

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 26 June 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	1B - 1C Tottenham Court Road, London, W1T 1BB		
Proposal	Use of part ground and first to fourth floors as offices (Class E)		
Agent	Allen Planning Ltd		
On behalf of	TCRP (1A & 1B) Ltd		
Registered Number	22/01941/FULL	Date amended/ completed	4 April 2022
Date Application Received	22 March 2022		
Historic Building Grade	Grade II		
Conservation Area	Hanway Street		
Neighbourhood Plan	Fitzrovia West Neighbourhood Plan		

1. RECOMMENDATION

Refuse permission (loss of the existing Community Infrastructure and Facilities)

2. SUMMARY & KEY CONSIDERATIONS

The application proposes the change of use of the vacant educational use (last used as a language school) (Class F1) at part ground, and on the first to fourth floors of the building to offices (Class E). The existing use is identified as a Community Infrastructure and Facilities.

The key considerations in this case are:

- Whether the loss of the existing Community Infrastructure and Facilities (the educational use) is acceptable.

While the principle of the proposed office accommodation in this location is acceptable, the loss of the existing educational use has not been demonstrated to be in compliance with London Plan, City Plan and Neighbourhood Plan policies which seek to protect it.

Furthermore, it is not considered that the potential benefits of the proposed office use would outweigh the loss of the existing use.

It is accordingly recommended that the application is refused as it is contrary to Policy 17 of the City Plan 2019 - 2040 (April 2021), Policy PR4 of the Fitzrovia West Neighbourhood Plan, and Policy S1 of the London Plan (2021).

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

FITZROVIA WEST NEIGHBOURHOOD FORUM

Any response to be reported verbally.

HIGHWAYS PLANNING

No objection.

WASTE PROJECT OFFICER

Objection: waste details not in line with Council storage requirements

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 24

Total No. of replies: 0

SITE NOTICE: Yes

5.2 Applicant's Pre-Application Community Engagement

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application. However, the Early Community Engagement guidance only expects such engagement to take place where the proposal may have a significant impact on residential amenity or other noise sensitive receptors. Given the nature of the proposed use and the lack of residential properties in close proximity to the site, it is not considered that such impacts will arise and therefore the lack of community engagement complies with the guidance.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The Fitzrovia West Neighbourhood Plan includes policies on a range of matters including promotion of regeneration, provision of housing, entertainment uses, community facilities, provision of small business units, provision of active frontages, open spaces, environmental performance, and servicing.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Fitzrovia West neighbourhood area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. 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 later in this report.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The application site is a Grade II Listed Building located in the Hanway Street Conservation Area. It is located on the west side of Tottenham Court Road, just to the north of the junction with Oxford Street and New Oxford Street.

The building comprises of basement, ground and four upper floors. Burger King is currently located at the basement and ground floors with the upper floors being previously occupied by the Mayfair school of English. These upper floors are now vacant.

It is located within the Central Activities Zone (CAZ), the Tottenham Court Road Opportunity Area (TCROA), the West End Retail and Leisure Special Policy Area (WERLSPA) and the Fitzrovia West Neighbourhood Plan (FWNP) area.

7.2 Recent Relevant History

There is no relevant planning history at this site.

8. THE PROPOSAL

Planning permission is sought to allow the use of part ground and first to fourth floors as offices (Class E). The floors are currently a vacant educational use (language school)

(Class F1). The applicant advises that the area subject to this application measures 297 sqm (GIA).

No external or internal works are proposed in this application.

9. DETAILED CONSIDERATIONS

9.1 Land Use

The proposal represents the loss of the existing vacant language school (Class F1) use at first to fourth floors and the use of this space as office (Class E).

Loss of Educational Use/Language School (Class F1):

London Plan Policy S1 (Developing London's social infrastructure) Part G states:

"Redundant social infrastructure should be considered for full or partial use as other forms of social infrastructure before alternative developments are considered, unless this loss is part of a wider public service transformation plan."

Schools, colleges and universities are included within the definition of 'social infrastructure'.

The City Plan identifies education uses, such as this language school (vacant or not) as 'community infrastructure and facilities' (Para. 17.1). This is whether or not they are publicly or privately owned and/operated (Para. 17.2). City Plan Policy 17(C) states,

"Existing community facilities and floorspace will be protected other than where it can be demonstrated that either:

- 1. the loss or relocation is necessary to enable service provision to be reconfigured, consolidated, upgraded, or delivered more effectively as part of a published strategy to improve services and meet identified needs; or*
- 2. there is no demand for an alternative social and community use for that facility or floorspace, evidenced by vacancy and appropriate marketing for at least 18 months."*

Fitzrovia West Neighbourhood Plan Policy PR4 (Leisure, Sports and Community Infrastructure) parts 1 and 2 also seek to protect Community Infrastructure, stating:

- "1. Existing community and leisure uses will be protected and development proposals which would result in their loss through redevelopment or change of use should as far as possible provide for a similar facility on site or elsewhere in the designated area;*
- 2. Development proposals for redundant social infrastructure should provide for its full or partial use as other social infrastructure before consideration of alternatives;"*

There is no definition of 'community and leisure uses' within the Fitzrovia West Neighbourhood Plan, although Para. 5.26 states, '*... these mainly take the form of*

meeting places where some recreational activities can take place'. Para. 5.26 goes on to set out the main community facilities and these includes a primary school and a nursery. Given the inclusion of other educational facilities, it is considered that Fitzrovia West Neighbourhood Plan Policy PR4 does protect the existing language school on site.

Despite requests by officers, the applicant has failed to provide any information to demonstrate that the proposal meet either of the two exceptions within City Plan Policy 17(C).

The applicant has also not demonstrated that other community infrastructure and facilities would be suitable at the site, only addressing this in relation to primary or secondary educational floorspace (i.e. that require drop off points, outdoor space etc.). No justification for why other community infrastructure and facilities could not occupy the spaces has been provided

It is not uncommon for a number of other community infrastructure and facilities to operate on similar sites, including other types of tertiary education, health facilities, meeting places, places of worship, multi-use community facilities, etc. It is accepted that some of these would require planning permission.

For these reasons, it is concluded that the loss of this community infrastructure and facility is contrary to London Plan Policy S1, City Plan Policy 17 and Fitzrovia West Neighbourhood Plan Policy PR40

Proposed Office (Class E) Use:

City Plan Policy 2 sets out that within the West End Retail and Leisure Special Policy Area and TCROA, developments should work towards, "*Significant jobs growth through a range commercial-led development including retail, leisure, offices and hotel use.*"

Supporting text in para. 2.5 (page 35) states:

"The area around Tottenham Court Road station, which includes land both in Westminster and Camden, has been identified as an Opportunity Area in the London Plan. This is in recognition of the significant capacity for high quality new development that delivers new jobs and homes and an enhanced public realm, alongside transport improvements associated with the Elizabeth Line."

City Plan Policy 13 seeks new and improved office floorspace to facilitate jobs growth and notes that this is supported in principle in the:

"Parts of the Central Activities Zone (CAZ) with a commercial or mixed-use character, including the West End Retail and Leisure Special Policy Area (WERLSPA) and Opportunity Areas;"

City Plan Policy 14 seeks the "*The intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses...*", while part C2 of this policy states "*The WERLSPA will provide a wide mix of commercial uses that support the West End's role as a retail, employment and cultural hub...*".

The applicant has stated on the application form that the new office floorspace proposed is not expected to increase or decrease the number of employees on the site. This is unlikely to be the case, with employment in offices expected to be more dense than in an education facility.

As such, the proposed modest increase in office floorspace would go some way to meeting the office and growth targets set out in the London Plan and City Plan.

Land Use Conclusion

The benefits of the modest increase in office floorspace are not considered to outweigh the harm caused by the loss of the existing community infrastructure and community use from the site.

9.2 Environment & Sustainability

The change of use has no environmental or sustainability implications.

9.3 Biodiversity & Greening

The change of use has no biodiversity or greening implications.

9.4 Townscape, Design & Heritage Impact

The change of use has no townscape, design or heritage implications.

9.5 Residential Amenity

Council records do not indicate that there are any residential properties in proximity of the site. It does not appear that there are any residential properties opposite the site on the east side of Tottenham Court Road, in Camden. The change of use therefore has no implications on residential amenity.

9.6 Transportation, Accessibility & Servicing

Highway Impact

The Highways Planning Manager has assessed the application and raised no objection with the proposals in highways terms. They consider that the numbers of people coming and going to and from the site are not likely to change and it could not be much better served by public transport. Equally, they do not consider that the servicing needs of the site would alter significantly between the two uses.

Servicing and Waste & Recycling Storage

The Waste Project Officer has objected to the application on the basis that the waste details submitted are not in line with the council waste storage requirements and that storage areas are not shown on the proposed plans.

Had the application been considered acceptable, suitable waste storage details would

have been secured by condition.

Cycling & Cycle Storage

The Highways Planning Manager notes that the London Plan and City Plan would require 4 cycle parking spaces to be provided on site for the proposed use. However, he also notes the constraints of the site given its location on the upper floors of the building. As such, it is accepted that it would not be possible to provide cycle storage on site

9.7 Economy including Employment & Skills

The economic impacts are discussed within Section 9.1 of the report.

9.8 Other Considerations

During the determination of the application, the applicant suggested that the existing lawful use of the floorspace might not be its last use (i.e. a language school (Class F1)). If the applicant wishes to explore this issue further, it should be through the submission of a lawful development certificate.

9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.10 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

While the principle of the proposed office accommodation in this location is acceptable, the loss of the existing educational use has not been demonstrated to be in compliance with London Plan Policy S1, City Plan Policy 17 or Fitzrovia West Neighbourhood Plan Policy PR4 that provide protection for this existing use. It is not considered that the benefits of the proposed office use outweigh this policy conflict.

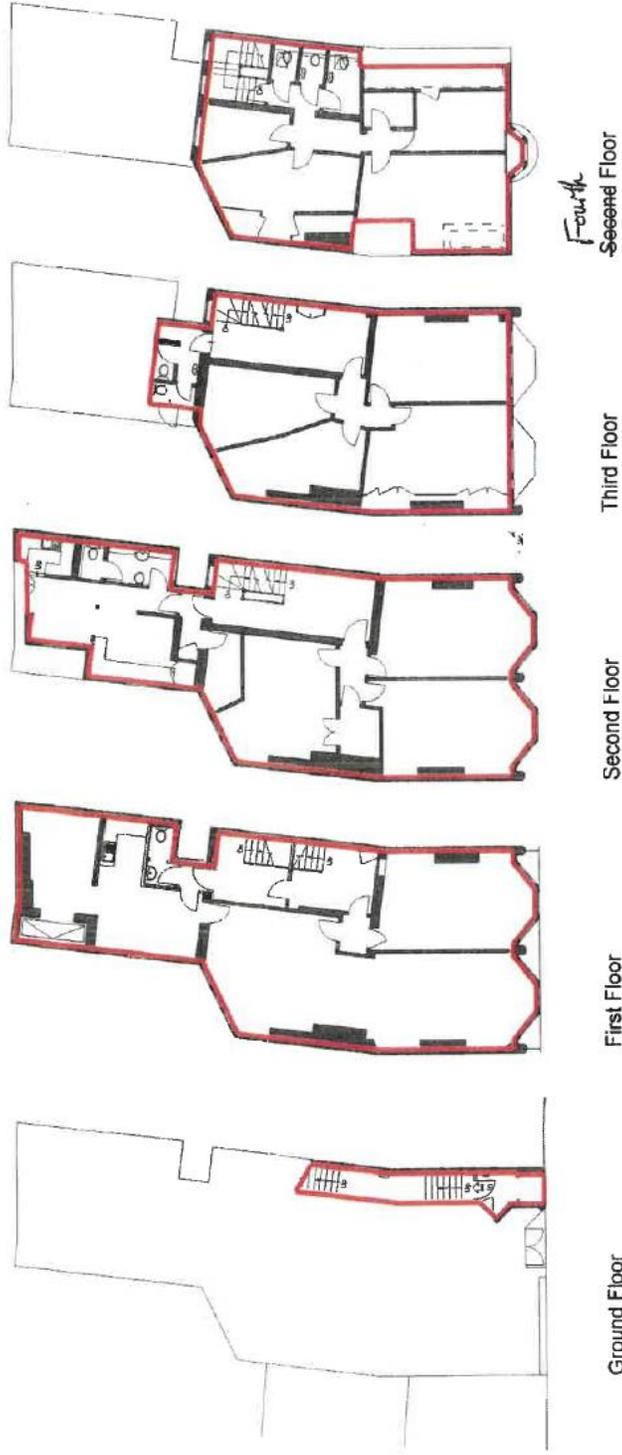
It is accordingly recommended that the application is refused.

(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: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

11. KEY DRAWINGS

Existing and Proposed Floor Plans:



DRAFT DECISION LETTER

Address: 1B - 1C Tottenham Court Road, London, W1T 1BB,
Proposal: Use of part ground and first to fourth floors as offices (Class E)
Reference: 22/01941/FULL
Plan Nos: BL_NH_001 Rev 3 ; BL_NH_002 Rev 3 ; BL_NH_003 Rev 3 ; BL_NH_004 Rev 3

Case Officer: Adam Jones

Direct Tel. No. 020 7641
07779431391

Recommended Condition(s) and Reason(s)**Reason:**

Your plans would cause the loss of the existing Community Infrastructure and Facilities (language school, Class F1) which contributes to the character and function of this part of the Central Activities Zone. This would not meet Policy 17 of the City Plan 2019 - 2040 (April 2021) and not meet Policy PR4 of the Fitzrovia West Neighbourhood Plan, or Policy S1 of the London Plan (2021).

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 so far as practicable. 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, 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 the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, further guidance was offered to the applicant by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable.

However, the necessary amendments/information to make the application acceptable was not forthcoming. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments:

- Demonstrate the acceptability of the proposals against City Plan Policy 17 and, if necessary, submit a detailed marketing report on the marketing exercises that have been undertaken that

would satisfy the requirements of Part C2 of this policy.

This marketing report will then need to be assessed by an independent third party to determine if the marketing that has been undertaken has been fair and reasonable, and that there is no longer a demand for the space. The cost of this third-party assessment must be covered by the applicant. Quotes from available relevant parties will be requested and reviewed during the application stage. ,

- Demonstrate the acceptability of the proposals against Fitzrovia West Neighbourhood Plan Policy PR4.

- 2 During the course of this application, the Council was advised that the lawful use of the site may be unclear. You are advised to consider submitting a suitable certificate of lawfulness to regularise the use should you consider this necessary and should you be able to accumulate and submit the necessary evidence to support these claims.

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.