

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 21 December 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	162-172 Wardour Street, London, W1F 8ZX		
Proposal	Installation of rear full height extract duct from first floor to roof level.		
Agent	MR Partnership		
On behalf of	Zita Group Holdings Ltd		
Registered Number	20/07678/FULL	Date amended/ completed	7 May 2021
Date Application Received	1 December 2020		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application premises is a located on the corner of Wardour Street and Holland Street within Soho. The premises is a mixed used building comprising a retail unit (Class E) on the ground floor and 15 flats on the upper floors.

Permission is sought for a full height rear extract duct running from 1st floor to roof level (which will serve a restaurant).

The key issues for consideration are :

- The impact on residential amenity
- The impact on design

Objections have been received from residents that the duct would result in odour and noise nuisance. The duct complies with Environmental Health guidance. Subject to appropriate conditions it is considered acceptable in amenity terms. The duct will not be readily visible from any street level views and is acceptable in design terms.

The application accords with development plan policies and accordingly is recommended for approval.

3. LOCATION PLAN



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

4. PHOTOGRAPHS

View to side of Paramount House from terrace at 152-160 Wardour Street



5. CONSULTATIONS

Soho Society:

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS AND OCCUPIERS

No Consulted: 29

Four objections received from 3 individual respondents including an objection on behalf of 8 flats on some or all of the following grounds;

Land use

Use as a restaurant would result in disturbance

Amenity

Noise nuisance and odour nuisance from the duct,

Harmful to existing roof terraces

Design

Detract from the appearance of the building

Other

Loss of value to property

SITE AND PRESS NOTICE

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located on the eastern side of Wardour Street on the corner of Holland Street, within the Soho Conservation Area, the Central Activities Zone (CAZ) and the West End Retail and Leisure Special Policy Area (WERLSPA). The site comprises a building (Paramount House) of ground and six upper floors. The ground floor is a retail unit with 15 residential flats (Class C3) on the upper floors. The top floor flat has a roof terrace.

6.2 Recent Relevant History

None directly relevant to this application.

7. THE PROPOSAL

Planning permission is sought for the installation of a full height extract duct positioned on the rear flank elevation of the building. The duct would terminate above a residential

roof top terrace.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Changes to the Uses Classes Order which came into effect in September 2020 combined a number of town centre uses into a single use class, Class E Commercial Business Service. The uses contained within the new Class E include, retail shops, restaurants, financial and professional services, offices, medical uses, gyms and other indoor sport uses, creches and nurseries. It is not now development to move between the respective uses.

The lawful use of the ground floor is a retail shop unit. There are no specific conditions on a permission which restricts the use to retail purposes only. It is therefore not development to use the retail shop for other uses within Class E. Use as a restaurant does not therefore require consent. An objection has been received on the grounds that use of the ground floor would result in nuisance and is inappropriate. Permission could not be withheld on this basis as use of the ground floor as a restaurant does not require permission and is does not form part of the application.

8.2 Townscape and Design

162-172 Wardour Street is an unlisted building located in the Soho Conservation Area. The proposed rear extract duct is stepped away from windows, set against a flank wall..

An objection has been received on behalf of 8 flats within the application premises raising design concerns. The objection is made on the basis that the duct would be seen from a number of flats facing onto the lightwell. The objection refers to harm from views from terraces on the lower floors. Whilst the proposed duct would be visible in a number of private views, the siting of flues at the rear of properties is not unusual within the Soho Conservation Area. The intention is that the duct will be finished to match the glazed brickwork which it will sit against. This will reduce its visual impact. It is recommended that this is secured by condition.

Given the location of the duct within a lightwell at the rear of the property it will have no impact on the character and appearance of the Soho Conservation Area or the setting of the nearby Grade II listed building at 152-160 Wardour Street. The proposed flue is considered to be acceptable in design terms.

The proposals comply with policies 38, 39 and 40 of the Westminster City Plan 2019-2040 (Adopted April 2021).

8.3 Residential Amenity

The application needs to be assessed against City Plan policy 33. The policy states

that development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's noise thresholds, with particular attention to:

- i) minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses;
- ii) minimising noise from plant machinery and internal activities;

Three individual objections have been received from residents on the upper floors of the application premises, one of the objections is made on behalf of 8 flats. All of the objections are made on the grounds that operation of the duct would result in noise nuisance and nuisance from odours. The proposed duct will terminate above a residential roof terrace. The owner/ occupier of the top floor flat objects that odours from a duct in close proximity to the roof terrace would result in the terrace being unusable, which would be a significant loss of amenity and consequential devaluation of the property.

Noise

An acoustic report has been submitted in support of the application. This has been assessed by Environmental Sciences who advise that they have no objection to the application as the proposed air intake and extraction is likely to comply with the City Council's noise conditions. Subject to the imposition of the normal conditions that govern the noise levels of plant this aspect of the application is considered acceptable.

Odours

City Plan policy 33 requires development to effectively address the adverse impact of odour through the incorporation of appropriate mitigation measures. In assessing this aspect of the application Environmental Sciences were aware of the objections that have been received. With regards to ventilation ducts the requirement is that the point of extract discharge should be at least 1m above roof eaves of any building within 20m of the building housing a commercial kitchen. In this case the duct will terminate 1.8m above the eaves of the application premises and incorporates an odour reduction system. Environmental Sciences have confirmed that the point of discharge is acceptable and would comply with City plan policy. Permission could not therefore reasonably be withheld due to potential nuisance from odours.

8.4 Transportation/Parking

This application does not raise any transport/parking implications.

8.5 Economic Considerations

Not applicable

8.6 Access

No alterations are proposed to the existing access arrangement.

8.7 Other UDP/Westminster Policy Considerations

None

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

The Soho 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 8 October 2021, and therefore now forms part of Westminster's statutory development plan. The application accords with policies Soho Neighbourhood Plan.

London Plan

This application raises no strategic issues.

8.10 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2021 unless stated otherwise.

No pre-commencement conditions are proposed.

8.11 Other Issues

As discussed above an objection has been made of the grounds that permitting the extract duct would devalue property. This is not however a planning consideration.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

9. KEY DRAWINGS

DRAFT DECISION LETTER

Address: 162-172 Wardour Street, London, W1F 8ZX

Proposal: Installation of rear full height extract duct from first floor to roof level.

Reference: 20/07678/FULL

Plan Nos: 3237_200 REV /, 3237_201 REV /, 3237_202 REV /, 3237_203 REV /, 3237_204 REV /, 3237_205 REV /, 3237_206 REV /, 3237_250 REV A, 3237_207 REV A, 3237_251 REV B, 3237_250 REV B, 3237_261, 3237_262, 3237_300, 3237_301

Case Officer: Shaun Retzback

Direct Tel. No. 07866 039589

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 The ductwork shall be finished in a colour to match the material next to it. You must then keep it that colour. (C26FA)

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 Soho Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 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 in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless

and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

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

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R48AB)

- 5 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

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

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 6 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 Soho Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 7 You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition(s) 3 of this permission.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Under the Construction (Design and Management) Regulations 2015, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:
 - , * Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible; , *
 - * This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant. , ,
 - * Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at www.hse.gov.uk/risk/index.htm. , ,
 - * It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.

- 3 Working at height remains one of the biggest causes of fatalities and major injuries. You should carefully consider the following.
 - * Window cleaning - where possible, install windows that can be cleaned safely from within the building. ,
 - * Internal atria - design these spaces so that glazing can be safely cleaned and maintained. ,
 - * Lighting - ensure luminaires can be safely accessed for replacement. ,
 - * Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

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

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

- 4 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained., Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:,* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;,* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;,* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;,* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;,* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.
- 5 Conditions 3 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)
- 6 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 7 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 8 The construction manager should keep residents and others informed about unavoidable disturbance such as noise, dust and extended working hours, and disruption of traffic. Site neighbours should be given clear information well in advance, preferably in writing, for example by issuing regular bulletins about site progress.

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.

Item No.
5