as follows:

*The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays and cannot be used outside these hours other than in the case of an emergency.*

## **9. DETAILED CONSIDERATIONS**

### **9.1 Residential Amenity**

The justification provided by the applicant in support of their 2021 application to vary the wording to allow for use of the terraces later into the evening was to allow the business to use the outside area during Covid restrictions. Given the restrictions on business operations at the time and the encouragement to maximise the use of outside and well ventilated spaces, the proposal was considered acceptable for the temporary period of one year, after which period the hours of use of the terraces had to revert back to those originally approved.

Condition 13 was originally worded so it only allowed use of the terraces until 20:00 due to the proximity of the fourth floor terrace to residential flats within 11-12 Pollen Street. The windows of flats at 11-12 Pollen Street are approximately 4m from the rear of the fourth floor terrace (although the objector believes that his windows are closer).

The City Council has planning policies to protect residential amenity. Policy 7 of the City



Plan requires that development is neighbourly by; 'protecting and where appropriate enhancing local environmental quality'. Para 7.4 acknowledges that 'development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours.'

Policy 16 considers food, drink and other entertainment premises and recognises that whilst these uses contribute to London's vibrant entertainment sector, they can also have detrimental impacts upon residential amenity if the operation is not managed properly.

Policy 33 states that; 'development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses'.

Policy MSG1 of the Mayfair Neighbourhood Plan states that; '*Growth is encouraged within Mayfair which shall for the purpose of this policy be construed (where appropriate) as including increased density, intensity of use, efficient use of existing floorspace, amount of mixed use floorspace, numbers of units (where subdivision is appropriate), and activity (by providing restaurants, cafés, galleries, shops, and other uses which animate the streetscene for the public).*' In relation to the protection of residential amenity the relevant policy is MRU1 which requires that; '*Proposals for new commercial or entertainment uses in Mayfair must demonstrate how they protect the amenity of nearby residential units and create no material additional adverse effects (after mitigation) such as noise and rubbish between 11pm and 7am.*' The policy acknowledges that the proximity of mixed uses in Mayfair can lead to conflict between late night uses and residential occupiers who may be impacted by noise levels. Para 4.25 of the document acknowledges that; '*The two must coexist. It is "all about balance". The Forum firmly believes that, with care, the two can flourish side by side.*'

The Operational Management Plan (OMP) states with regard the use of the terraces:

*'Doors leading to the terrace areas are to be closed at all times and will not be permitted to be propped open. Terrace doors will be locked at 10pm daily. Guests will be reminded by staff to move inside 30, 15 and 5 minutes before 10pm and all members are required to move inside so that the area can be quickly cleaned and shut for the evening.'*

With regard any members at the club causing a disturbance the OMP states:

*'In the event that a member behaves in a way contrary to AllBright's standards both within the building and within the terrace areas staff will ask them to be quiet and respectful of the neighbours. If they fail to comply the first warning, they will be politely asked to leave the premises immediately. A discipline record will be retained by the owners for those members and their guests who fail to comply with Allbright's standards of behaviour and members who contravene these requirements will be banned from visiting the premises.'*

The applicant has also confirmed that local residents will be provided with a 24 hour phone number for the premises they can call should any issues arise, any issues will be recorded in a log book and investigated with action taken to investigate and follow up with the complainant. It has been confirmed management will investigate any recorded

incidents, taking appropriate action to address issues and complainants informed of any outcomes and given a chance to respond.

An acoustic report has been submitted with the application. This includes a background noise assessment from the rear of the site which the report states demonstrates '*the ambient noise climate to the rear of the site does not significantly reduce from 18:00 until after midnight.*' The report therefore concludes that; '*there is the potential for noise disturbance from the use of the terraces, however, we demonstrate below that any potential impacts in the extended hours are no greater than those up to the currently permitted hours.*' It is therefore acknowledged that there could be noise nuisance from the extended use of the terrace but given the constant background noise levels, this would be no worse than use of the terrace until 20.00 hours. The key issue is whether 22.00 hours is reasonable in this central location within the West End.

There is also a restriction that the applicant must not install any speakers or play any music externally on the fourth or fifth floor rear terraces.

An objection has been received to the application from the occupier of a residential flat within 11-12 Pollen Street concerned about increased noise levels impacting on their residential amenity later into the evening. Environmental Health have reviewed the application (and submitted acoustic report) and raised no objection. Whilst the terminal hour of use of the terraces was previously negotiated to be 20:00, a premises license (20/04642/LIPDPS) has been granted that allows the use of the terraces until 22:00. It is considered 22:00 is the latest that the use of these terraces could be allowed until and still be acceptable in that their use would not cause a noise nuisance to neighbouring occupiers at anti-social hours. An informative is also included to remind the applicant that all activity on the terrace will need to stop after the terminal hour including staff tidying up and furniture being moved. Whilst the objector's comments are noted it is considered the use of the terraces until 22:00 is reasonable in a central London location with the stipulations detailed in the OMP and that the application could not be reasonably refused on these grounds.

### **Transportation, Accessibility & Servicing**

Not relevant.

## **9.2 Economy including Employment & Skills**

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development would result in a small contribution to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by allowing the use of the terraces for two additional hours into the evening as part of a private members club with an emphasis on business.

## **9.3 Other Considerations**

It is noted that condition 3 of the previous planning permission has been subsequently discharged (related to a Servicing Management Plan for the premises). Condition 3 has therefore been updated to require the use operate in accordance with this approved

document unless otherwise agreed in writing.

#### **9.4 Environmental Impact Assessment**

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

#### **9.5 Planning Obligations & Pre-Commencement Conditions**

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

#### **10. Conclusion**

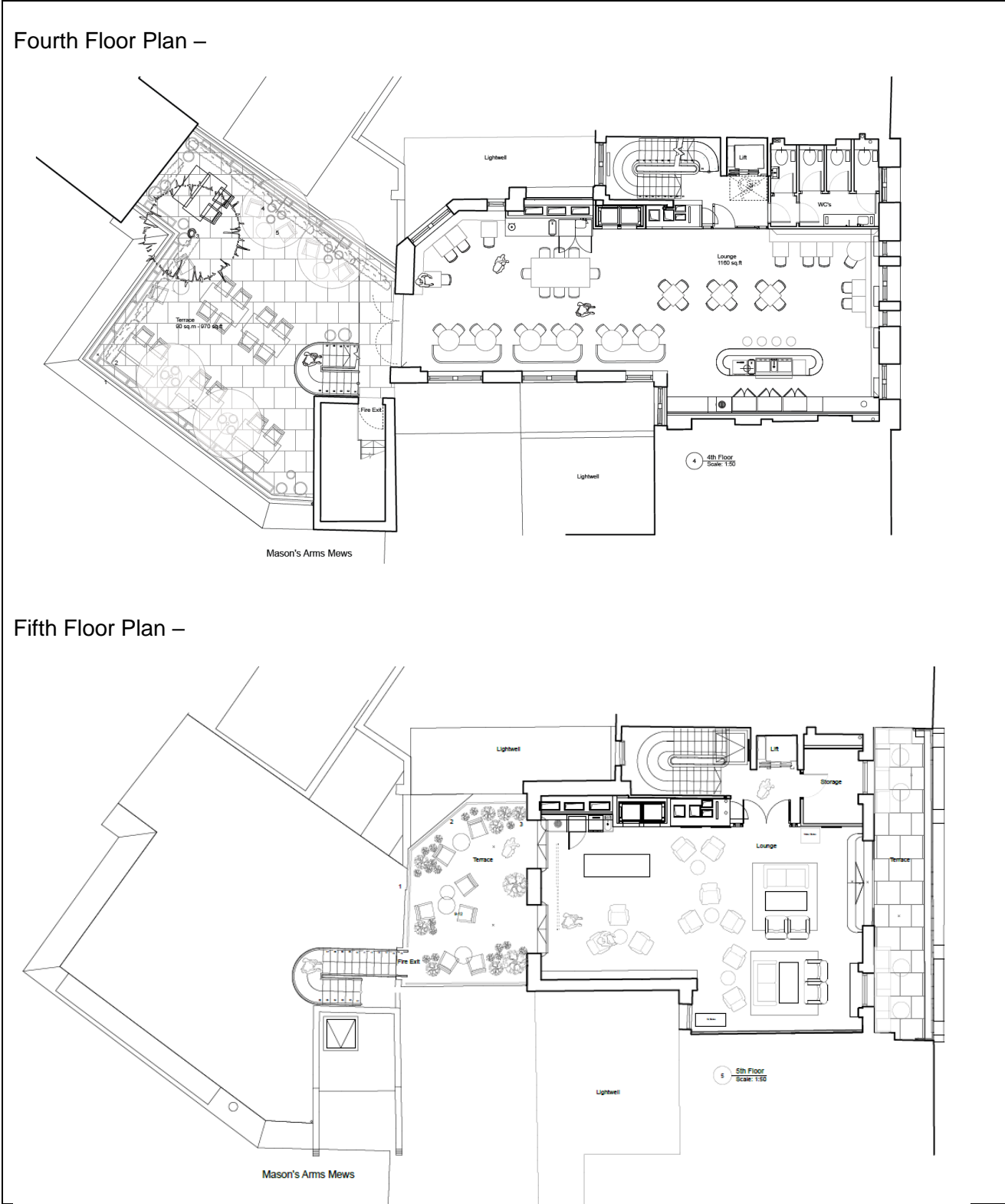
It is considered the extension of the hours of use of the terraces until 22:00 from the consented 20:00 would be acceptable given the controls in the Operational Management Plan and that the terrace has to be entirely vacated by 22:00. 22:00 is considered the latest the terrace could be used until and not result in noise nuisance to neighbouring residents at anti-social hours. The concerns of the neighbouring resident have been noted and the applicant reminded of the need to ensure that the use of the terraces does not result in a noise nuisance. Additional safeguarding stipulations have been included in the OMP including a 24 phone number provided to residents, any complaints logged and investigated and the complainants informed of any outcome.

The proposal is considered acceptable, mindful of policies 7,16 and 33 of the City Plan 2019-2040 and the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(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: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

11. KEY DRAWINGS



**DRAFT DECISION LETTER**

**Address:** 24 - 26 Maddox Street, London, W1S 1PN

**Proposal:** Variation of Condition 13 of planning permission dated 20 April 2021 (RN: 21/00946/FULL) for, 'Use of part basement, part ground and first to fifth floors as a private business members club with office workspace, food and beverage areas, a wellness centre (flexible studio space, hairdressers and spa) with associated external terraces at fourth and fifth floor levels, to allow fourth and fifth floor terrace areas to be used until 22:00 on Monday to Saturday and Bank Holidays' NAMELY, to allow the terrace areas at fourth and fifth floor levels to be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays on a permanent basis. (Application under Section 73 of the Act).

**Reference:** 22/03962/FULL

**Plan Nos:** 21/00946/FULL - Operational Management Statement dated October 2020 Rev01.

20/04986/FULL - Drawings: A101 RevA1, A102 RevA2, A110 RevA1, A120 RevA1, A130 RevA1, A140 RevA1, A150 RevA1, A160 RevA1, A172 RevA1, A210 RevA1, A220 RevA1, Operational Management Statement dated October 2020, Noise Assessment - 20/0145/R1.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641  
07866040155

**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 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number A-101/ A1 prior to occupation and thereafter you must permanently retain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the premises. (C14FC)

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)

- 3 The private members club use hereby approved must be operated in accordance with the Servicing Management Plan we approved on the 20th August 2021 under reference 21/03156/ADFULL unless otherwise agreed in writing with the City Council as Local Planning Authority.

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)

- 4 You must provide each cycle parking space shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces must be retained and the space used for no other purpose. (C22FC)

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)

- 5 The design and structure of the development shall be of such a standard that it will protect residents within 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.

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 Environmental Supplementary Planning Document (February 2022). (R49BB)

- 6 You must not open the private members' club use to customers, and you must not allow customers on the premises, outside the hours: 08:00 - 00:00 Monday to Saturdays; 09:00 - 23:00 Sunday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 7 The private members club use hereby approved must be operated in accordance with the stipulations of the Operational Management Strategy (Allbright Maddox - October 2020 Rev1).

Reason:

To ensure the use does not cause a nuisance to neighbouring occupiers in accordance



with Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

- 8 You must not allow more than 500 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 Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 9 You must retain the high level extract duct at the property as approved on the 19th February 2019 (18/09015/FULL).

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). (R14AD)

- 10 You must not install any speakers or play any music externally on the fourth or fifth floor rear terraces.

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) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 11 You must install self-closing doors onto the terrace areas. 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) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 12 The planting around the approved terraces must be maintained at a minimum height of 1.6m in perpetuity in the locations identified on the approved plans.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021). (R21BD)

- 13 The terrace areas at fourth and fifth floor levels can only be used between the hours of 09.00 and 22.00 on Monday to Saturdays and between 09:00 and 20:00 on Sundays and Bank Holidays and cannot be used outside these hours other than 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) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

- 14 You may not have any planters, heaters, or furniture on the terraces other than those shown on the drawings, and contrary to what is shown on the drawings you may not have any parasols or any other similar shading devices on either of the roof terraces.

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)

#### **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 to accord with the requirements of Condition 13 all activities on the terrace need to have ceased by 22:00 on Monday to Saturdays and by 20:00 on Sundays and Bank Holidays, this includes all staff having vacated the terraces and all relevant furniture having been taken inside the property.

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.