

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 07 February 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	Ground Floor, 48 Margaret Street, London, W1W 8SD		
Proposal	Use of ground floor as drinking establishment with expanded food provision (Sui Generis). Installation of extract duct to the rear elevation terminating above main roof level and installation of an air condenser unit at rear ground floor level.		
Agent	Milan Babic Architects		
On behalf of	Mr Gabriel De-Vere		
Registered Number	22/04870/FULL	Date amended/ completed	17 October 2022
Date Application Received	19 July 2022		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		
Neighbourhood Plan	Fitzrovia West Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY & KEY CONSIDERATIONS

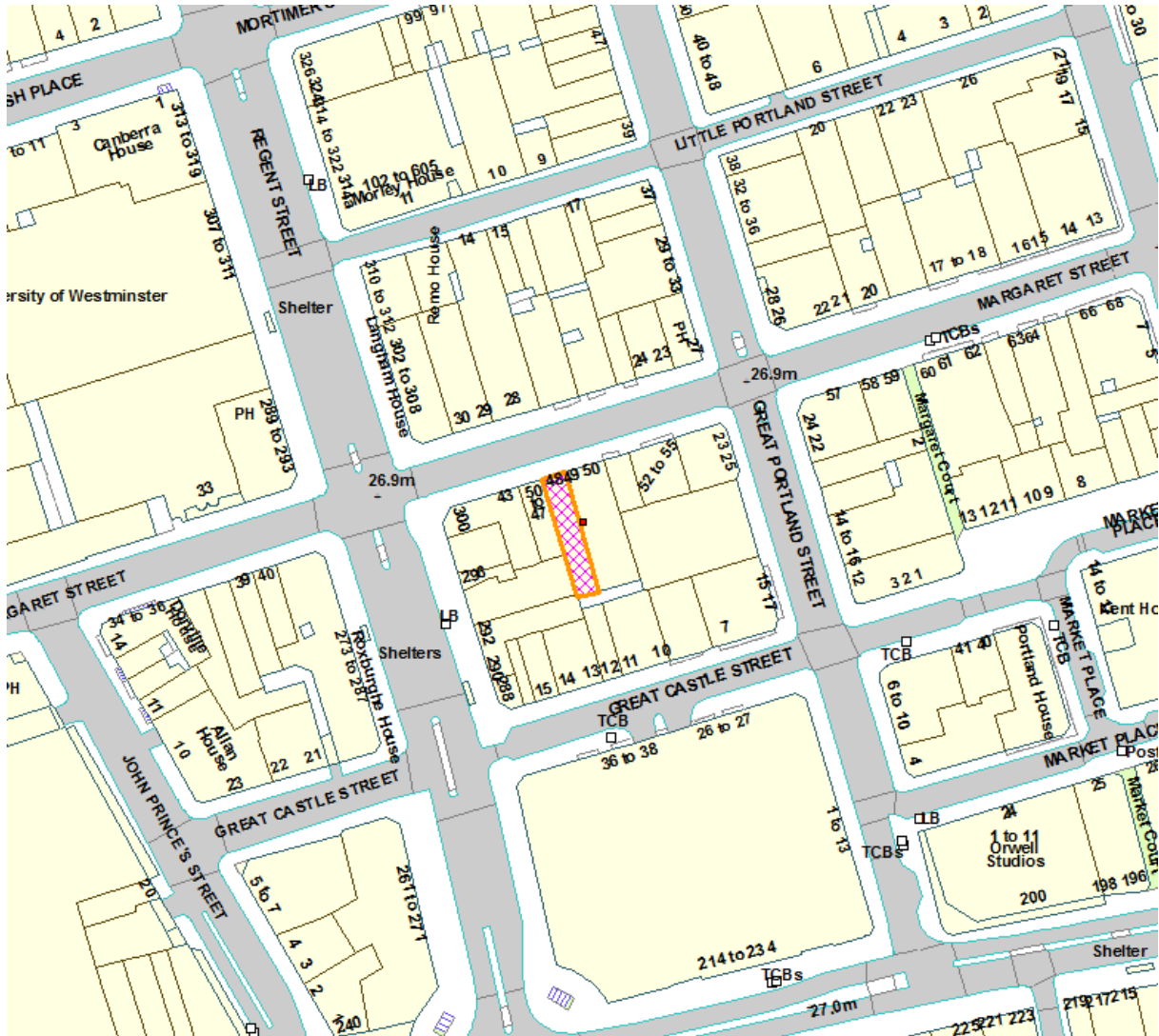
The application relates to the ground floor of 48 Margaret Street which, which is currently vacant having last been in use as retail accommodation. Planning permission is now sought for use as a 'drinking establishment with expanded food provision' (Sui Generis). Alterations are also proposed to the rear of the premises to erect a full height extract duct and install a single air conditioning unit.

The key considerations in this case are:

- The acceptability of the proposed use on the character and function of the area
- The impact on the amenity of neighbouring residential properties.
- The impact of the proposed plant on the appearance of the building and the character and appearance of the East Marylebone Conservation Area.

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. 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

5.1 Application Consultations

AMENITY SOCIETY (Fitzrovia Neighbourhood Association):
Any response to be reported verbally.

AMENITY SOCIETY (Fitzrovia West Neighbourhood Forum):
Any response to be reported verbally.

ENVIRONMENTAL HEALTH
No objection subject to conditions

PROJECT OFFICER FOR WASTE
No objection subject to conditions

HIGHWAYS PLANNING MANAGER:
No objection subject to conditions

ADJOINING OWNERS / OCCUPIERS
No. of original consultees: 63
No. Replies: 0

SITE & PRESS NOTICE
Yes.

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application. However, the Early Community Engagement guidance only expects such engagement to take place where proposals of this nature may have a significant impact on residential amenity or other noise sensitive receptors.

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 Fitzrovia West Neighbourhood Plan includes policies on a range of matters including promotion of regeneration, provision of housing, entertainment uses, community facilities, provision of small business units, provision of active frontages, open spaces, environmental performance, and servicing.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Fitzrovia West 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

48 Margaret Street is unlisted building located on the southern side of Margaret Street between its junction with Great Portland Street and Regent Street within the East Marylebone Conservation Area, WERLSPA and the CAZ and within the confines of the Fitzrovia West Neighbourhood Plan area.

The application site comprises the whole of the ground floor of 48 Margaret Street. The property was in use as a beautician until the end of 2012. Utilising permitted development right, it is understood that in 2013 the unit was then occupied for retail purposes until January 2018. Subsequently an application was approved on 03 February 2020 (RN: 19/09274) for the use of the premises as a betting shop (Sui Generis), but this use was not implemented.

The basement is occupied by Beat London which is a private members' club. The license for this premises allows the premises to open from 11 pm on each of the days Sunday to Tuesday and Thursday to 3am on the day following and from 11 pm on Wednesday, Friday and Saturday to 6.00am on the day following. 250 occupants are permitted within the premises at any one time. The upper floors are in office use.

With the exception of an isolated residential unit at 3rd and 4th floor of 25 Margaret

Street, this section of Margaret Street (between Regent Street and Great Portland Street) is wholly commercial of nature.

Recent Relevant History

On 03 February 2020 permission was granted for use of ground floor as betting office (Sui Generis) RN 19/09274/FULL.

8. THE PROPOSAL

Permission is sought for the use of the ground floor unit as a 'drinking establishment with expanded food provision' (Sui Generis). It is intended that the unit will be occupied as a mixed-use bar and restaurant. Such a use falls between a traditional public house (also a Sui Generis use) and a restaurant (Class E), offering elements of both of these uses.

The indicative layout plan provided by the applicant shows the ground floor containing a bar/exposed kitchen as well as a back-of-house store. The rear courtyard is proposed to contain staff cycle parking, waste storage and an additional air condenser unit. A full-height kitchen extract is also proposed to run along the rear elevation terminating above roof level.

The applicant has submitted an Operational Management Plan setting out the operational details. The key points are as follows:

- Maximum capacity of the premises 130 patrons;
- There will be a substantial food service offered alongside drinks, and therefore all of the covers will be accommodated at tables, with no vertical drinking;
- The proposed opening hours are from 10:00 to 00:00 Sunday to Wednesday and from 10:00 to 01:00 Thursday to Saturday;
- No live or recorded music will be played which is audible outside of the property or within the adjoining residential units. The sound system will use low power high quality speakers and include a limiter which will be set and locked so that the system cannot operate beyond a pre-set maximum level;
- Windows will be closed from 21.00 each day, unless for emergency or maintenance;
- Patrons will be encouraged to wait for taxis inside, therefore minimising external noise;
- Patrons permitted to smoke outside the premises shall be supervised at all times by the doorman;
- Drinks will not be allowed to be taken outside;
- Prominent signage will be placed to that effect, and this will be enforced with vigilant security presence as customers leave;
- 24-hour CCTV cameras will be put in place and a manager will be present at all times during opening hours;
- Security Industry Authority (SIA) accredited personnel will be present at the main entrance and will ensure that patrons enter and leave the premises without incident, do not loiter outside and cause no disturbance to local residents.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Policy background

London Plan Policy SD4(E) provides general support for the proposed use in the CAZ, stating, 'The unique concentration and diversity of cultural, arts, entertainment, night-time economy and tourism functions should be promoted and enhanced'. Support for the evening and night-time economy within the WERLSPA can be found within City Plan Policy 2(C) that set out as one of the priorities for the intensification of the WERLSPA is to deliver, 'A diverse evening and night-time economy and enhanced cultural offer', as well as within City Plan Policy 14(C)(ii) that states, 'The WERLSPA will provide a wide mix of commercial uses that support the West End's role as a retail, employment and cultural hub, and as a centre for the visitor, evening and night-time economy'.

London Plan Policy HC6(B) states that planning decisions should, 'Promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available', whilst at the same time, 'Address[ing] the cumulative impact of high concentrations of licensed premises on anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses, and seek ways to diversify and manage these areas'.

This balance of competing interests within the CAZ is underlined by City Plan Policy 1(A)(4) that states that Westminster will continue to grow, thrive and inspire at the heart of London as a World City by, 'Balancing the competing functions of the Central Activities Zone (CAZ) as a retail and leisure destination, visitor attraction, global office centre, and home to residential neighbourhoods. City Plan Policy 7 seeks to protect and where appropriate enhance local environmental quality, whilst City Plan Policy 33(A) outlines how, 'The council will make sure that quality of life and health and wellbeing of existing and future occupiers, and the natural environment are not adversely affected by harmful pollutants and other negative impacts on the local environment'.

City Plan Policy 16(A) states, 'Proposals for food and drink and entertainment uses will be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre'.

PR3 (1) of the Fitzrovia West Neighbourhood Plan states that 'the provision of new tourism and entertainment uses.....will be supported so long as there is no loss of residential floorspace or adverse effects on local amenity. They should be located in the West End Retail and Leisure Special Policy Area (WERLSPA) that is the northern Oxford Street frontage and the area north to Mortimer Street.

Assessment

Given the proposed use would serve visiting members of the public, there is no policy which specifically protects retail accommodation in this area, in broad land use policy terms the use is considered acceptable.

This area of Fitzrovia just to the north of Oxford Street and east of Regent Street is commercial in character with very little residential in close proximity to the site. This includes a number of entertainment uses which support the retail function of Oxford Street and Regent Street. The entertainment uses in the vicinity are as follows:

- restaurants/cafes such as Kiss the Hippo (51 Margaret Street);
- Coco di Mama (51 Margaret Street);
- vacant restaurant at 50 Margaret Street (formerly Hyotan),
- K-Pop (47 Margaret Street),
- drinking establishments including the Cock Tavern (27 Great Portland Street) and
- a private members' club at basement level of the application site (Beat London).

Given that the lawful use of the premises falls within Use Class E, the unit could be used as a restaurant under permitted development rights and without any restrictive planning conditions. Use as a drinking establishment with extensive food as proposed is considered to be an acceptable use that would not be harmful to the character of the area.

As stated the site is in a busy commercial area and there is therefore less potential that the use would have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality than in other locations across the City. Conditions are however recommended which seek to ensure that the use is operates in a well- managed way without any detriment to the locality. These conditions included the following:

- adherence to an Operational Management Plan;
- ensuring no music is played within the premises which is audible beyond the boundary of the site;
- preventing vertical drinking within the premises;
- preventing patrons from taking drinks outside;
- restricting the hours of operation (i.e. from 10:00 to 00:00 Sunday to Wednesday and from 10:00 to 01:00 Thursday to Saturday;
- limiting the capacity to 130 patrons at any one time;

Subject to these conditions the use is considered to be acceptable as it would be neither harmful to residential amenities or the prevailing character and function of the area.

9.2 Environment & Sustainability

The application raises no significant environmental or sustainability issues.

9.3 Biodiversity & Greening

The application relates primarily to the use of the site with minimal works. There is no real scope for the incorporation of biodiversity features or greening.

9.4 Townscape, Design & Heritage Impact

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

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that "*In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*"

Section 72 of the LBCA Act 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.*"

Whilst there is no statutory duty to take account of effect on the setting of a conservation area, Policy 39(K) in the City Plan 2019-2040 requires that where development will have a visibly adverse effect upon a conservation area's recognised special character or appearance, including intrusiveness with respect to any recognised and recorded familiar local views into, out of, within or across the area, it will not be permitted.

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.

Assessment

The property is one part of a building which is composed of 5 storeys, with modern shopfronts at ground floor level, and a finely detailed main façade above the shopfronts with pilasters, oculus windows, and classically inspired friezes. At the rear of the building there is an extension to the main building, which in contrast to the main façade has a utilitarian service character. There are a number of nearby listed buildings, including Walman House which is directly adjacent and listed at grade II.

The proposals include the installation of an extract duct on the rear façade of the extension, and the installation of an air condenser unit at ground floor level also on the rear façade of the extension. The rear extension and the area around it as previously noted has a utilitarian service character. There are no public views of this area, with only limited high-level private views. The installation of the extract duct and the air condenser unit in this area would have a neutral impact on the character of the East Marylebone Conservation Area or the Regent Street Conservation Area. These proposals are therefore in keeping with policies 38, 39 and 40 of the Westminster City Plan 2019-2040 (adopted April 2021).

Design Conclusion

It is considered that the proposals would not cause harm to the heritage asset and therefore, a recommendation to grant conditional permission would be compliant with the relevant policies 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. The

proposed works are considered to preserve the character or appearance of the East Marylebone Conservation Area, and the setting of neighbouring listed buildings, and are therefore considered to be acceptable in design terms

9.5 Residential Amenity

The local environmental impacts are detailed within Section 9.1 and 9.8 of this report.

9.6 Transportation, Accessibility & Servicing

The site is centrally located and well served by public transport including principal bus routes and benefits from the highest public transport accessibility (PTAL) rating (6b). The impact upon the local highway network of the proposed drinking establishment with expanded food provision use compared to the previous retail use are not considered to be materially different.

Car Parking

No car parking is proposed, Policy 27 supports residential development without car parking provision.

Cycle Parking

The provision of 1 cycle parking spaces for staff is policy compliant and are recommended to be secured by condition.

Servicing

The Highways Manager considers that, the proposal in terms of arrivals and departures and servicing would be similar to the existing use and therefore no significant change will occur subject to a condition ensuring no delivery service operates from the premises.

Waste

The project officer for waste has reviewed the proposal and considers that the proposed waste storage is in line with the Council's guidelines. A condition is recommended to ensure its installation prior to the implementation of the proposed use.

9.7 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 will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by bringing a vacant unit back into use and by creating 6 new jobs

9.8 Other Considerations

Plant

The scheme includes the provision of a full height extract duct and new plant at rear ground floor level. Environmental Health have confirmed that the duct would adequately disperse cooking fumes and the plant is likely to comply with the standard noise conditions.

9.9 Environmental Impact Assessment

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

9.10 Planning Obligations & Pre-Commencement Conditions

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

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition.

No pre-commencement conditions are recommended.

10. Conclusion

Subject to appropriate conditions the proposal accords with development plan policies, specifically London Plan Policies SD4, HC6 and T5, Policies 1, 7, 16, 27, 33, 38, 39 and 40 of Westminster's City Plan and PR3 of the Fitzrovia West Neighbourhood Plan.

In terms of heritage impact, the proposal is considered acceptable, mindful of policies 38, 39 and 40 of the City Plan 2019-2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

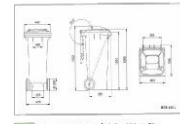
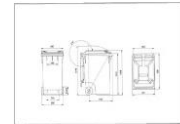
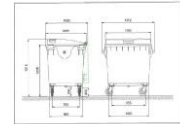
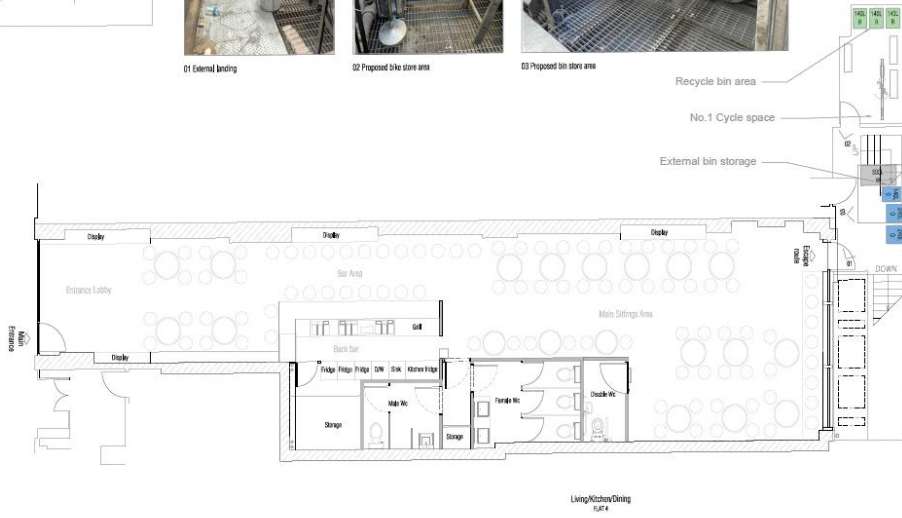
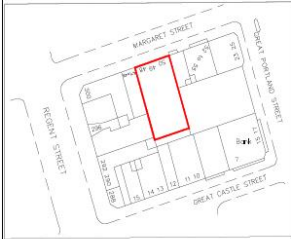
The application is therefore recommended for conditional approval.

(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: MIKE WALTON BY EMAIL AT MWALTON@WESTMINSTER.GOV.UK

11. KEY DRAWINGS

Proposed Ground Floor Plan



PROPOSED BIN AND BIKE LOCATIONS

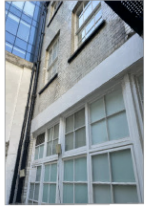
Existing and Proposed Rear Elevation/Section



01 Rear Elevation



02 Rear Elevation



03 Rear Elevation



EXISTING AND PROPOSED REAR ELEVATION

DRAFT DECISION LETTER

Address: Ground Floor, 48 Margaret Street, London, W1W 8SD

Proposal: Use of ground floor as drinking establishment with expanded food provision (Sui Generis). Installation of extract duct to the rear elevation terminating above main roof level and installation of an air condenser unit at rear ground floor level.

Reference: 22/04870/FULL

Plan Nos: PA1065-MB-06-101-REV B, PA1065-MB-09-101-REV A, PA1065-MB-27-100-REV A.

Case Officer: Damian Lavelle **Direct Tel. No.** 020 7641
07779431364

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 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)

- 3 You must not allow more than 130 customers into the basement and ground floor drinking establishment with expanded food provision use hereby approved at any one time.

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)

- 4 You must not sell any take-away food or drink on the premises or operate a delivery service, even as an ancillary part of the primary drinking establishment with expanded food provision use. (C05CC)

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)

- 5 All servicing must take place between 08.00 and 18.00 (Monday to Saturday) and between 09.00 and 18.00 (Sundays). Servicing includes loading and unloading goods from vehicles and the collection of waste and recyclable materials.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16, 20 and 33 of the City Plan 2019 - 2040 (April 2021).

- 6 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the IN; use 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 in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the IN; use 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 in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, 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 including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity. (C47AC)

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)

- 7 No vertical drinking shall take within the premises. No drinks may be taken outside of the premises at any time.

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)

- 8 Customers shall not be permitted within the drinking establishment with expanded food provision premises before 10.00 or after 00.00 on Sunday to Wednesday and before 10.00 or after 01.00 (the following morning) on Thursday to Saturday.

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 The measures set out within the Operational Management Plan (received 17 October 2022) shall be adhered to at all times.

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)

- 10 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)

- 11 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number PA 1065-MB-27-100 Rev A 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 drinking establishment with expanded food provision. (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)

- 12 (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 in writing 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 in writing 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

written 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 LA90, 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. (C46AC)

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)

- 13 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

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)

- 14 The extract duct hereby approved shall be installed in full prior to the commencement of the drinking establishment with expanded food provision use hereby approved and

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 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 15 All windows must be closed from 21.00 each day, unless for emergency or maintenance.

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)

- 16 If you play live or recorded music in the property, the received music noise level in neighbouring residential habitable spaces should be demonstrated to be 10 dB below the existing ambient and maximum noise levels in the residential habitable spaces when music is not playing, at the quietest time of day and night, measured over a period of 5 minutes and in the indices of Leq and LFmax in the octave bands 63 Hz and 125 Hz; The overall music noise level in terms of LAeq,5mins should be at least 10 dB below the existing background noise level in terms of dB LA90,5mins.

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)

- 17 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)

- 18 You must finish the ductwork so that it is grey. You must then keep it that 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.

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.