

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 15 December 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	25 - 26 Albemarle Street, London, W1S 4HX		
Proposal	<p>1. Variation of conditions 10, 25 and 27 of planning permission dated 04 September 2019 (RN: 19/05928/FULL) which itself varied condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), for the: Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday, enable use of the rear first floor terrace until 10:00PM daily and update the Operational Management Plan accordingly.</p> <p>2. Variation of Conditions 5 and 6 of planning permission dated 23 April 2020 (RN: 20/01875/FULL) for: Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday and to update the Operational Management Plan accordingly.</p>		
Agent	Mr Daniel Rinsler		
On behalf of	Aldwych Properties Ltd & Winter Restaurants Ltd		
Registered Number	1. 20/03100/FULL 2. 20/03101/FULL	Date amended/ completed	18 May 2020
Date Application Received	18 May 2020		
Historic Building Grade	Unlisted		

Conservation Area	Mayfair
--------------------------	---------

1. RECOMMENDATION

Grant conditional planning permission for Applications 1 and 2.

2. SUMMARY

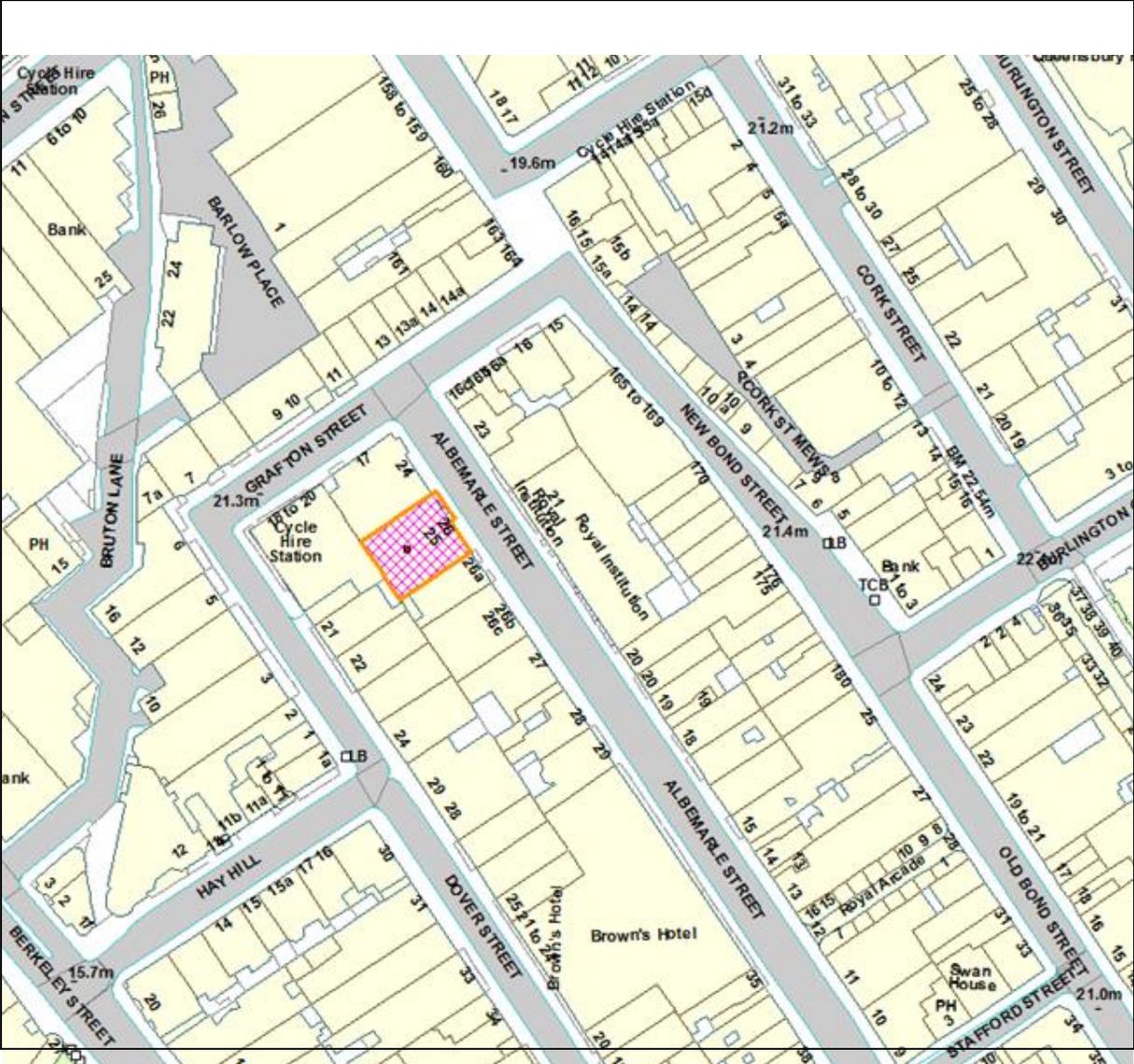
25-26 Albemarle Street comprises basement, ground and four upper floors located in the Mayfair Conservation Area and the Core Central Activities Zone but outside of any designated stress areas. The basement, ground, first and second floors, including a rear first floor terrace area are in lawful use as a private members club (sui generis). Permission was originally granted in January 2017 for the use of just the lower ground and ground floors as a private members club but a number of subsequent applications have been granted to incrementally increase the size of the club by including both the first and second floors and creating a rear first floor terrace area. The third and fourth floor levels have lawful office use.

Permission is now sought to vary conditions to increase the opening hours of the club and the hours of use of the terrace. Currently use of the external terrace is permitted until a terminal hour of 20:00 and the first application (20/03100/FULL) seeks to extend this to 22:00. The opening hours of the club are limited to midnight Monday to Thursday; 00.30 Friday, Saturday and Sundays before a Bank Holiday; and 23.00 on Sundays and both applications also seek to extend these hours to 01:00 the following morning Monday to Saturday.

The key issue is the impact of the extended operational hours on the residential amenity of neighbouring occupiers.

The amended terminal hours are relatively modest, but the late operation of the terrace is a concern in relation to the impact this would have on the amenity of neighbouring residential occupiers. The application is however, supported by acoustic information which demonstrates any noise from patrons of the terrace to be within acceptable levels at the nearest residential windows. The applications are considered acceptable and recommended for approval.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS

Front elevation of the property:



View of the terrace at rear first floor level:



5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Any response to be reported verbally.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

WASTE PROJECT OFFICER

No objection.

HIGHWAYS

No objection.

ENVIRONMENTAL HEALTH

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 41; Total No. of replies: 22

No. of objections: 1

No. in support: 21

One letter of objection on the following grounds:

* Extended hours of use of the terrace would result in noise disturbance to residents.

* Detrimental impact upon air quality resulting from people smoking on the terrace.

21 letters of support on the following grounds:

Consider the existing private members club is well run and the extended hours of the club and terrace would not impact upon the amenity of the area.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

25-26 Albemarle Street is located on the western side of Albemarle Street at the northern end near the junction with Grafton Street. The building comprises basement, ground and four upper floors. The basement, ground, first and second floor levels are in use as a private members club (sui generis) with the third and fourth floor levels in use as office accommodation (B1).

The building is unlisted and located within the Mayfair Conservation Area and the Core Central Activities Zone. The property is located outside of the designated stress areas and the West End Special Retail Policy Area.

6.2 Recent Relevant History

Permission was granted on the 4th September 2019 for the; 'Variation of Condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property', NAMELY, to allow the permanent use of the terrace at rear first floor level.'

Permission was granted on the 16th July 2019 for the; 'Dual / Alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels.'

Permission was granted on the 2nd August 2018 for the; 'Variation of Condition 10 of planning permission dated 24 October 2017 (RN: 17/06539) for, 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property'; NAMELY to change the opening hours to the following so the club can be open for breakfast: 07:00 to midnight Monday to Thursday, 07:00 to 00:30 Friday, Saturday and Sundays before a Bank Holiday; and 12:00 to 23:00 on Sundays.'

Permission was granted on the 24th October 2017 for the; 'Dual / alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property.'

Permission was granted on the 17th January 2017 for the; 'Use of the ground and basement floors as a restaurant (Class A3), installation of plant at rear first floor level and roof level with a high level extract duct on the rear elevation. Installation of two high level gas flues on the rear elevation and a replacement rooflight at rear first floor level.'

7. THE PROPOSAL

Application 1

Consent is sought to vary Conditions 10, 25 and 27 of the planning permission

19/05928/FULL which was granted on the 4th September 2019 for the; 'Variation of Condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property', NAMELY, to allow the permanent use of the terrace at rear first floor level.'

Condition 10 controlled the opening hours of the premises and required the following:

You must not open the restaurant or private members' club use to customers, and you must not allow customers on the premises, outside the hours:

*07.00 to midnight Monday to Thursday,
07.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and
12.00 to 23.00 on Sundays.*

Consent is sought to vary this condition to extend the operating hours of the club to 01:00 the following morning Monday to Saturday.

Condition 27 controlled the hours of use of the terraces and required the following:
The terrace area hereby approved at rear first floor level can only be used between the hours of 10:00 and 20:00 (Monday to Sunday) and when the terrace is not in use the doors to the terrace must be closed. You cannot use the terrace area outside of these hours other than in the case of an emergency.

Consent is sought to vary this condition to enable use of the terrace until 22:00 daily.

Condition 25 required the premises to be used in accordance with the Operational Management Plan (OMP), as this is proposed to be updated to reflect the amended hours and an updated OMP has also been submitted.

Application 2

Consent is sought to vary Conditions 5 and 6 of planning permission 20/01875/FULL which was granted on the 23rd April 2020 for the; 'Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels; NAMELY; to enable primary cooking at second floor level (following the approval of an extract duct on 25 February 2020 under RN: 19/10081). Condition 5 controlled the opening hours of the second floor of the club as follows:

You must not open the private members' club to customers, and you must not allow customers on the premises, outside the hours:

*07.00 to midnight Monday to Thursday,
07.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and
12.00 to 23.00 on Sundays.*

Consent is sought to vary this condition to extend the operating hours of the club to 01:00 the following morning Monday to Saturday.

Condition 6 required the premises to be used in accordance with the Operational Management Plan (OMP), as this is proposed to be updated to reflect the amended hours an updated OMP has also been submitted.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposal raises no new land use issues.

8.2 Townscape and Design

Not applicable.

8.3 Residential Amenity

The lawful private members club operating over lower ground, ground, first and second floors measures 822m² and has a capacity of 238 patrons.

Extended opening hours of the private members club

The original permission for the extended private members club use considered the acceptability of the use with regard to the relevant entertainment policies of the City Plan and the Unitary Development Plan (UDP). Policy S24 of Westminster's City Plan states that; 'new 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 residential amenity, health and safety, local environmental quality and the character and function of the area'. The policy also states that new large scale late night entertainment uses measuring in excess of 500m² (GEA), will not generally be appropriate within Westminster.

Policy TACE 10 of the UDP is also applicable and this states that entertainment uses over 500m² will only be permissible in exceptional circumstances.

The proposal for the extended private members club was considered acceptable taking into account the conditions that would be placed on the use including the opening hours. Consent is now sought to extend the terminal hour of operation by an hour Monday to Thursday and 30 minutes on Fridays, Saturdays and Sundays before a Bank Holiday.

The site is located within the Core CAZ which is identified within Policy S6 of the City Plan as being an appropriate location for a range of commercial uses. The immediate vicinity is characterised mainly by commercial uses with most of the neighbouring buildings in use as office accommodation on the upper floors and retail / restaurants on the lower floors. The Mayfair Neighbourhood Plan (MNP) includes Albemarle Street within the defined 'Central Mayfair' area which it considers is; 'the location where the balance between residential and other uses needs to be struck most carefully'. Policy

MRU1 of the Mayfair Neighbourhood Plan states that; 'Proposals for new commercial or entertainment uses in Mayfair must demonstrate how they protect the amenity of nearby residential units and create no material additional adverse effects (after mitigation) such as noise and rubbish between 11pm and 7am.'

The nearest residential accommodation consists of five flats in the adjoining building to the south (No. 26A) as well as a single family dwelling at 21 Grafton Street to the rear of the site. An objection has been received to the application on behalf of the residential occupier at 21 Grafton Street, but their concerns are in relation to the extended hours of use of the terrace (as set out below) and not to the extended hours of the club itself. It is also noted that two letters of support have been received to the application from residential occupiers within the adjoining building at No. 26a and a further 19 letters of support have been received from nearby businesses and residents.

The City Council's 'core hours' as detailed in Para 8.88 of the UDP states that in relation to entertainment premises in; 'predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays (other than those immediately preceding Bank Holidays) to Thursdays, and after 12.30 a.m. on the following morning on Friday and Saturday nights and on Sundays immediately preceding Bank Holidays.' These are the currently conditioned hours of the premises.

The proposed opening hours are only marginally later than these stipulated hours and despite its location within the 'Central Mayfair' area as defined in the MNP, Albemarle Street is not considered a 'predominantly residential' area. The existing club is now well established and since opening it has not generated any noise complaints to the Council. One of the neighbours in the adjoining building (26A Albemarle Street) also states in their letter of support that the club is well run and does not generate noise or nuisance. No objections have been received in relation to the extended hours of the premises itself and in these circumstances, subject to the same conditions as previously imposed, including that any music being played in the premises is not audible externally or within adjacent premises and a condition requiring the use to be carried out in accordance with the OMP, it is considered the proposed extended opening hours would not have a detrimental impact upon the character and function of the area or on residential amenity.

Extended hours of use of the terrace

The terrace at rear first floor level was first granted permission on a temporary basis of one year and was then granted permanent consent a year later. The terrace includes an awning and planting which help to reduce overlooking of neighbouring premises particularly 21 Grafton Street, the single family dwelling to the rear, which is approximately 10m from the terrace.

The hours of use of the terrace are currently controlled by condition to between 10:00 and 20:00 daily and consent is now sought to extend this until 22:00 each evening. The capacity of the terrace is also controlled by condition to a maximum of 16 persons.

An objection has been received to the extended hours from the occupiers of 21 Grafton Street, a single family dwelling situated directly to the rear of the proposed terrace. They have expressed concern that the extend hours of use of the terrace would result in additional noise disturbance later into the evening when this rear area is much quieter

and there are no intermittent noises to cause disturbance. They consider the noise of patrons on the terrace will reverberate off the hard surfaces in the rear area and their intermittent voices will cause a noise nuisance.

The City Council places a strong emphasis on the protection of residential amenity, Policy S29 of the City Plan and ENV13 of the UDP seek to ensure that new developments do not result in an 'unacceptable material loss of residential amenity and developments should aim to improve the residential environment.' During the course of the application further acoustic information has been submitted in relation to current noise levels from the terrace use and existing background noise levels when the terrace is not in operation. This information has been assessed by Environmental Health. The acoustic report submitted by the applicant included a background noise survey which took place over 48 hours from 10:00 on 21st October 2020 until 10:00 on 23rd October 2020, during this time period 12 patrons were using the terrace until 20:00. The noise survey was undertaken from a neighbouring residential terrace at a distance of 9m, approximately the same distance as the objector's windows at 21 Grafton Street. The acoustic report concludes that there was no discernible difference in noise levels in this area between 18:00 to 20:00 (when the terrace was operating) and between 20:00 and 22:00 (when the terrace was not being used). The acoustic report and objection have been assessed by the Environmental Health who have concluded the following:

"The survey data included with the report indicates that ambient and maximum noise levels do not appear to be elevated by the current operation of the terrace when compared to the proposed operating hours. This would suggest that the current operation does not impact upon the general noise climate. It is noted that, during the two years that the club has been operating, there have been no noise complaints relating to activities on the terrace. Given the detail contained within the report from RBA, I am satisfied that extending the hours of operation for the use of the outdoor 1st floor terrace at Oswald's club is unlikely to have an adverse impact on the noise climate in the vicinity. There is also no objection to extending the opening of the club until 0100hrs Monday to Saturday."

Given the technical acoustic information provided by the applicant in support of the proposal and the views of the Environmental Health Officer, the proposal for the extended hours of use of the terrace area is considered acceptable. It is noted that Licensing have already granted extended hours of use of the terrace and have conditioned a maximum of 12 people on the terrace.

8.4 Transportation/Parking

The proposal raises no highways issues and any consent is subject to the same conditions in relation to servicing as previously.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

Not applicable.

8.7 Other UDP/Westminster Policy Considerations

Not applicable.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 in June and July 2019 and it was submitted to the Secretary of State for independent examination in November 2019. The City Plan examination hearings took place between 28 September and 16 October 2020. Following the examination hearings, the Council is currently consulting until 18 January 2021 on the main modifications recommended by the Inspectors. 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 continue to attract limited weight at this present time prior to the publication of the Inspector's report.

8.9 Neighbourhood Plans

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

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

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

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

Not applicable.

8.14 Other Issues

The objector has also raised concerns about the impact of patrons smoking and their ability to open their rear windows. Smoking currently occurs on the terrace and, as in the

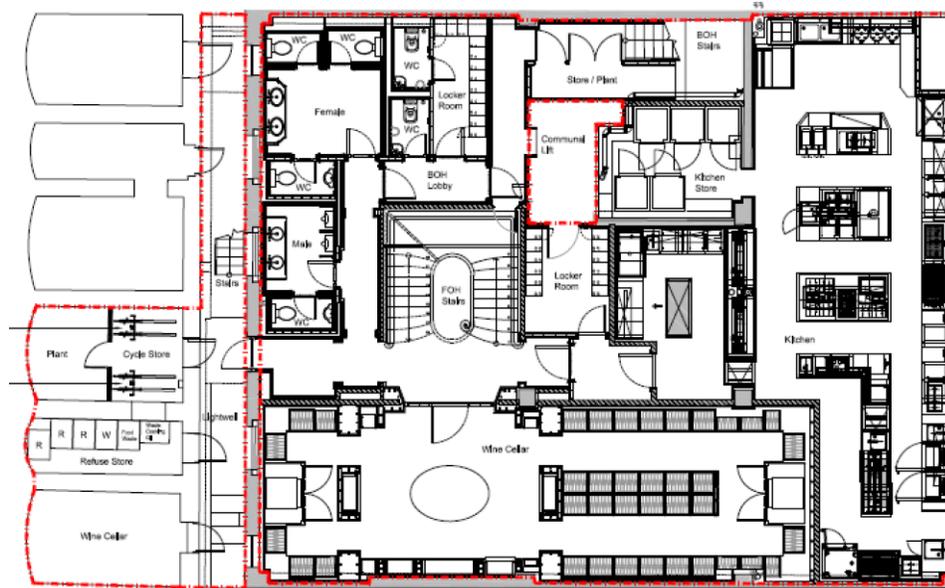
consented schemes, the capacity of the terrace will again be restricted to 16 customers, and given this small capacity and the relatively large area at the rear of the terrace it is not envisaged people smoking on the terrace would detrimentally impact upon the air quality of neighbouring residents.

(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: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

9. KEY DRAWINGS

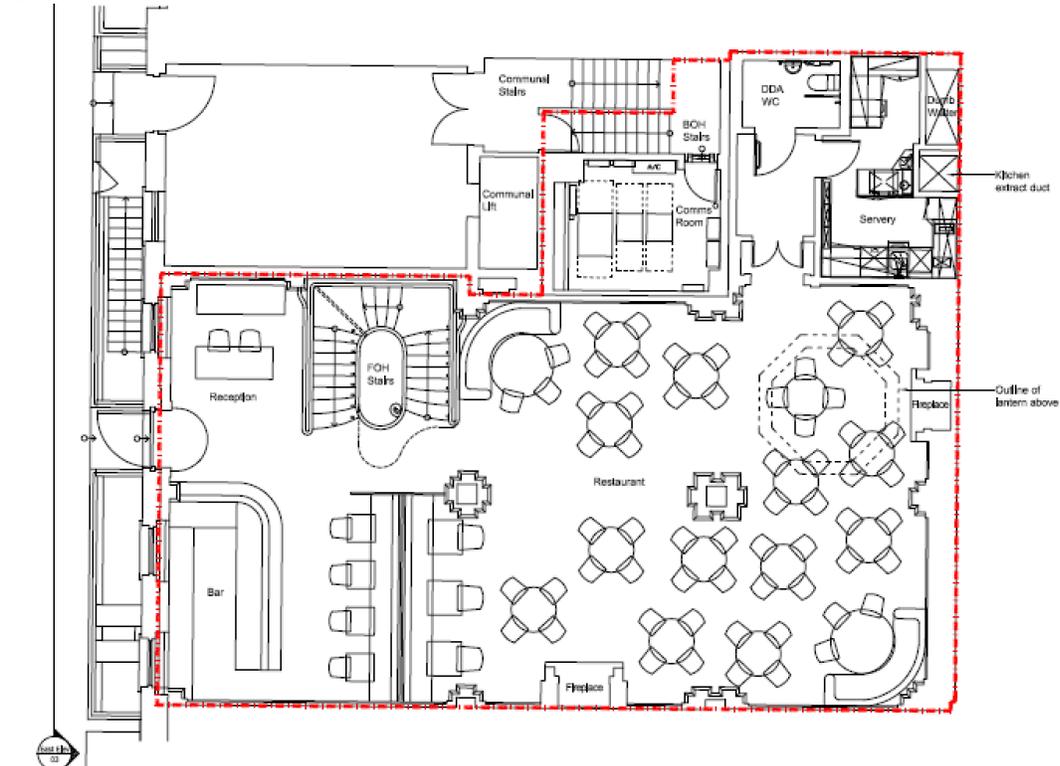
Lower Ground Floor:



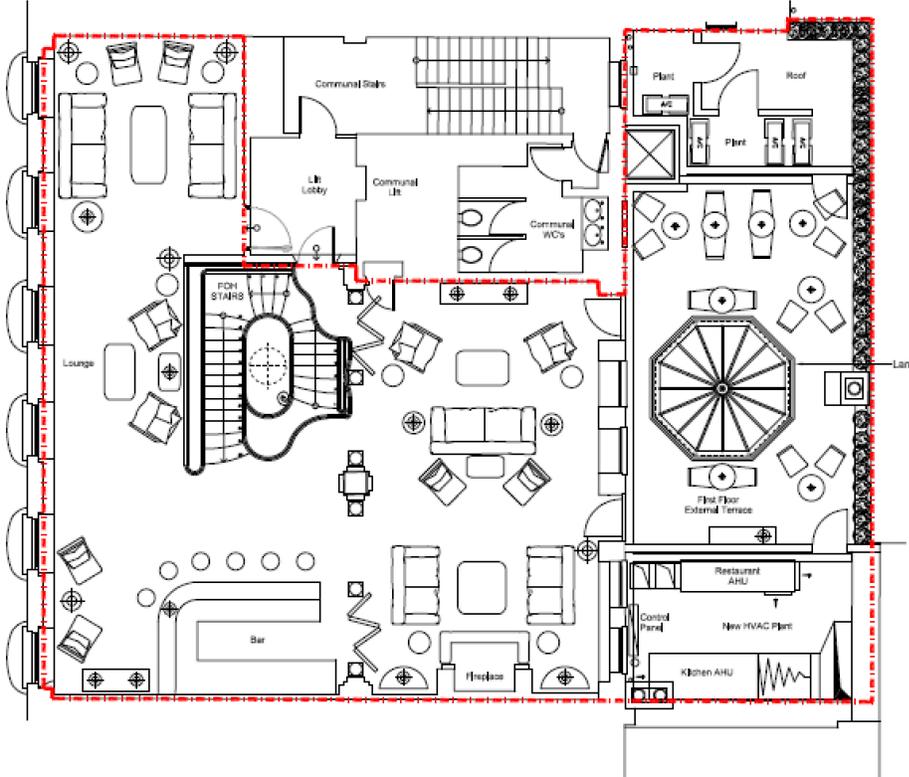
Proposed Basement GA Plan
scale 1:200

Gross Internal Area 267 m²
(excluding liftwell and vaults, GIA of vaults is 26m²)

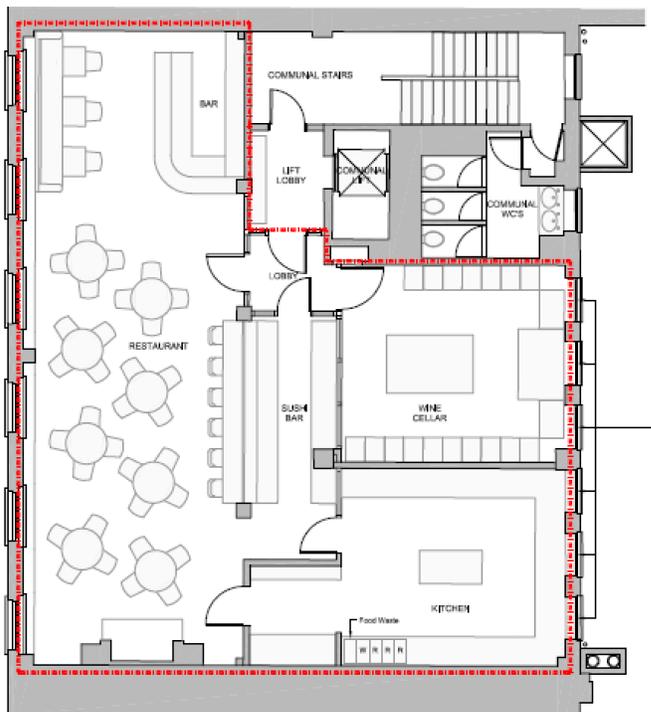
Ground Floor:



First Floor:



Second Floor:



DRAFT DECISION LETTER

Address: 25 - 26 Albemarle Street, London, W1S 4HX

Proposal: Variation of conditions 10, 25 and 27 of planning permission dated 04 September 2019 (RN: 19/05928/FULL) which itself varied condition 27 of planning permission dated 2 August 2018 (RN: 18/05198/FULL), for the: Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday, enable use of the rear first floor terrace until 10:00PM daily and update the Operational Management Plan accordingly.

Reference: 20/03100/FULL

Plan Nos: 20/03100/FULL - Acoustic Report 9006.RP02.AAR.2, Oswald's Private Members' Club - Operational Management Plan dated June 2020.

17/06539/FULL -, Servicing Management Plan dated July 2017, Operational Management Plan for Oswald's Private Members' Club, Operational Management Plan for Robin Birley's Private Members' Restaurant, Servicing Management Plan for Robin Birley's Private Members' Restaurant, Acoustic Report dated 24th July 2017, Additional Acoustic Information dated 25th September 2017, Drawings: 1522-P-20-3-0111 RevP3, 1522-P-20-3-0100 RevP3, 1522-P-22-3-0100 RevP1, 1522-P-21-3-0101 RevP4, 1522-P-27-3-0121 RevP4, 1522-P-21-3-0111 RevP4, 1522-P-20-3-0090 RevP6.

Case Officer: Matthew Giles

Direct Tel. No. 07866040155

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

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

You must carry out piling, excavation and demolition work only: , o between 08.00 and 18.00 Monday to Friday; and 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 (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)

- 4 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)

- 5 You must install the acoustic mitigation measures as detailed in the approved acoustic report at the same time as the plant is installed. These mitigation measures must thereafter be retained in place for as long as the plant is in operation.

Reason:

To safeguard the amenity of occupiers of adjoining premises by preventing noise and vibration nuisance as set out in STRA 16, STRA 17, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R41BB)

- 6 You must not sell any take-away food on the premises, even as an ancillary part of the primary Class A3 or private members' club use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 If you choose to implement the restaurant use at basement and ground floor levels you must not allow more than 120 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 You must not play live or recorded music within the restaurant or private members' club premises that will be audible externally or in the adjacent properties.

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)

- 9 The high level extract ducting shown on the approved drawings shall be fully installed before either the restaurant or private members' club use commences and thereafter maintained for as long as the use is in operation.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 10 You must not open the restaurant or private members' club use to customers, and you must not allow customers on the premises, outside the hours:

07.00 to 01.00 Monday to Saturday and Sundays before a Bank Holiday; and,
12.00 to 23.00 on Sundays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 11 If you choose to implement the restaurant use hereby approved, the use must be operated in accordance with the submitted Servicing Management Plan dated July 2017.

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 STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 12 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 13 If you choose to implement the restaurant use hereby approved, the use must be operated in accordance with the stipulations of the Operational Management Plan for Robin Birley's Private Members' Restaurant.

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)

- 14 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1522-P-20-3-0090 Revision P6. You must clearly mark them and make them available at all times to everyone using the premises. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste 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. (R14BD)

- 15 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. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 16 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 17 Any external plant that is to be removed must be removed along with associated pipework and fixtures / fittings before the plant hereby permitted is installed.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 18 The rear extract duct and gas flues shall be clad in brick or slate slips to match the existing adjoining brickwork and roofslates, as appropriate. The brick/slate slips shall be installed at the same time as the flues / duct are installed and maintained in situ for as long as the plant remains in place.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 19 You must maintain the secure cycle storage for the restaurant / private members' club use in accordance with the details approved by the City Council as Local Planning Authority on the 7th March 2018 under reference 17/11408/ADFULL or in accordance with other measures as submitted to and approved by the City Council.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

- 20 You must install the canopy to the rear terrace and the screening of the gas fire flue on the first floor terrace in accordance with the details approved by the City Council as Local Planning Authority on the 7th March 2018 under reference 17/11408/ADFULL or in accordance with other measures as submitted to and approved by the City Council.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 21 The louvred roof plant enclosure shall be installed at the same time as the roof level plant is installed and maintained in situ for as long as the plant remains in place.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 22 The gas fire flue to the first floor terrace shall be screened, in accordance with the details approved pursuant to condition 20 of this planning permission. The screening shall be installed at the same time as the roof level plant is installed and maintained in situ for as long as the flue remains in place.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 23 If you choose to implement the private members' club use at basement, ground and first floor levels you must not allow more than 180 customers into the property at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 24 If you choose to implement the private members' club hereby permitted the use must be operated in accordance with the submitted Servicing Management Plan for Oswald's Private Members' Club.

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 STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 25 If you choose to implement the private members' club use hereby approved, the use must be operated in accordance with the stipulations of the Operational Management Plan; 'Oswald's Private Members' Club' dated June 2020.

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)

- 26 Before you use the approved first floor terrace for sitting out or for any other purpose, you must install the 'acoustic trellis' and plant the hedge as shown on the approved drawings. The hedging and acoustic trellis must thereafter be maintained in situ to the height shown on the approved drawings in perpetuity.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 27 The terrace area hereby approved at rear first floor level can only be used between the hours of 10:00 and 22:00 (Monday to Sunday) and when the terrace is not in use the doors to the terrace must be closed. You cannot use the terrace area outside of these hours other than in the case of an emergency.

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)

- 28 Only 16 persons are allowed on the rear first floor terrace at any one 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)

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 Conditions 3 and 4 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application and to read our guidelines on street naming and numbering, please visit our website: www.westminster.gov.uk/street-naming-numbering (I54AB)
- 4 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you (www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide (www.cae.org.uk). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk. It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 5 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.
- 6 You are advised that the described level and function of wine sampling / tasting at the property is considered to be ancillary to the proposed restaurant or private members' club functions, however, if this described operation were to fluxuate in the future to place greater emphasis on wine sampling / tasting then it may be considered that a change of use of the premises has occurred for which planning permission would be required. The City Council will take appropriate enforcement action to prevent any unauthorised change of use of the premises.
- 7 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the relevant parts of the property can change between the A1, B1 and sui generis uses we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of the original planning permission (24.10.2017) will become the authorised use, so you will then need to apply for permission for any further change.

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.

DRAFT DECISION LETTER

Address: 25 - 26 Albemarle Street, London, W1S 4HX

Proposal: Variation of Conditions 5 and 6 of planning permission dated 23 April 2020 (RN: 20/01875/FULL) for: Removal of Condition 4 of planning permission dated 16 July 2019 (RN: 19/03570) for dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels. Namely, to allow the extension of the opening hours of the private members club until 01:00AM on the mornings following Monday to Saturday and to update the Operational Management Plan accordingly.

Reference: 20/03101/FULL

Plan Nos: 20/03101/FULL - Acoustic Report 9006.RP02.AAR.2, Oswald's Private Members' Club - Operational Management Plan dated June 2020., ,

19/10081/FULL -, Acoustic Report 9006.RP01.PNA.1 Rev1, Drawings: 1522-P-20-3-0124 RevP3, 1522-P-21-3-0104 RevP3, 1522-P-21-3-0114 RevP4, 1522-P-27-3-0124 RevP4, 1522-P-22-2-3-0100 RevP1.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641
07866040155

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must not sell any take-away food on the premises, even as an ancillary part of the private members' club use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 3 You must not play live or recorded music within the private members' club that will be

audible externally or in the adjacent properties.

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)

- 4 You must install the high level extract duct at the property as approved on the 25th February 2020 (19/10081/FULL) before any primary cooking can take place in the second floor kitchen. Upon installation the duct must be retained as shown on this February 2020 consent.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 5 You must not open the private members' club to customers, and you must not allow customers on the premises, outside the hours:

07.00 to 01.00 Monday to Saturday and Sundays before a Bank Holiday; and,
12.00 to 23.00 on Sundays.

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 The extended private members club use must be operated in accordance with the Operational Management Plan; 'Oswald's Private Members' Club' dated June 2020.

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)

- 7 You must not allow more than 238 customers into the whole of the extended private members club at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 The glass in the second floor windows of the rear elevation must not be clear glass and these windows must be kept closed at all times. You must make the appropriate changes

to the rear second floor windows as shown on the approved drawings before you can occupy the second floor as the extended private members club and you must not change the glass without our permission.

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)

- 9 Before anyone moves into the second floor, you must provide the separate stores for waste and materials for recycling shown on drawing number 1522- P-20-3-0120 Rev P5. You must clearly mark them and make them available at all times to everyone using the premises;. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste 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. (R14BD)

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 E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the second floor of the property can change between the B1 and sui generis use we have approved for 10 years without the need for 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.

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.