

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 August 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	Avery House, 1 - 3 Avery Row, London, W1K 4AJ		
Proposal	Alterations at roof level to create a roof terrace for use in association with existing restaurant (Class A3). Removal of existing plant and installation of plant within three louvred enclosures and erection of a screen around the roof.		
Agent	Peacock + Smith		
On behalf of	Quadrille Ltd		
Registered Number	20/02588/FULL	Date amended/ completed	21 April 2020
Date Application Received	20 April 2020		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application property is an unlisted building located within the Mayfair Conservation Area, within the Core Central Activities Zone as defined by the adopted City Plan and the Unitary Development Plan. The building is occupied as a large restaurant (Class A3) from basement to second floors, with the third floor lawfully office accommodation.

Permission is sought to create a roof top terrace for use in association with the restaurant and to alter the existing roof top plant. The key issues for consideration are:

- The impact on residential amenity,
- The impact of the works at roof level on the appearance of the building and the character and appearance of the Mayfair Conservation Area.

The area is mixed use in character comprising a mix of commercial uses on the lower floors with offices and residential above. Subject to appropriate conditions, it is considered that the scheme complies with policies set out in the Mayfair Neighbourhood Plan, the Unitary Development Plan (UDP) and Westminster's City Plan and is therefore recommended for approval.



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4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENT SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 47

Total No. of replies: 4

No. of objections: 4

4 objections received on the following grounds:

- Noise and nuisance
- Privacy

PRESS ADVERTISEMENT / SITE NOTICE: Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

Avery House 1-3 Avery Row comprises basement, ground, and three upper floors situated on the eastern side of Avery Row, which links Brook Street and Grosvenor Street within Mayfair. The application premises fronts onto Avery Row and Lancashire Court to the north. The basement to second floors are in use as a restaurant and the third floor in use as offices. To the rear first floor of site there is smoking terrace which totals 19 sqm and which was approved on appeal.

Conditions imposed on previous planning permissions limit the capacity of the existing restaurant and rear first floor terrace to 180 and 12 customers respectively. Whilst the restaurant is allowed to operate between 08.00 to 00.00 Monday to Thursday, 0800 to 0030 on Friday and Saturday and 0900 to 2300 on Sundays, the rear terrace has conditions allowing access between 1200 to 2300 daily.

The immediate surrounding properties are largely in commercial use at ground floor level with predominately commercial offices on the upper floors, although there are some residential flats in the vicinity. This includes residential at 4-9 Avery Row and 12-13 Lancashire Court to the north and at 29 Avery Row located on the opposite side of Avery Row to the west. The site lies within the Core CAZ but is outside the West End Stress Area. The building is not listed but lies within the Mayfair Conservation Area.

6.2 Recent Relevant History

On 8 June 2016 permission was granted for dual /alternative use of basement, ground and first floor for either retail (Class A1) or financial and professional services (Class A2) RN 16/03419/FULL. This permission was not implemented.

Permission was granted on the 22 August 2017 for use of part basement, ground, first and second floors for restaurant purposes (Class A3) with associated plant and ventilation duct and metal louvred screen at roof level. This permission was implemented.

Permission was allowed at appeal on the 17 October 2019 (ref: APP/X5990/W/19/3230681) for use of first-floor flat roof as a smoking area in association with the basement to second floor restaurant, erection of metal pergola structure, glazed balustrade and the installation of planters. This permission has been implemented.

7. THE PROPOSAL

Planning permission is sought for the creation of an external dining terrace on the roof of the existing four-storey building for use in association with the existing restaurant, which currently occupies the basement to second floors. The terrace would be used primarily for outdoor dining and drinking.

The building is orientated broadly along a north-west to south-east axis. The roof is currently vacant and only accessed intermittently for the purposes of maintaining roof-mounted plant. Access is provided via an enclosed staircase at the south-eastern end of the roof. This would be altered as part of the proposals; the remodelled roof access would result in a modest extension at roof level, which amounts to a net increase of 3 sqm GIA.

The dining terrace would have a maximum of 21 covers, consisting of three tables each providing six covers, and an additional bar area, with three covers. It was intended the terrace is used throughout the operational hours of the restaurant (08.00 to 00.00 Monday to Thursday, 08.00 to 00.30 on Friday and Saturday and 09.00 to 23.00 on Sundays) but have since been reduced to between the hours of 0800 and 2300 Monday to Saturday and between 0900 and 2300 on Sundays..

The terrace is proposed to be screened by a slate clad mansard slope which extends to a height of 1.1m above the decking to the proposed terrace.

The existing roof-mounted plant associated with the operation of the restaurant and offices within the building is positioned in a range of locations on the roof. A number of condenser units are positioned in the south-eastern corner of the site. Other areas at the north-western end of the site also include items of plant which project above roof level. The plant in these areas would be consolidated, in order to provide for a more efficient layout. The proposed plant areas would be located adjacent to the proposed entrance stairwell, as well as at the north-western end of the roof where the clusters of condensers and other items of plant will be retained in situ. All of these new or consolidated areas of plant would be enclosed by louvred plant screens. Access to these areas from the terrace would be via doors within the louvred screens which would be designed to be inconspicuous and indistinguishable from the screens.

During the course of the application, the design of the terrace has been amended to remove a metal pergola and green screens and the perimeter safety screen has been amended to take the form of a false mansard finished in slate. Neighbours were

reconsulted on 24 June 2020 following receipt of the amended drawings.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The existing restaurant area (412 sqm) and first floor terrace (19 sqm) totals 431 sqm. The proposal introduces a terraced area which totals 28 sqm, meaning that the enlarged restaurant and terraced areas would total 458 sqm. As such the application is assessed against MRU1 of Mayfair Neighbourhood Plan, UDP Policy TACE8 and City Plan Policy S24. These policies require that entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

Four individual objections have been received from residents within 29 Avery Row that the proposal will result in noise nuisance. The nearest residential properties are at 4-9 Avery Row and 12-13 Lancashire Court to the north and at 29 Avery Row located on the opposite side of the Avery Row to the west.

In order to predict the noise levels from occupants of the proposed terrace, the application was supported by an acoustic report based on a full terrace. The assessment assumes that half are talking at any one time and are facing the residences, whereas in practice they are likely to be huddled in small groups with talkers facing away from the windows. Assessments have been undertaken at the fourth-floor window of the flats on Avery Row. This is the top floor of the flats and the windows are slightly lower than roof terrace level. As such, line of sight of at least some of the patrons is likely to be prevented by the building structure.

Environmental Health have reviewed the assessment and consider that the assumptions used in the prediction are acceptable and raise no objection to the proposal; however, they have recommend the imposition of condition requiring a Noise Management Plan which should include contact details for a site representative and should be shared with neighbouring residents. A condition restricting the occupants of the terrace and a condition ensuring that any music played within the terrace is not audible from neighbouring residential windows is also recommended.

Given that the proposed terrace is to be used in connection with an existing restaurant, it is not considered that the proposal will add to an existing concentrations of entertainment uses. With the imposition of the above conditions, it is considered that the proposal will not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. This is considered to address the objectors' concerns.

8.2 Townscape and Design

The Application Site

The application site is a fine building of early twentieth century date, which makes a positive contribution to the street and surrounding Mayfair conservation area. It has a

narrow area of flat roof on top and a smaller area at a lower level to the rear, which obtained permission (on appeal) for use a roof terrace.

Legislative Context

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 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 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, 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 same 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 DES 9 (F) in the UDP 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.

Avery Row and Lancashire Court are a particularly notable part of the historic environment in Mayfair. Peter Guillery writing in his scholarly book ‘The Small House in Eighteenth-Century London’ notes of Avery Row and Lancashire Court that:

“Exceptionally, these back streets retain a heterogeneous mix of small-scale irregular early buildings on a part of the Conduit Mead Estate that was laid out around 1720 and completely built up by 1733. No. 9 Lancashire Court (c.1720) is little more than 20ft square but has a two-room rear-staircase plan, and surprisingly extensive and elaborate internal joinery for a house of this size. Yet the front is unevenly, indeed eccentrically, fenestrated with flush frames that contravened legislation. No. 5 Avery Row (c.1725) is rather less than 20ft square and laid out with a single room on each floor. Next door No. 6 Avery Row is a timber-framed building with a front of about 14ft and a rear-staircase plan with unheated back rooms. Its framing and the presence of a stylistically early fireplace have led to it being ascribed to the late seventeenth century, but given that

what is known about local development and the fact that it seems to be built round No.5 it is likely that it too is of the 1720s. These and neighbouring buildings housed artisans, shopkeepers and other tradesmen whose livelihoods would have been gained servicing the wealthy. Around 1790, when No. 9 Lancashire Court was occupied by a bookbinder, a survey of householders along Avery Row listed a dairyman, a chandler, a glazier and painter, a baker, a carpenter, a barber, a trunk maker, a japanner, a victualler, a servant, a bookseller and another carpenter.”

It is the rare survival of so many historic buildings, several from the earliest phase of development in Mayfair, that contributes greatly to the historic and architectural character of the Mayfair conservation area, and many of the buildings are grade II listed.

The historic roofscape of Mayfair is not characterised by roof terraces. However, where they can be found, they are mostly subordinate to the buildings on which they are placed and generally, intentionally, inconspicuous. Furthermore, they are suitably screened for aesthetic and/or amenity reasons to ensure the appearance of the buildings on which they are built appears suitable, and to preserve the character and appearance of the surrounding conservation area.

Setting

The setting of a heritage asset is defined in the NPPF glossary in the following terms: “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

Historic England elaborates on the definition of ‘setting’ as follows:

“Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.”

The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.

When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset’s significance may also damage its economic viability now, or in the future, thereby threatening its on-going conservation (PPG, paragraph: 013, reference ID: 18a-013-20140306).

Historic England also, helpfully, provide a check-list (non-exhaustive) of assessing the significance of a heritage asset and the contribution made to it by its setting. The attributes may be physical:

“Topography; Aspect; Other heritage assets (including buildings, structures, landscapes, areas or archaeological remains); Definition, scale and ‘grain’ of surrounding streetscape, landscape and spaces; Formal design e.g. hierarchy, layout; Orientation and aspect; Historic materials and surfaces; Green space, trees and vegetation; Openness, enclosure and boundaries; Functional relationships and communications; History and degree of change over time”

They may also be experiential: “Surrounding landscape or townscape character; Views from, towards, through, across and including the asset; Intentional intervisibility with other historic and natural features; Visual dominance, prominence or role as focal point; Noise, vibration and other nuisances; Tranquillity, remoteness, ‘wildness’; Busyness, bustle, movement and activity; Scents and smells; Diurnal changes; Sense of enclosure, seclusion, intimacy or privacy; Land use; Accessibility, permeability and patterns of movement; Degree of interpretation or promotion to the public; Rarity of comparable survivals of setting; Cultural associations; Celebrated artistic representations; Traditions”

When it comes to assessing the effect of a proposal in ‘setting’ terms, Historic England advises that there are four main attributes to be considered: “location and siting; form and appearance; wider effects; permanence.”

Of particular relevance in this case is the proximity of the terrace to many listed buildings, its visibility in views to, from, and of those buildings, its potential prominence and conspicuousness, its dimensions, materials, and detailed design.

Avery Row and Lancashire Court

The proposed roof terrace is within the setting of many listed buildings in Avery Row and Lancashire Court. In its originally submitted form, the terrace would have adversely affected their setting because of its location and detailed design, the change to the skyline, and the noise it would create, along with the light-spill resulting from the change in the use of the roof. These are impacts are not only seen from street level but from the upper floors of surrounding properties.

The roofscape of this part of the Mayfair conservation area is characterised by slated roofs of many different types and ages. One of the listed buildings in Avery Row (No.4) has a clay-tiled roof which, although the tiles are new, is historically entirely appropriate for the early buildings in the area where clay tiles predated the use of slate. This is of more than academic interest as it contributes positively and significantly to the understanding of the evolution of historic roof coverings in the area, and the clay tiles are clearly visible from the upper floors of surrounding properties as well as in views from street level at the junction of Brook’s Mews. The application site forms the backdrop to this street level view.

Currently, the vast majority of outdoor drinking and dining in the area is carried out at ground level, principally within Lancashire Court. There are few roof terraces nearby and they tend to belong to offices. Consequently, these terraces are mostly clutter-free and

lightly used. In comparison, the proposed roof terrace would be used to a greater extent (Coronavirus social distancing notwithstanding). However, the perimeter is now to be guarded by adding a low, false, roof to the front and raising the rear roof slopes to approximately 1.1m above the terrace level. Furthermore, all parasols and associated clutter have been omitted from the application. Therefore, the incongruity of the roof terrace will be minimised and reduced to an acceptable extent so that the setting of nearby listed buildings will be preserved, and the character and appearance of the surrounding Mayfair conservation area will be maintained. Nevertheless, to ensure that this is both achieved and maintained, the exclusion of rooftop clutter must be secured by condition (as has been done elsewhere in Mayfair).

Design conclusion

The proposed roof terrace is now integrated into the design of the building by raising the roof slopes in matching slate, and mechanical plant at the edges of the roof will be provided with louvred screening. This will ensure that the building when seen from street level and from the upper floors of surrounding buildings appears satisfactory in its own right and in its historic context.

There is no harm to designated heritage assets. As such, this accords with UDP policies DES 6, DES 9, and DES 10 and with the policies of the Mayfair Neighbourhood Plan; 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.

8.3 Residential Amenity

UDP Policy ENV13 seeks to protect and improve the residential environment and to resist proposals, which would result in a material loss of daylight or sunlight, increased sense of enclosure to adjoining windows or loss of privacy to adjoining occupiers. Similarly, City Plan Policy S29 seeks to safeguard the amenity of surrounding properties.

Daylight/ Sunlight and sense of enclosure

The erection of plant and a screening at roof level is not a significant increase in bulk and mass and would not result in a material loss of light or increased sense of enclosure to any of the surrounding properties

Privacy

Objections have been received from occupants within 29 Avery Row on the basis that the proposed terrace would result in a loss of privacy.

The most northerly section of the roof is proposed to contain plant. As such the predominant outlook from the proposed terrace is to the south west, directly across Avery Row towards office occupants. The proposed terrace is approximately 15m from the closest window of the residential units at 29 Avery Row and it is located to the west of the site. Furthermore, these windows are visible from a commercial terrace at third floor level to the office accommodation at 30-31 Avery Row and 4-6 Grosvenor Street. As such, it is not considered that the proposal will not result in any material overlooking or loss of privacy to neighbouring residents.

Given that the northern proportion of the roof is not accessible, it is not considered that

windows visible in oblique view would result in any material overlooking, nor greater than that experienced from the windows on the lower floors of the application site.

8.4 Transportation/Parking

The proposal does not raise any highway issues.

8.5 Economic Considerations

Any economic benefits generated are welcomed.

8.6 Access

The access arrangement remains unaltered.

8.7 Other UDP/Westminster Policy Considerations

Plant

Concerns have been raised regarding the potential noise impact of the proposed plant. Environmental Health Officers have assessed the acoustic report that was submitted with the application and consider that the proposed plant is likely to comply with the City Council's noise policy ENV6 and ENV 7 of the UDP. The proposals will not therefore harm the amenity of neighbouring properties and conditions have been imposed to ensure noise emissions are 10 db below the existing background noise levels.

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 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

No pre-commencement conditions have been recommended.

8.12 Planning Obligations

The application does not trigger any CIL requirements or planning obligations.

8.13 Environmental Impact Assessment

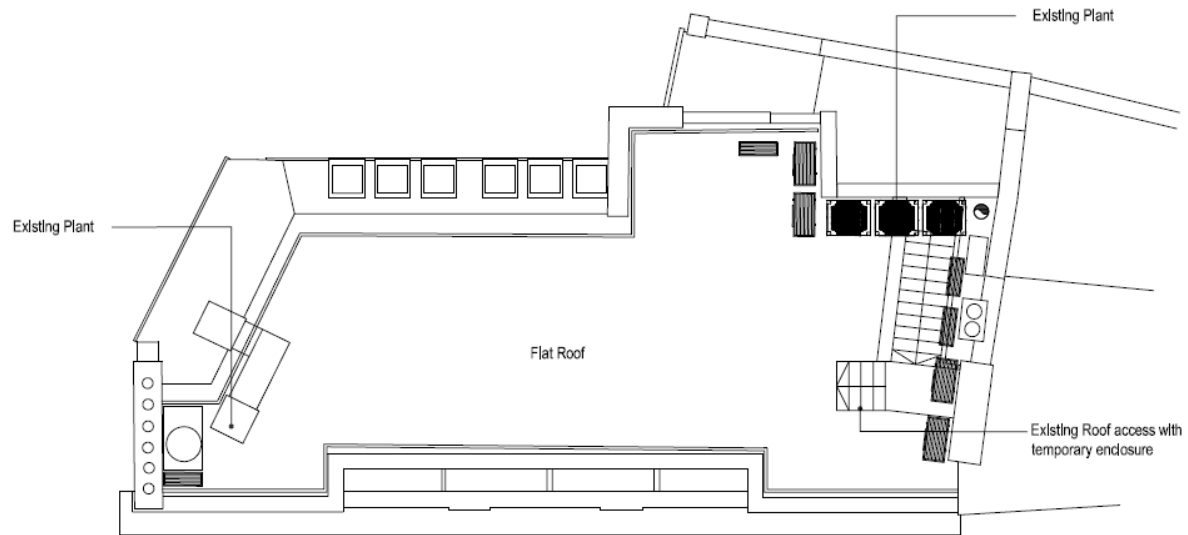
The proposal is of insufficient scale as to trigger an environmental assessment.

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

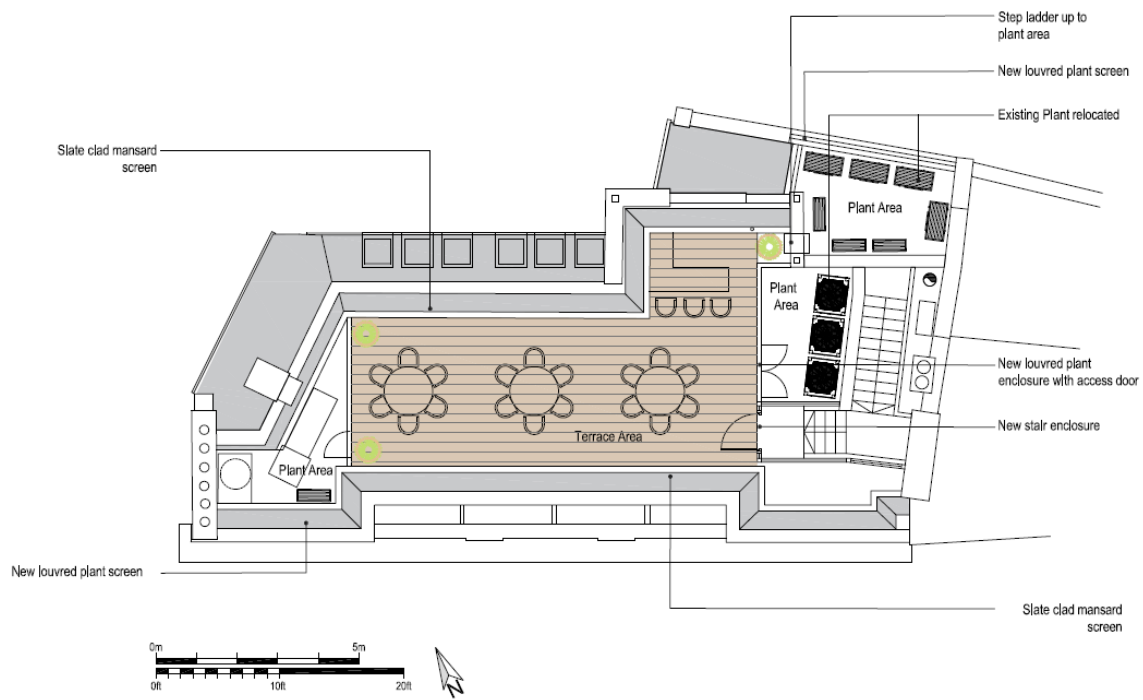
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

9. KEY DRAWINGS

Existing Roof



Proposed Roof



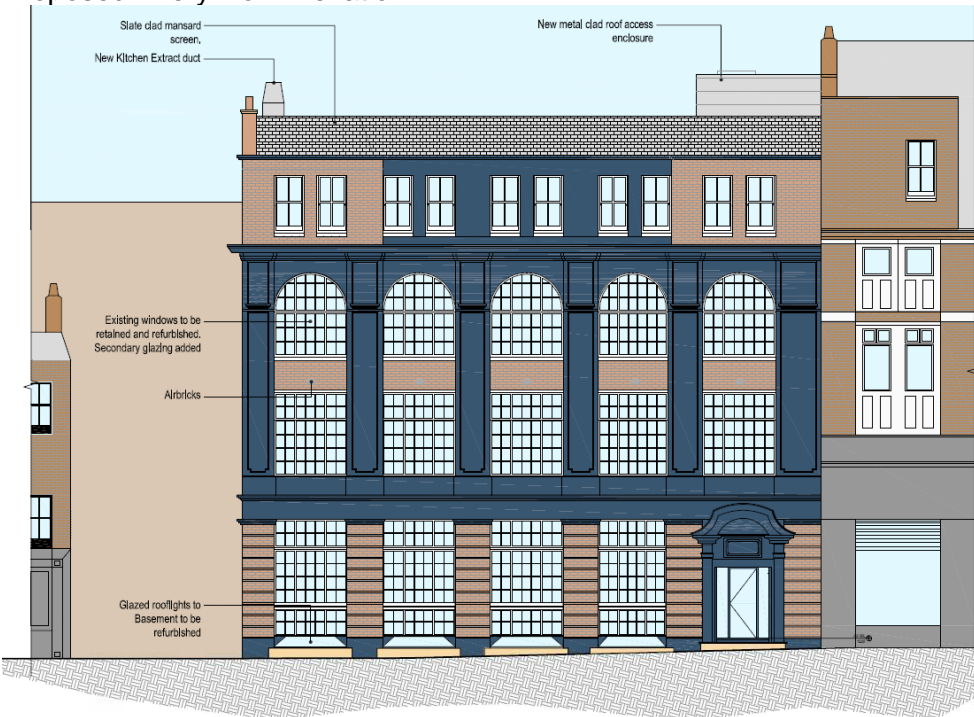
Existing Avery Row Elevation



Lancashire Court

Application site: 1-3 Avery Row

Proposed Avery Row Elevation



Lancashire Court

Application site: 1-3 Avery Row

DRAFT DECISION LETTER

Address: Avery House, 1 - 3 Avery Row, London, W1K 4AJ

Proposal: Alterations at roof level to create a roof terrace for use in association with existing restaurant (Class A3). Removal of existing plant and installation of plant within three louvred enclosures and erection of a screen around the roof.

Plan Nos: 1726-1300 Rev C, 1726-1301 Rev C, 1726-1201 Rev B, 1726-1200 Rev A, 1726-1104 Rev H, 1726-1105 Rev B,

Case Officer: Damian Lavelle

Direct Tel. No. 07779431364

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 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.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must not allow more than 21 customers on the terrace hereby approved.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

- 4 You must not play live or recorded music on the terrace hereby approved that 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 at any time.

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 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 5 You must apply to us for approval of Noise Management Plan which should include:

- Measures staff will undertake to minimise and mitigate the potential noise impact upon local residents.
- Contact details for a site representative which should be shared with all residents within 50m of the application site to enable residents to direct any complaints regarding noise from the terrace hereby approved.
- Provide a mechanism for recording complaints, and appropriate action taken.
- Details specifying a review process setting out a minimum requirement which necessitates that the Noise Management Plan should be reviewed and updated accordingly.

You must not use the terrace until we have approved what you have sent us. You must then carry out the measures included in the approved Noise Management Plan (or updated version) at all times that the terrace is in use.

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 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 6 Customers shall not be permitted on the terrace hereby approved before 08:00 or after 23:00 Monday to Saturday and before 09:00 or after 23:00 on Sunday.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 7 (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 ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), 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. (R46AB)

shall not be operated except between 07:00 and 00:30.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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. (R46CB)

- 9 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:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 10 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in 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. (R13AC)

- 11 You must erect the false mansard in full before you use the terrace. You must then maintain it in the form shown for as long as the terrace is being used. (C13DA)

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 12 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 Mayfair Conservation Area and preserves the setting of nearby listed buildings. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to

10.128 of our Unitary Development Plan that we adopted in January 2007

- 13 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

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 and preserves the setting of nearby listed buildings. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 14 You must not put structures such as canopies, fences, loggias, trellises, statues, water features, or satellite or radio antennae on the roof terrace, and no furniture, lighting or heaters, planters/planting on the roof terrace may exceed the height of the slate clad mansard screen.

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 and preserves the setting of nearby listed buildings. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007

- 15 All new slate must be natural blue grey slate.

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 and preserves the setting of nearby listed buildings. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007

- 16 All new plant screening must be finished dark grey and be maintained 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 Mayfair Conservation Area and preserves the setting of nearby listed buildings. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007

- 17 You must apply to us for approval of details of the following parts of the development -

All lighting to serve the roof terrace.

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 details.

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 and preserves the setting of nearby listed buildings. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 6, DES 9, DES 10 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

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 addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 The kitchen extract duct:
 - a) The kitchen extract duct should be designed to discharge vertically (with discharge velocity of at least 10m/s).
 - b) All cookline equipment must be placed under the extraction canopy.
 - c) The kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance, at approximately 2-3 metre intervals or in compliance with the Building & Engineering Services Association document TR19 for cleaning.
 - d) Any cladding must be made of non-flammable materials (approved by Building Control or Fire Brigade) and still allow access to any cleaning and maintenance doors/hatches.
 - e) Access to the ducting must comply with the Health & Safety safe access standards.
- 3 When carrying out building work you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction should be given at planning application stage. You may wish to contact to our Environmental Sciences Team (email: environmentalsciences2@westminster.gov.uk) to make sure that you meet all the requirements before you draw up contracts for demolition and building work.

When a contractor is appointed, they may also wish to make contact with the Environmental Sciences Team before starting work. The contractor can formally apply for consent for prior

approval under Section 61, Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required the authority may serve a notice on the site/works setting conditions of permitted work (Section 60, Control of Pollution Act 1974).

British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work.

An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

- 4 Under the Construction (Design and Management) Regulations 2015, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:

- * Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;

- * This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/risk/index.htm.

It is now possible for local authorities to prosecute any of the relevant parties with respect to noncompliance with the CDM Regulations after the completion of a building project, particularly if such noncompliance has resulted in a death or major injury.

- 5 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.
Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:
 - * Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
 - * Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;

- * Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
- * Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
- * Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

6 Working at height remains one of the biggest causes of fatalities and major injuries. You should carefully consider the following.

- * Window cleaning - where possible, install windows that can be cleaned safely from within the building.
- * Internal atria - design these spaces so that glazing can be safely cleaned and maintained.
- * Lighting - ensure luminaires can be safely accessed for replacement.
- * Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at www.hse.gov.uk/toolbox/height.htm

Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

7 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

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.