

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 04 August 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	52 Brook's Mews, London, W1K 4EE		
Proposal	Use of two areas of the public highway measuring 6.2m x 2.2m and 11.5m x 2.2m for the placing of 12 tables, 24 chairs, 13 planters and 2 waiter stations in connection with the restaurant premises at 52-54 Brook Mews.		
Agent	Monmouth Planning Ltd		
On behalf of	Azur Ltd		
Registered Number	20/02058/TCH	Date amended/ completed	23 March 2020
Date Application Received	20 March 2020		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional planning permission for a temporary period of one year.

2. SUMMARY

Permission was granted in March 2019 for the use of 52 Brook's Mews as an extension to an existing restaurant on the ground floor of 53-54 Brook's Mews. The upper floors of both buildings are in office use.

Permission is sought to place 4 tables, 8 chairs and 5 planters on the highway outside 52 Brook's Mews and 8 tables, 16 chairs, 2 waiter stations and 8 planters outside nos.53-54, where there is a long history of permission for external seating.

The key issues for consideration are:

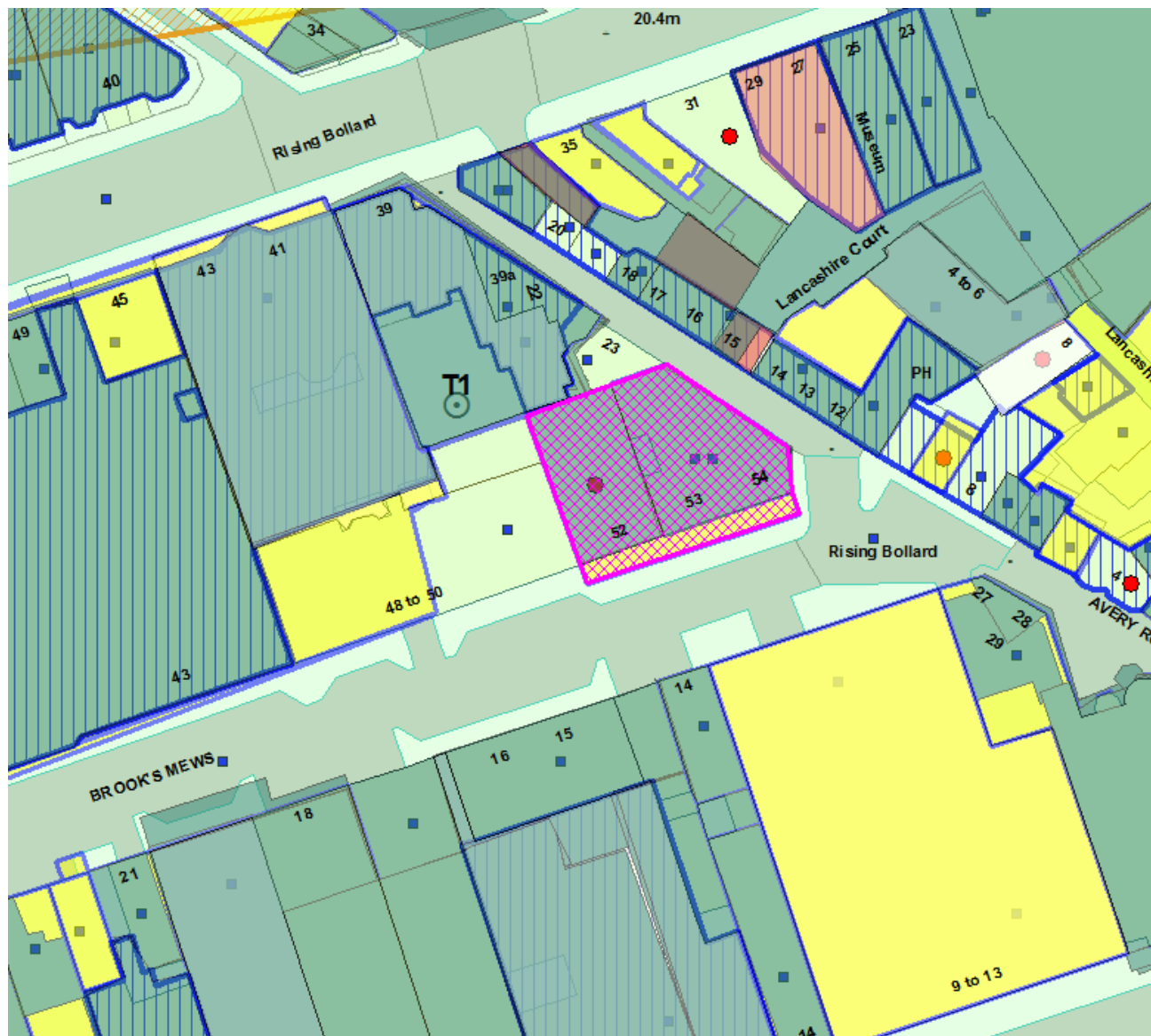
- The impact of the proposed restaurant and external seating area on residential amenity of the surrounding area, and
- The impact of the external seating upon pedestrian movement and highways safety.

The siting of the proposed tables and chairs on the highway would comply with the requirements of the Westminster Way and would not result in an obstruction to pedestrian movements or the operation of the highway. While objections have been received relating to concerns over noise and

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smell nuisance, subject to conditions restricting the hours of use of the external seating to prevent the playing of music outside the premises, it is not considered that the proposals would have a material impact upon the amenity of neighbouring residential properties. The application is therefore recommended for approval for a temporary period of one year to enable the impact to be monitored.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS' SOCIETY OF MAYFAIR AND ST JAMES'S

Any response to be reported verbally.

MAYFAIR RESIDENTS' GROUP

Any response to be reported verbally.

HIGHWAYS PLANNING

Layout undesirable and additional information requested. Revised proposals acceptable

WASTE PROJECT OFFICER

Objection - seating layout too dense and seating would not be contained within seating area

ADJOINING OWNERS AND OCCUPIERS:

No. consulted: 49

No. responded: 3

Three objections have been received (fourth objection subsequently withdrawn) on the following grounds:

noise and disturbance

food odours

smell and smoke nuisance (from smoking)

increased seating would exacerbate noise disturbance from existing external seating, including from moving of furniture.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

52 Brook's Mews is an unlisted building comprising ground and three upper floors. The ground floor is in Class A3 restaurant use following the granting of permission, on 5 March 2019, for its use as an extension to the adjacent restaurant at 53-54 Brook's Mews (18/10380/FULL). No. 53-54 Brook's Mews, located at the junction of Brook's Mews and Avery Row, comprises a ground floor restaurant and two floors of offices (Class B1) above. The restaurant operates between 10.00 hours and 00.30 on Monday to Saturday and 12.00 to 24.00 on Sundays and Bank Holidays.

Brook's Mews is characterised by a mixture of residential and commercial uses. Council records indicate that the closest residential properties to the site are immediately adjacent, 50 Brook's Mews, and at 4-9 on Avery Row and above the Iron Duke Public House at no 11 Avery Row.

The site is in the core central Activities Zone and the Mayfair conservation area.

There is a long history of permission for the siting of tables and chairs and associated furniture on the highway outside of 53-54 Brook's Mews dating back to 2008. The latest of these, granted in January 2019, expires on 31 January 2021. This same layout was first approved in 2012.

6.2 Recent Relevant History

18/10052/FULL

Variation of Condition 6 of planning permission dated 6 December 2016 (16/10155/FULL) for, 'Use of public highway for the placing of eight tables and 20 chairs, two space heaters, two barriers, and a waiter station, in an area measuring 2500mm x 11800mm on the Brook's Mews frontage in connection with existing restaurant'; NAMELY, to allow the use to continue for a further two years.
Application Permitted 4 January 2019

16/10155/FULL

Variation of condition 5 of planning permission dated 25 February 2014 (13/04288/TCH) for the use of public highway for the placing of eight tables and 20 chairs, two space heaters, two barriers, and a waiter station, in an area measuring 2500mm x 11800mm on Brook's Mews frontage in connection with existing restaurant. NAMELY, to seek permission to allow the use to continue for a further two years.,
Application Permitted 6 December 2016

13/04288/TCH

Use of public highway for the placing of eight tables and 20 chairs, two space heaters, two barriers, and a waiter station, in an area measuring 2500mm x 11800mm on Brook's Mews frontage in connection with existing restaurant.
Application Permitted 25 February 2014

11/08339/TCH

Use of an area of the public highway measuring 2.5m by 11.8m on Brook's Mews frontage for the placing of eight tables, 20 chairs, two space heaters, two planters and a waiter station, in connection with the existing restaurant use.
Application Permitted 20 November 2012

09/04038/TCH

Use of the public highway for the placing of 8 tables and 20 chairs in two areas measuring 3.8m x 2.2m and 3.8m x 1.5 on Brook's Mews frontage in connection with existing restaurant and bar.
Application Permitted 14 July 2009

07/06917/TCH

Use of the public highway for the placing of ten tables and 20 chairs in two areas measuring 3.8m x 2.2m and 3.8m x 1.5 on Brook's Mews frontage in connection with existing restaurant and bar.
Application Permitted 14 January 2008

05/04635/TCH

Use of the public highway for the placing of two tables and eight chairs in an area measuring 1.6 x 4.2m and 1 table and 4 chairs in an area measuring 1.6 x 2.1m on the

Brook's Mews frontage for use in association with the restaurant at 53-54 Brook's Mews
Application permitted 4 August 2005

7. THE PROPOSAL

Permission is now sought for the use of two areas of the public highway, measuring 6.2m x 2.2m and 11.5m x 2.2m, for the placing of 12 tables, 24 chairs, 13 planters and 2 waiter stations on the highway outside of 52 and 53-54 Brook's Mews.

Four 4 tables, 8 chairs and 5 planters would be located in the smaller area outside No.52, while 8 tables, 16 chairs, 2 waiter stations and 8 planters would be located in the larger area outside of 53-54.

One planter has been removed from the proposals to overcome concerns officers' concerns about highway obstruction.

8. DETAILED CONSIDERATIONS

8.1 Land Use

This proposal does not raise any land use issues.

8.2 Townscape and Design

As previously, it is not considered that the siting of tables and chairs outside the premises would have an adverse impact upon the character of this part of the Mayfair conservation area.

8.3 Residential Amenity

UDP Policy TACE11 states that planning permission for tables and chairs on the highway will only be granted when such developments will not cause a nuisance to residents or harm the amenity of the area. Policy S29 of the City Plan seeks to resist proposals that result in an unacceptable loss of residential amenity.

The applicant has confirmed that the tables and chairs would be placed on the highway between 11:00 - 23:00 daily. These are the same hours as approved under previous permissions for nos. 53-53 Brook's Mews.

The current proposals would provide seating for four additional customers when compared with the extant permission. Fewer chairs would be placed outside of no. 53-54 than is currently permitted.

Three objections have been received from three residents of 50 Brook's Mews on the grounds that the provision of tables and chairs outside of no 52 would have an adverse impact on the amenity of flats on the upper floors of the neighbouring property (from increased noise disturbance, smell nuisance from food and smell and smoke nuisance from customers smoking), where some windows serve bedrooms. One objector has commented that there is already noise disturbance associated with the tables and chairs

outside no 53-54 Brook's Mews, including noise from moving the furniture, and that this would be exacerbated as a result of the proposals.

There is no record of any complaints having been received in relation to the existing tables and chairs and no objections have been received to the various applications to renew permission for the placing of tables and chairs outside nos. 53-54 Brook's Mews.

While the new seating outside of 52 Brook's Mews would be closer to the neighbouring flats, given that only 4 tables and eight chairs are proposed in this location, and an additional four customer seats overall, it is not considered that the proposals would have a material impact on neighbours' amenities when compared with the approved situation.

Given the limited number of new tables outside of no. 52 Brook's Mews, it is not considered that there would be any material loss of amenity as a result of food odours or customers smoking.

In addition to the proposed restriction on the hours of the use of the seating (until 23.00 hours), a further condition is proposed to prevent the playing of live, recorded or amplified music in the outside seating areas.

8.4 Transportation/Parking

The Highways Planning Manager objected to the original application on the grounds that the proposed furniture layout, including the position of a planter outside of 53-54 Brook's Mews, would create a pinch adjacent to two adjacent tree pits, which would not allow the 2m highway clearance required under the Westminster Way. The layout has been amended to address this objection. Equally, a potential pinch point outside of no.52 has been eliminated by moving back all three of the proposed planters in this location to provide 2m highway clearance. While the Highways Planning Manager also expressed concern about a potential pinch point at the junction with Avery Row, they note that the layout in this location is the same as that approved under the historic permissions.

The Highways Planning Manager also raised concerns that the additional items (planters, waiter stations etc.) would not be readily moveable outside the permitted hours of use. . However, the submitted details clearly demonstrate that larger/heavier items (planters and waiter stations) have wheels hidden within the bases to allow them to be easily moved

The Waste Project Officer has expressed concern that the proposed seating layout is too dense and that seating would not be contained within the permitted area, reducing the available space on the highway. Two rows of tables are proposed in each seating area, parallel to the shopfront. Given the proposed furniture arrangements, it is considered that there is adequate space for the amount of furniture and other items proposed. There is no suggestion from objectors that the existing external seating has caused a resulted in any obstruction of the highway.

Subject to conditions, it is considered that the proposed tables and chairs are acceptable

in amenity and highways terms and would comply with policies TACE11 and TRANS 3 of the UDP, Policy S29 of the City Plan and the Westminster Way, However, it is recommended that permission is granted for a temporary period of one year to enable the situation to be monitored.

8.5 Economic Considerations

The economic benefits generated by the application are welcomed.

8.6 Access

Access arrangements for the site will remain the same as existing.

8.7 Other UDP/Westminster Policy Considerations

None applicable.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

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

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

Not applicable.

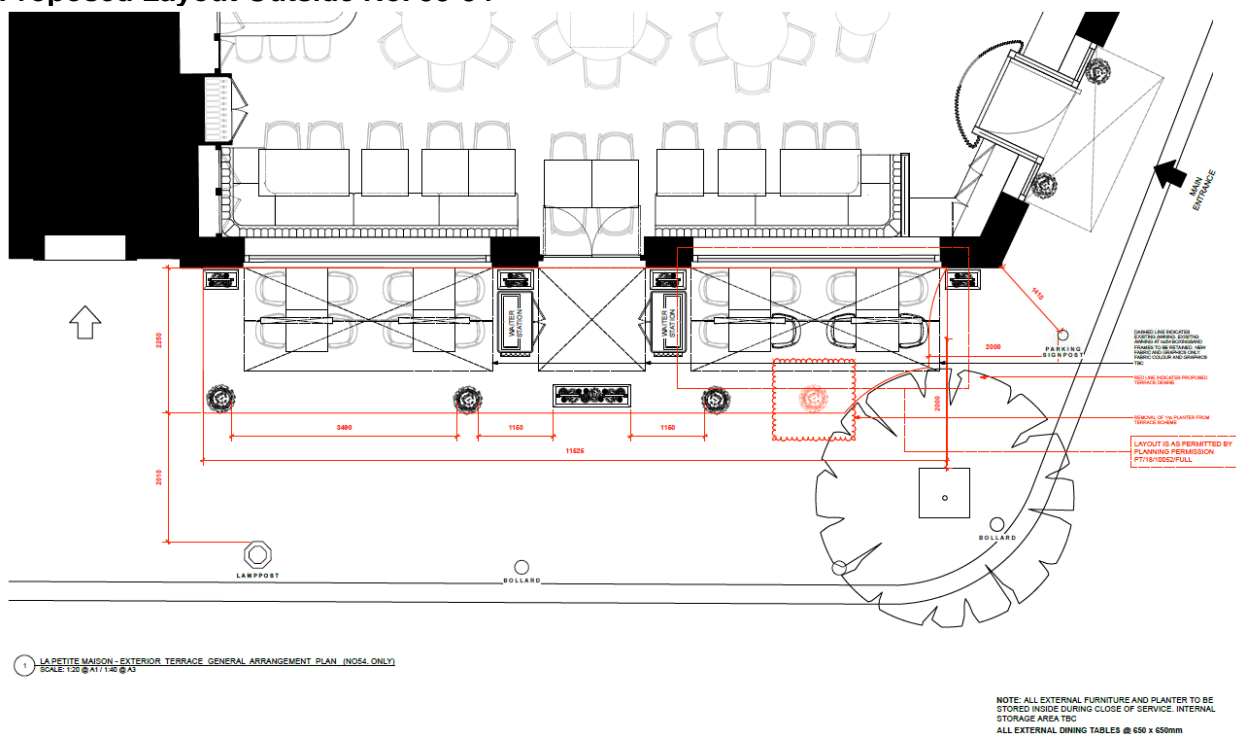
8.14 Other Issues

One objector has made reference to the impact of neighbouring building works and waste collections upon the character of Brook's Mews. Whilst these comments are noted, they are not considered relevant to the consideration of the current application.

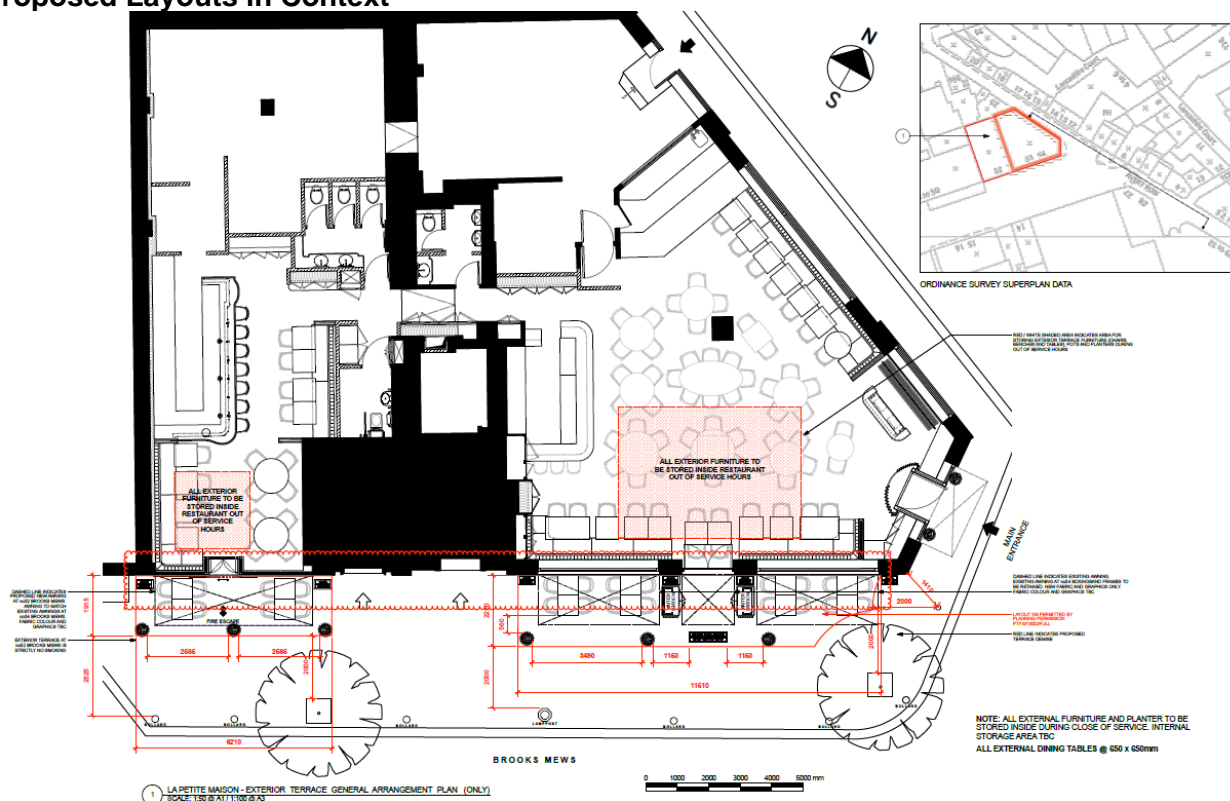
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk

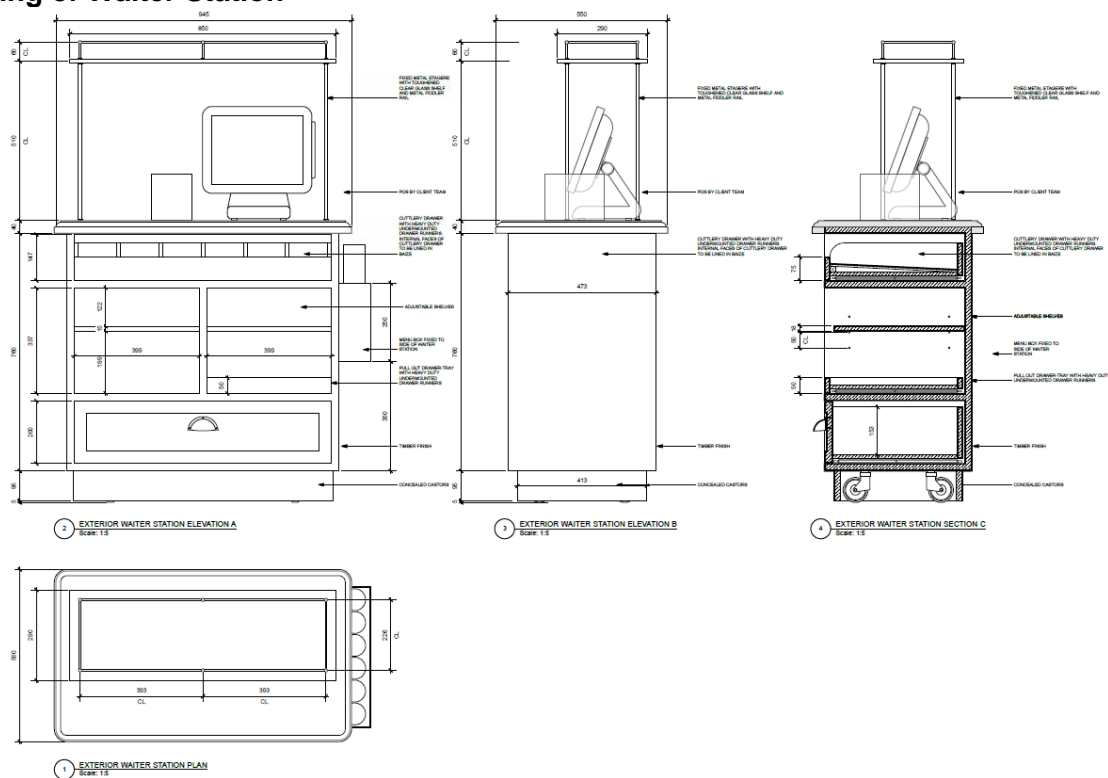
Proposed Layout Outside No.52



Proposed Layouts in Context



Drawing of Waiter Station



Drawing of Planters

1 PLANTER TYPE A
Scale: 1:10

3 PLANTER TYPE C
Scale: 1:10

4 PLANTER TYPICAL SECTION
Scale: 1:10

DRAFT DECISION LETTER

Address: 52 Brook's Mews, London, W1K 4EE,

Proposal: Use of two areas of the public highway measuring 6.2m x 2.2m and 11.5m x 2.2m for the placing of 12 tables, 24 chairs, 13 planters and 2 waiter stations in connection with the restaurant premises at 52-54 Brook Mews.

Reference: 20/02058/TCH

Plan Nos: 00.JD.03 ; 00.JD.02 ; Drawing titled "PROPOSED EXTERIOR WAITER STATIONS" dated 20.01.2020 ; Drawing titled "PROPOSED EXTERIOR TERRACE PLAN (no52 ONLY)" Rev A, dated 29.05.2020 ; Drawing titled "PROPOSED EXTERIOR TERRACE PLAN (no54 ONLY)" Rev. A, dated 29.05.2020 ; Drawing titled "PROPOSED EXTERIOR TERRACE PLAN (ONLY)" dated 20.01.2020 received 20.07.2020.

Case Officer: Adam Jones

Direct Tel. No. 020 7641
07779431391

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 You can only put the tables, chairs, planters and waiter stations on the pavement between 11:00-23:00 daily. You must remove all the furniture outside of the hours and store it within the premises.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 The tables, chairs, planters and waiter stations must only be used by customers of the basement and ground floor premises of 52 and 53-54 Brook's Mews.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 4 This use of the pavement may continue until 31 August 2021. You must then remove the tables, chairs, planters and waiter stations hereby approved.

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 5 You can only put out on the pavement the tables, chairs, planters and waiter stations shown on the approved drawings. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 6 You must not put the tables, chairs, planters and waiter stations in any other position than that shown on the approved drawings.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 7 You must not play live or recorded music in or adjacent to the approved areas.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

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 Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, 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

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addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: www.westminster.gov.uk/tables-and-chairs-licence.

If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to streettradinglicensing@westminster.gov.uk. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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.