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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	**Date** **8th December 2020**	**Classification** For General Release	
Report of Director of Place Shaping and Town Planning		**Ward(s) involved** St James's	
Subject of Report	**9 Slingsby Place, London, WC2E 9AB**		
Proposal	Use of the ground floor and basement as a flexible alternative use comprising retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), assembly and leisure (Class D2), and live music venue (Sui Generis).		
Agent	Rolfe Judd Planning		
On behalf of	Longmartin Properties Limited		
Registered Number	20/04025/FULL	**Date amended/ completed**	30 June 2020
Date Application Received	30 June 2020		
Historic Building Grade	Unlisted		
Conservation Area	N/A		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

Unit 9 Slingsby Place lies within St Martin's Courtyard, which is a mixed-use development including retail, entertainment, office, and residential accommodation, which is bounded by Mercer Street, Long Acre, Upper St Martin's Lane and Shelton Street. The site is located within the Core Central Activities Zone (CAZ) and the West End Stress Area.

The proposed development is for the use of the ground floor and basement as a flexible alternative use comprising retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), assembly and leisure (Class D2), and live music venue (Sui Generis).

The key issues are:

- The land use implications arising from the proposed flexible alternative uses comprising retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), assembly and leisure (Class D2), and live music venue (Sui Generis).l
- The impact of the proposal on the amenity of neighbouring occupiers;

- The impact of the proposals on the surrounding highway network in terms of servicing.

The Covent Garden Community Association (CGCA) and two neighbours raise objections with the proposals relating to residential amenity and servicing.

The proposed flexible/alternative uses comprising A1/A3/A4/D2/ Sui Generis (live music venue) are considered acceptable subject to the recommended conditions controlling aspects of the use/s as well as robust and effective management of the unit. As such, the proposal is considered to comply with the relevant land use and amenity policies in Westminster's City Plan adopted in November 2016 (the City Plan) and the Unitary Development Plan adopted in January 2007 (UDP), and is recommended for approval.

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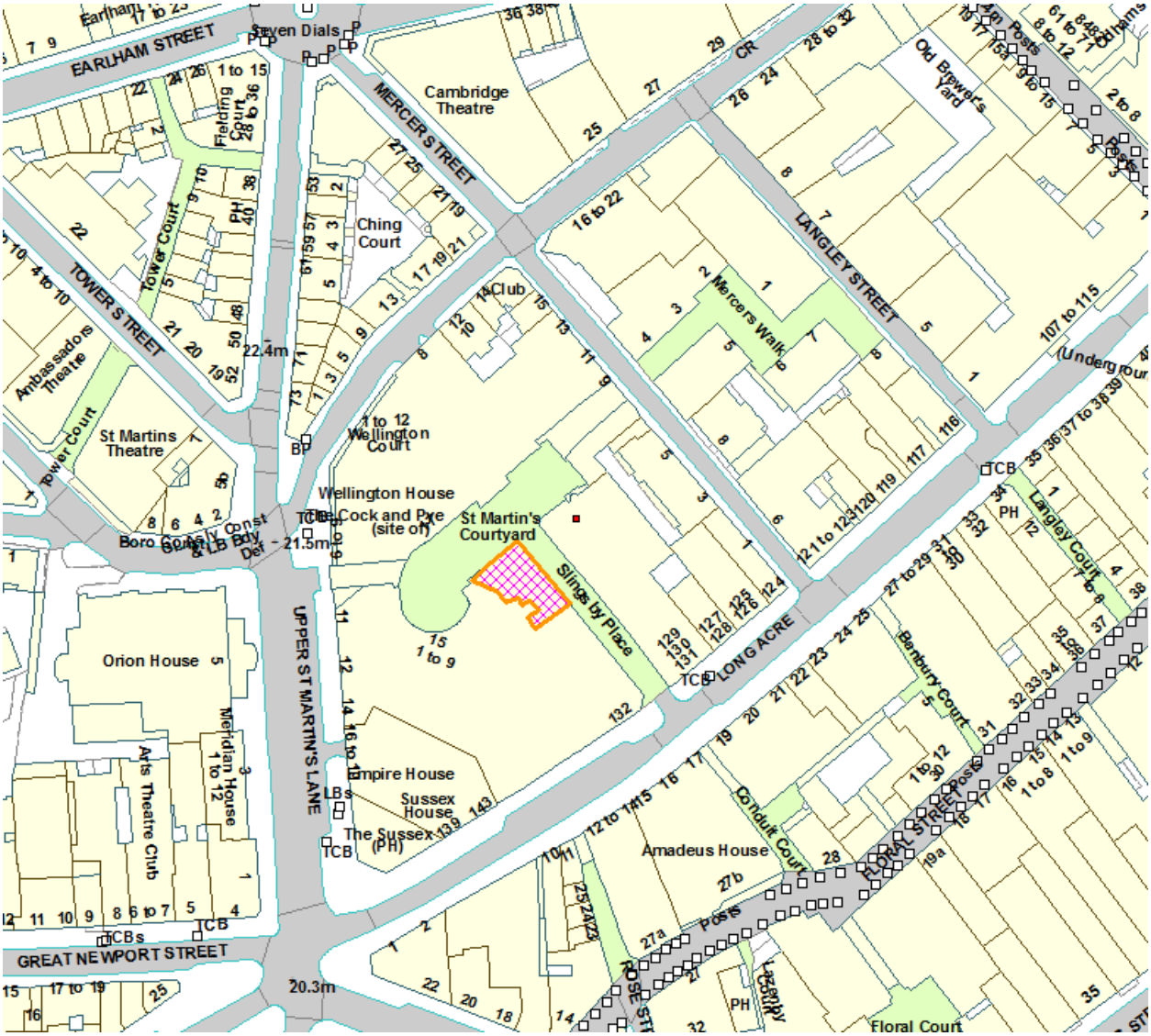
3. LOCATION PLAN



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4. PHOTOGRAPHS

Unit 9 Slingsby Place, St. Martin's Courtyard

5. CONSULTATIONS

COVENT GARDEN COMMUNITY ASSOCIATION:
Object to application in its current form as nearby residential uses are adversely affected by noise and servicing problems. Suggests revisions to make it acceptable.

A3/ D2
Would not object to Restaurant (A3) or Assembly and Leisure (D2) uses provided:
a) Hours of use are restricted to:
- 8am to 10pm Monday to Thursday,
- 8am to 11pm Friday,
- 9am to 11pm Saturday,
- 10am to 9pm Sunday.

Any hours of use beyond this for A3 or D2 would be likely to lead to unacceptable loss of amenity for residents, on top of the activities already present in this space.
b) The front door is kept shut at all times, and
c) The increased servicing load is conditioned to prevent past problems.

Live music venue (sui generis)
Would not object to Sui Generis (Live Music Venue) use, provided that the ground floor was used as a reception area only, by condition, and provided that the conditions requested above for A3 / D2 were also applied.

Drinking Establishment (A4)
The location and context are unsuited to A4 use and we ask that this part of the application be rejected outright.

COVENT GARDEN AREA TRUST:
No response to date.

WASTE PROJECTS OFFICER:
Objection on grounds the indicated waste store is not within the site demise and there is a high concern that waste will end up on the public highway.

ENVIRONMENTAL SCIENCES:
No objection subject to conditions.

HIGHWAYS PLANNING MANAGER:
No response to date.

ADJOINING OWNERS/ OCCUPIERS:
No. consulted: 75
No. of replies: 2

Two objections from a neighbouring resident and an office occupier on some or all of the following grounds:

- Adverse effect on the residential amenity of neighbours, by reason of noise;
-Over-development of the site and ease of access (Too many restaurants and licensed premises within the courtyard and another would lead to more people/ traffic disrupting

access to the neighbouring office building);
- The type of people using the premises (potentially disruptive) will adversely affect the professional atmosphere of the neighbouring office building;
- Conditions should control noise and servicing.

SITE/ PRESS NOTICE:
Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

St Martins Courtyard is located within Slingsby Place, which is located between Leicester Square, Covent Garden and Seven Dials. The courtyard is occupied by a mix of commercial uses including retail and restaurants uses at basement, ground and first floor levels with offices and residential uses on the upper floors. The site is located within the Core Central Activities Zone (CAZ) and the West End Stress Area.

The courtyard can be accessed via three entrances; Mercer Street, Long Acre and St Martins Lane. The courtyard was created between 2008 and 2011 and there are various permissions from 2007 which relate to this.

Unit 9 is located within a six storey building facing into St Martin's Courtyard. The unit was originally consented and designed and built as a Class A3 restaurant under the permission for the original development of the courtyard. Subsequently permission was granted for a flexible A1 and A1/D1 scheme and is presently occupied by Academy of Flowers which comprises an A1/D1 use. The use predominantly operates as a small shop at ground floor level and a flower arranging/design academy at basement level.

6.2 Recent Relevant History

St Martin's Courtyard has been developed following various permissions between 2008 and 2011 for extensions and alterations to provide a mixed-use site of retail, restaurant, office and residential.

<u>St. Martin's Courtyard</u>
08/00088/FULL: Permission granted on 15 February 2008 for 'Alterations and extensions including infilling the rear lightwell at ground to sixth floor level, two small infill extensions at fifth floor level and an additional storey at sixth floor roof level including areas of enclosed plant, in connection with the provision of new retail (class A1) floorspace at basement and ground floor level, a restaurant (class A3) at basement level, dual/alternative use of the first floor for either retail (Class A1) or office (Class B1) use, and B1 office use at second to sixth floor levels.'

<u>9 Slingsby Place</u>
10/04172/FULL: Permission granted on 21 July 2010 'Dual/alternative use of part ground floor and basement for mixed retail/school of floristry (mixed Class A1/D1) and/or retail (Class A1) use (Unit 12)'
(N.B This decision relates specifically to the application site though the decison notice address is 132-135 Long Acre and the description of development refers to Unit 12).

7. THE PROPOSAL

The proposed development is for the change of use of the ground floor and basement from A1 (retail)/ D1 (school of floristry) to a flexible alternative use comprising retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), assembly and leisure (Class D2), and live music venue (Sui Generis).

The aim of the proposal is to seek greater flexibility for the use of the unit in order to make it more attractive to potential tenants and secure an occupier who will provide a viable use and encourage vibrancy and vitality within the courtyard.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Unit 9 has a small ground floor area GIA of 42.5sqm and a large basement area GIA of 275sqm. The applicant states that this layout with its small ground floor presence and large basement would deter retailers from occupying the unit and is reflective of how the unit was originally conceived as a Class A3 restaurant under the permission for the original development of the courtyard in February 2008 (RN: 08/00088/FULL).

Loss of A1

The unit currently has A1 permission at ground floor whilst the basement is flexible D1/A1. The current tenant; the 'Academy of Flowers' have used the basement for D1 purposes, therefore the loss of retail would only relate to 42.5sqm at ground floor.

On the basis that a retail (A1 use is not implemented, the loss of existing A1 floorspace is contrary to policy S21 of Westminster's City Plan (November 2016) (City Plan) and SS5 of Westminster's Unitary Development Plan (January 2007) (UDP). However, there is a case for the loss of this retail floorspace given that this is fairly new retail floorspace within a back land location (the courtyard was created between 2008 and 2011).

The application is also supported by retail marketing letter from Colliers who consider that retail tenants do not look for units with small ground floors and large basements and that the unit would benefit from an A3 or A4 consent, as opposed to an A1. Officers agree agreed with the applicants assessment that the layout may better lend it itself to other non-A1 uses.

Entertainment and Leisure uses in the CAZ

The proposed alternative uses of restaurant, bar or live music venue, will support the West End economy and particularly the night-time economy. The proposal is considered against the development plan Westminster's City Plan, UDP, The London Plan and Mayor's Supplementary Planning Guidance, as detailed below.

With regards to the proposed restaurant, bar, and the live music venue, the Mayor's adopted Culture and Night-time Economy SPG states that 'London has lost 103 nightclubs and live music venues since 2007, a decline of almost a third… [and] figures

show that 1,220 pubs and bars shut between 2001 and 2016 - an average of 76 a year.' In order to address this, the document states that borough's should encourage the provision for night-time activities in order to expand cultural offer. In accordance with the Mayor's SPG, it is considered that the proposed restaurant, bar, and live music venue uses will create greater diversification of uses to flourish within the wider Covent Garden area, and help attract a wider range of visitors.

Unit 9 is approximately 320sqm across the ground floor and basement. UDP Policy TACE 9 and TACE 10, and City Plan Policy S24 for Entertainment Uses all recognise that the entertainment sector plays a vital role in visitor attraction and towards Westminster's local distinctiveness. For proposals between 150sqm and 500sqm of gross floorspace, the Council will generally consider these applications to be permissible provided that residential amenity and the character of the area are not affected, and will assess factors such as opening hours, number of customers and servicing arrangements.

The proposed flexible use would sit alongside other established restaurant/ A3 Uses within the Courtyard which will serve as a significant trade draw that helps sustain the wider retail character and function of this part of the West End Special Retail Policy Area.

City Plan Policy S21 also recognises that restaurant uses are complementary uses which contribute towards meeting the needs of the community and help to maintain activity whilst also enhancing the usefulness of the visit to the shopping centre.

<u>Assembly and Leisure/ Social and Community use</u>

The proposed flexible uses include a Class D2 use, which would typically be classified as an Assembly and Leisure or Social and Community use.

Policy S34 of the City Plan encourages new social and community facilities throughout Westminster. The proposed Class D2 use would comprise a leisure and social use, with the applicant indicating that this is likely to comprise of a gym. A D2 use, such as a gym, would provide a vibrant use within a highly accessible location and would continue to provide an active frontage at ground floor level.

A condition is recommended to secure details of any proposed D2 use prior to its commencement.

8.2 Townscape and Design

No external alterations are proposed.

8.3 Residential Amenity

Objections have been received concerned about the impact of the proposed entertainment uses on the amenity of neighbouring residents in terms of noise and disturbance.

UDP Policy TACE 9 states permission will only be granted for A3 (restaurant) uses in the 'stress area' where the development has; no adverse effect upon residential amenity or local environmental quality and no adverse effect on the character or function of its area.

Neighbouring units to Units 9 are occupied by either office (B1), retail (A1), restaurant (A3). The nearest residential properties are on the upper floors of 11 Upper St Martin's Lane, above existing restaurants, 'Bills' and 'Jamie's Italian' restaurants, which have outdoor seating on the ground floor within the courtyard.

The drawings show an indicative layout for an A3 use and a live music venue, to demonstrate how the space, in particularly the basement, could be utilised effectively. A significant proportion of the proposed floorspace at 7-9 Slingsby Place would be located at basement level, which in itself naturally mitigates any impact of an A3/A4/D2/Live Music Venue use in this location.

The A3 use could fit circa 80 covers which are predominantly at basement level, with a small number at ground floor level. The live music venue has been tested for a capacity of circa 220 persons. Should this use be implemented, the applicant accepts a management system demonstrating how the facility would operate could be secured by condition. Furthermore, as part of the management of St Martins Courtyard, smoking within the Courtyard is prohibited and this would apply to customers of any of the uses which occupy the premises.

Whilst the proposal may introduce another entertainment use within St Martin's Courtyard, this would sit alongside other established A3 Uses within the Courtyard which will serve as a significant trade draw that helps sustain the wider retail character and function of this part of the West End Special Retail Policy Area.

The Covent Garden Community Association have suggested hours of use restrictions for an A3, D2, and live music venue use, with a terminal hour of 9pm on Sunday, 10pm Monday – Thursday, and 11 pm Friday and Saturdays. The proposed terminal hour is midnight daily. The applicant argues that recently consented A3 uses within the Courtyard have longer opening hours than those suggested, with notably the A3 uses at 19-23 Slingsby Place having a terminal hour of midnight daily (RN:18/10789/FULL). Other A3 uses within the Courtyard also have longer opening hours, with the adjacent Bill’s Restaurant having a terminal hour of 11pm Thursdays to Saturdays.

As stated above this unit is predominantly located at basement level and is therefore considered to have even less impact than those A3 uses mentioned above. The same hours are therefore recommended as at the A3 uses on the opposite side of St. Martin’s Courtyard at 19-23 Slingsby Place.

The Covent Garden Community Association also object to a drinking establishment (A4) use however the amenity impact of this use is considered comparable to a live music venue use.

The proposed flexible uses are considered to be acceptable in this part of the CAZ subject to the recommended noise related conditions that aim to protect the environment of those in noise sensitive properties. These conditions relate to opening hours, servicing, noise breakout from the ground floor of the unit, noise from plant, and effective

management of the unit.

8.4 Transportation/Parking

Servicing

Objectors have raised concerns about servicing and in particular that other nearby units are carrying out servicing in breach of planning conditions, which is having an adverse impact on the amenity of residents. A condition is recommended requiring that all servicing takes place off-street in line with the original development of the courtyard in February 2008 (RN: 08/00088/FULL). On this basis the environment of neighbouring residents should be protected.

8.5 Economic Considerations

The economic benefits associated with an active use of the premises are welcomed.

8.6 Access

The access arrangements remain as existing.

8.7 Other UDP/Westminster Policy Considerations

Plant

The original planning permission for an A3 use within this unit (RN: 08/00088/FULL) provided an area with space for a kitchen extract and the future occupier will be able to link into this existing ducting. The proposal does not propose any new plant.

The closest residential windows to the existing extract riser at roof level are the residential units within the 5th floor above 'Jamie's Italian'. Conditions are recommended to control noise and vibration.

Refuse /Recycling

The Waste Projects Officer objects to the proposal on grounds the indicated waste store is not within the site demise and there is a high concern that waste will end up on the public highway.

The applicant confirms that the site is located within part of a managed estate and all of the other units on the estate/within the courtyard use the shared waste stores (as the existing use Flower Academy also does) which were designed in when the whole courtyard was redeveloped between 2007-2010,

The applicant has also secured planning permission on a number of units across the estate taking this approach. A condition is recommended securing compliance with using the waste stores as shown on the drawings.

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 19 June 2019 and 31 July 2019. On 19 November 2019 the plan was submitted to the Secretary of State for independent examination. The Examination in Public took place in September and October 2010. Following the Examination, a letter from the Inspectors was received on 29 October 2020 stating that the draft City Plan was not sound but that a number of 'main modifications' could be made to make Plan sound. These main modifications will be subject to public consultation and, only once responses have been received and considered, will the Inspectors' report be drafted. Having regard to the tests set out in paragraph 48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it will generally continue to attract very limited weight at this present time prior to the publication of the Inspector's report.

8.9 Neighbourhood Plans

The Knightsbridge 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 18 October 2018, 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 Knightsbridge 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.

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

The relevant land use policies of the London plan are outlined in section 8.1

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

Not applicable.

8.13 Environmental Impact Assessment

Not applicable.

8.14 Other Issues

None

(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: DAVID DORWARD BY EMAIL AT ddorward@westminster.gov.uk

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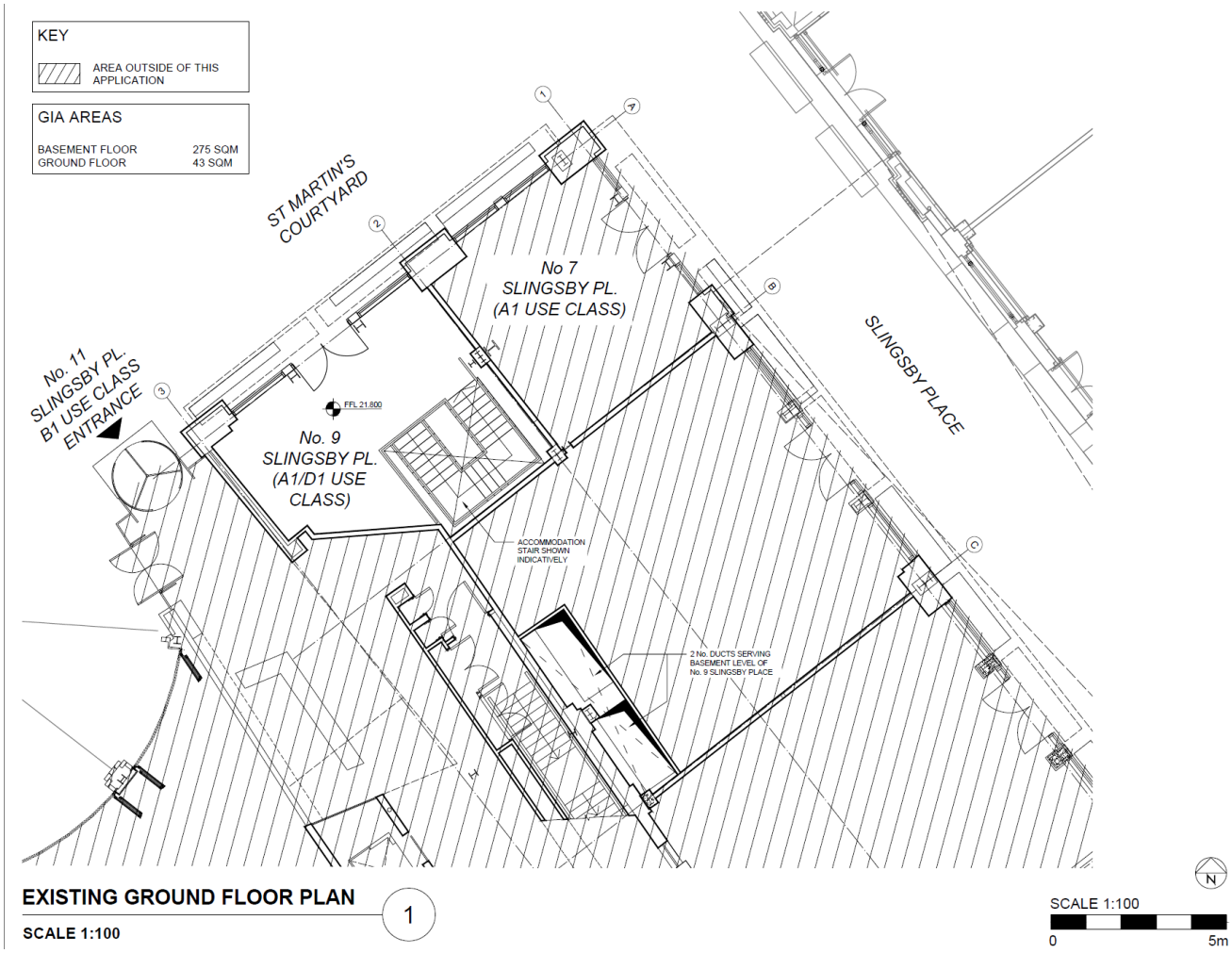
9. KEY DRAWINGS



EXISTING GROUND FLOOR PLAN 1

SCALE 1:100

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PROPOSED GROUND FLOOR PLAN SHOWING SUI GENERIS / LIVE MUSIC VENUE USE

1

SCALE 1:100

SCALE 1:100

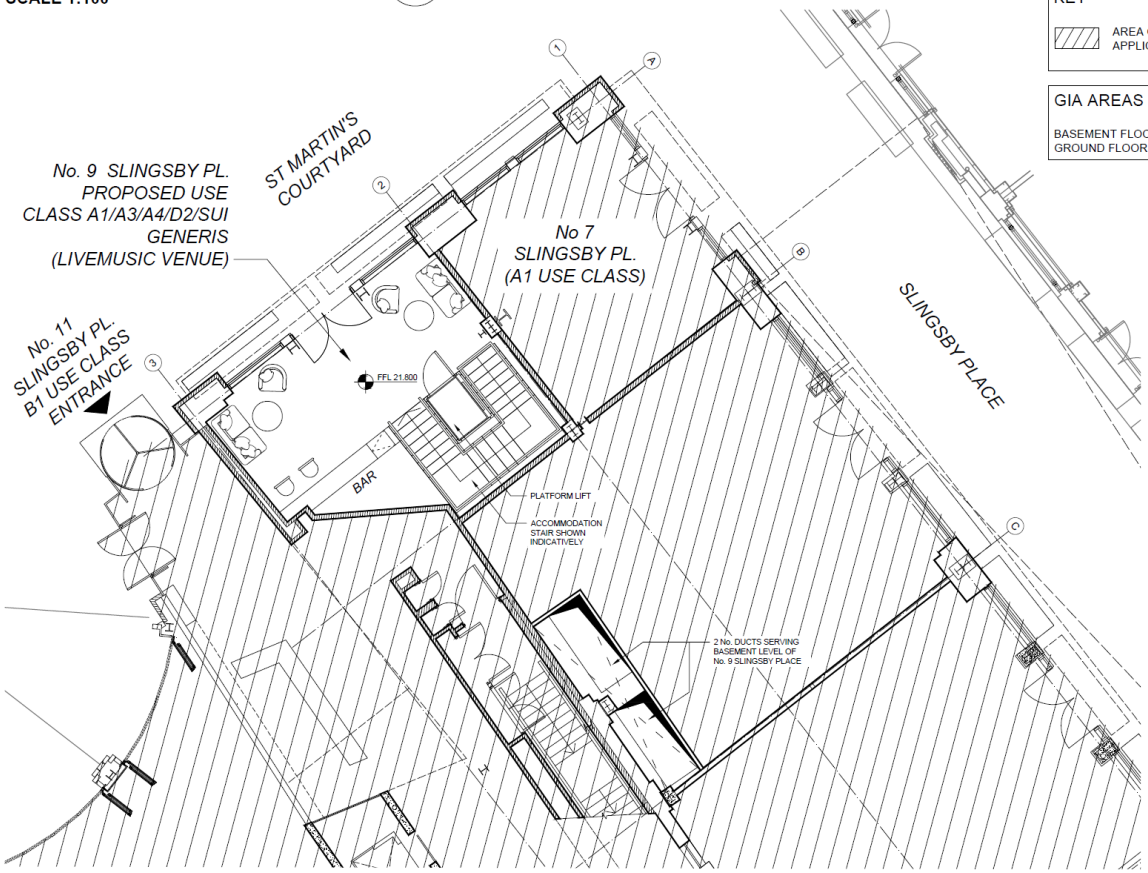
0 5m

KEY

AREA OUTSIDE OF THIS APPLICATION

GIA AREAS

BASEMENT FLOOR	275 SQM
GROUND FLOOR	43 SQM



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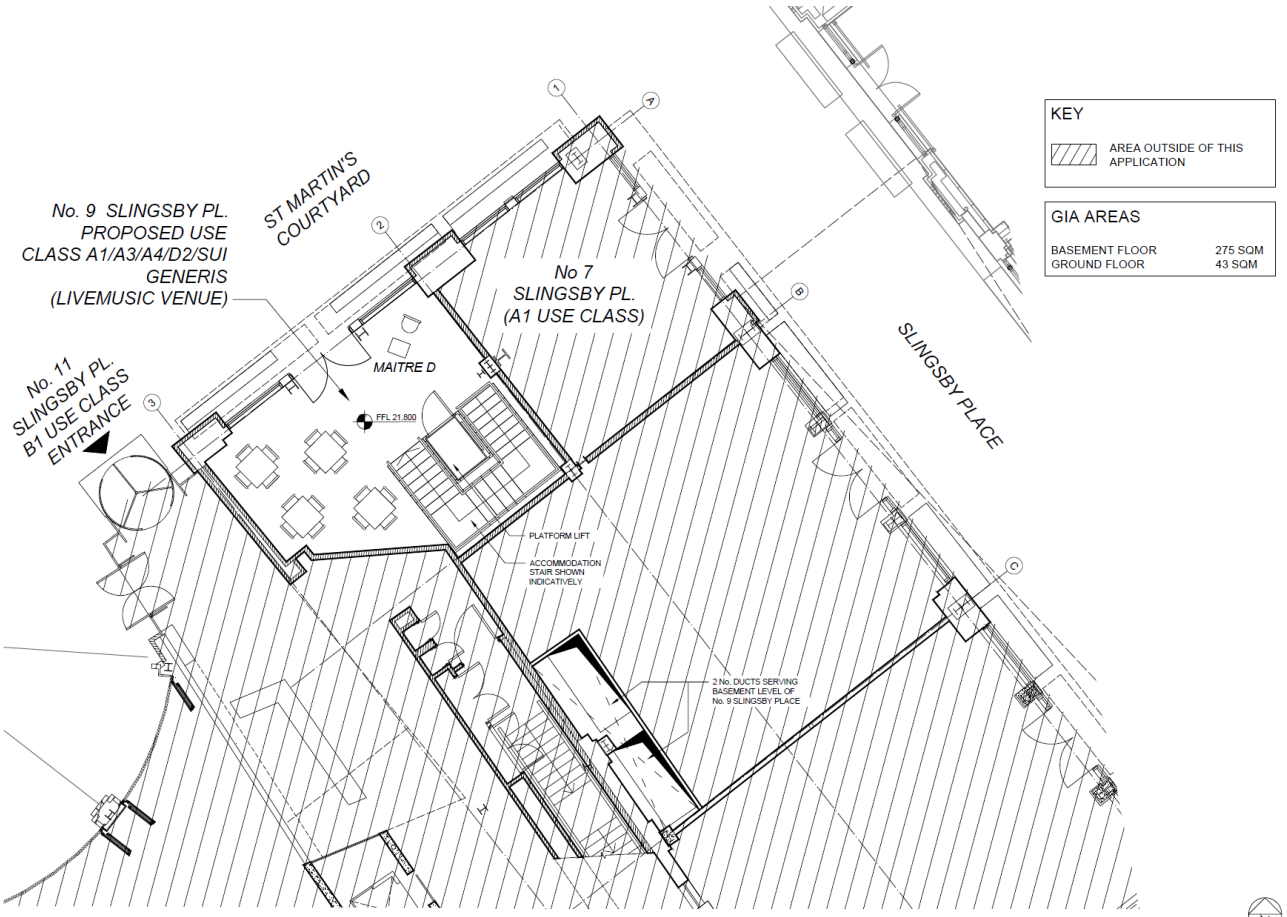

PROPOSED GROUND FLOOR PLAN - SHOWING A3 USE 1

SCALE 1:100

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EXISTING BASEMENT PLAN

1

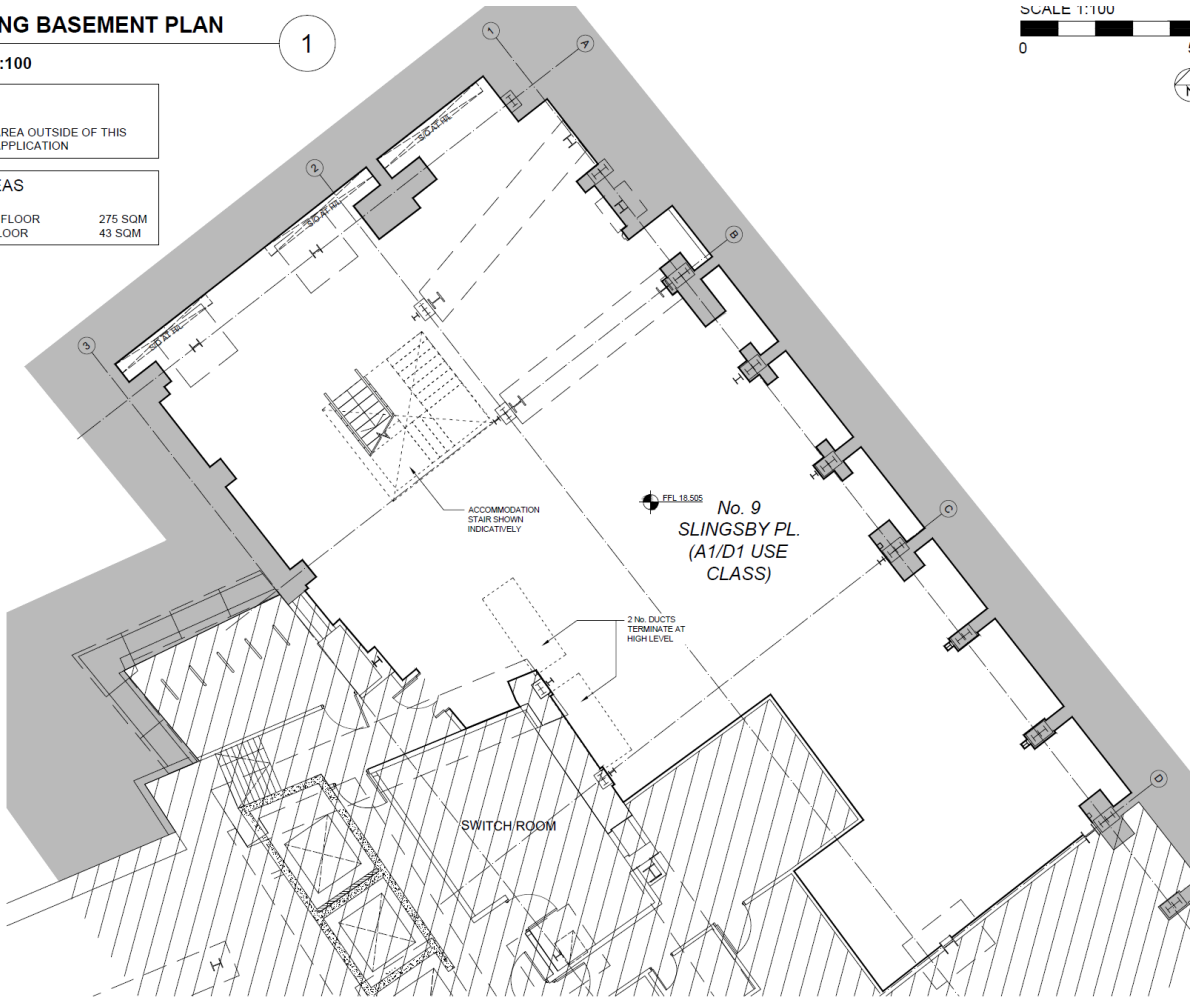
SCALE 1:100

KEY

AREA OUTSIDE OF THIS APPLICATION

GIA AREAS

BASEMENT FLOOR	275 SQM
GROUND FLOOR	43 SQM



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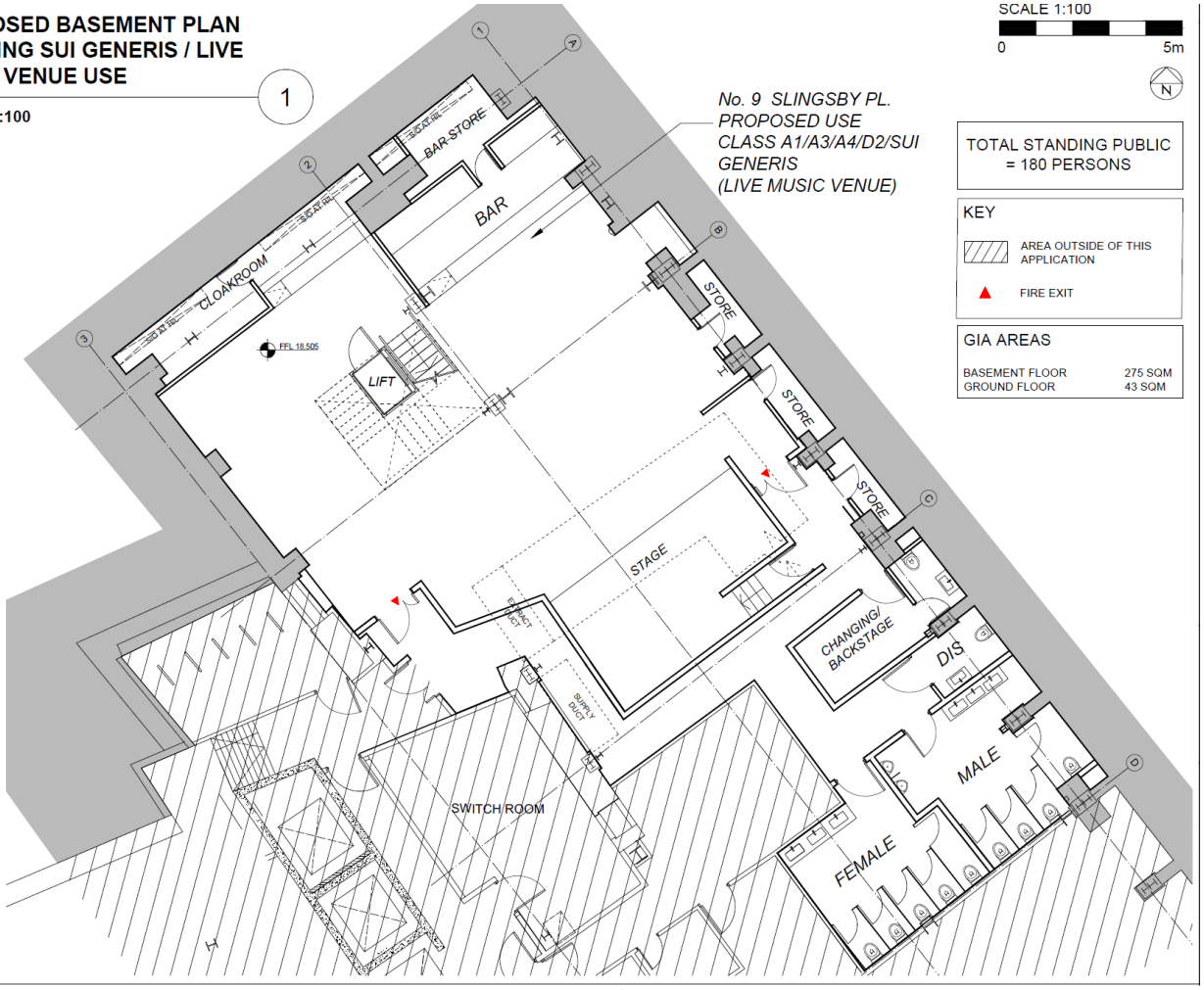
PROPOSED BASEMENT PLAN SHOWING SUI GENERIS / LIVE MUSIC VENUE USE

1

SCALE 1:100



No. 9 SLINGSBY PL.
PROPOSED USE
CLASS A1/A3/A4/D2/SUI GENERIS
(LIVE MUSIC VENUE)

SCALE 1:100

0 5m

N

TOTAL STANDING PUBLIC = 180 PERSONS

KEY

AREA OUTSIDE OF THIS APPLICATION

FIRE EXIT

GIA AREAS

BASEMENT FLOOR	275 SQM
GROUND FLOOR	43 SQM

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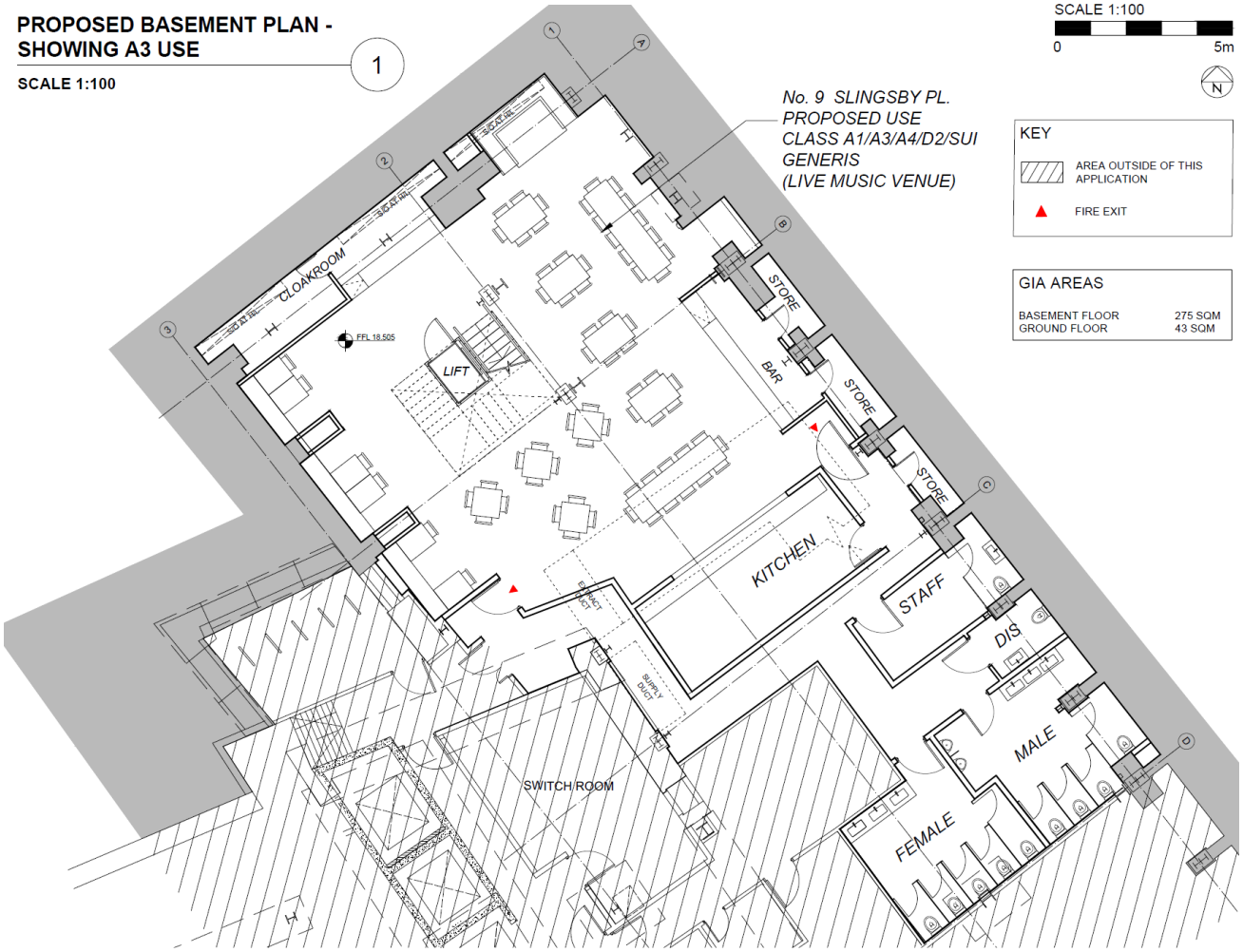
PROPOSED BASEMENT PLAN - SHOWING A3 USE

1

SCALE 1:100



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DRAFT DECISION LETTER

Address: 9 Slingsby Place, London, WC2E 9AB

Proposal: Use of the ground floor and basement as a flexible alternative use comprising retail (Class A1), restaurant (Class A3), drinking establishment (Class A4), assembly and leisure (Class D2), and live music venue (Sui Generis).

Reference: 20/04025/FULL

Plan Nos: Site Location Plan; Existing Floor Plans and Proposed Floor Plans prepared by Smith CH Architects; Design and Access Statement prepared by Smith CH Architects; Transport Statement-prepared by Caneparo Associates; Market Agency Letter prepared by Colliers.

Case Officer: David Dorward **Direct Tel. No.** 020 7641 07866038730

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:
- between 08.00 and 18.00 Monday to Friday;
- between 08.00 and 13.00 on Saturday; and
- not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:
- between 08.00 and 18.00 Monday to Friday; and
- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:
To protect the environment of 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 All servicing must take place between 0730hrs and 1130hrs on Monday to Saturday and not at all on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:
To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016), and TRANS 20 of our Unitary Development Plan that we adopted in January 2007.

4 With the exception of collecting rubbish, no goods (including fuel) that are delivered or collected by vehicles arriving at or leaving the building must be accepted or sent out if they are unloaded or loaded on the public road. You may accept or send out such goods only if they are unloaded or loaded within the boundary of the site. (C23CB)

Reason:
To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and TRANS 20 of our Unitary Development Plan that we adopted in January 2007.

5 Customers shall not be permitted within the A1/A3/A4/D2/Sui Generis (Live Music Venue) premises before 0800hrs or after midnight each day. (C12AD)

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 9 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

6 You must provide the separate stores for waste and materials for recycling shown on drawing number SK001. You must clearly mark them and make them available at all times to everyone using the premises.

Reason:
To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

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)

8 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)

9 The Class A1, A3, A4, D2 and Sui Generis (Live Music Venue) use allowed by this permission must not begin until you have fitted self-closing doors at ground floor level. You must not leave these doors open except in an emergency or to carry out maintenance.

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)

10 Apart from the entrance to the Class A1, A3, A4, D2, Sui Generis (Live Music Venue) use annotated on the approved drawings, the ground floor windows shall be fixed permanently shut.

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 9 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

11 No live or recorded music shall be played in the Class A1, A3, A4, D2 or Sui Generis (Live Music Venue) use that is audible outside of the premises.

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 9 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

12 You must apply to us for approval of a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start either the Class A3, A4, D2 or Sui Generis (Live Music Venue) use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that either the Class A3, A4, D2 or Sui Generis (Live Music Venue) is in use. (C05JB)

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 9 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

13 (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 Class A1, A3, A4, D2, Sui Generis (Live Music Venue) 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 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 Class A1, A3, A4, D2, Sui Generis (Live Music Venue) 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 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 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.

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 (UDP), 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. (R47AB)

14 The design and structure of the development shall be of such a standard that it will protect other users within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 30 dB LAeq.

Reason:
As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development. (R49BA)

15 In the event that the premises is used for Class D2 purposes, you must apply to us for approval of the proposed Class D2 use prior to its commencement. You must only use the premises for the agreed Class D2 use or for Class A3, A4, or Sui Generis (Live Music Venue) purposes. You must not use it for any other purpose within Class D2 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

Reason:
To prevent a use that would be unacceptable because of the character and function of this part of the City. This is in line with S29 and S32 of Westminster's City Plan (November 2016).

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 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted

Development) (England) Order 2015, the ground and basement floor can change between the uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

3 You must register your food business with the Council, please use the following link: www.westminster.gov.uk/registration-food-business. Please email the Environmental Health Consultation Team (Regulatory Support Team 2) at ehconsultationteam@westminster.gov.uk for advice on meeting our standards on ventilation and other equipment. Under environmental health legislation we may ask you to carry out other work if your business causes noise, smells or other types of nuisance.

4 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.

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.