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| CITY OF WESTMINSTER | | | |
| PLANNING APPLICATIONS SUB COMMITTEE | Date 22 August 2017 | Classification For General Release | |
| Report of Director of Planning | | Ward(s) involved West End | |
| Subject of Report | Avery House , 1-3 Avery Row, London, W1K 4AJ | | |
| Proposal | Use of basement, part ground, first and second floors for restaurant purposes (Class A3) with associated plant and ventilation duct and metal louvred screen at roof level. | | |
| Agent | Brunel Planning | | |
| On behalf of | Quadrille Ltd | | |
| Registered Number | 17/04406/FULL | Date amended/ completed | 18 July 2017 |
| Date Application Received | 18 May 2017 | | |
| Historic Building Grade | Unlisted | | |
| Conservation Area | Mayfair | | |

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

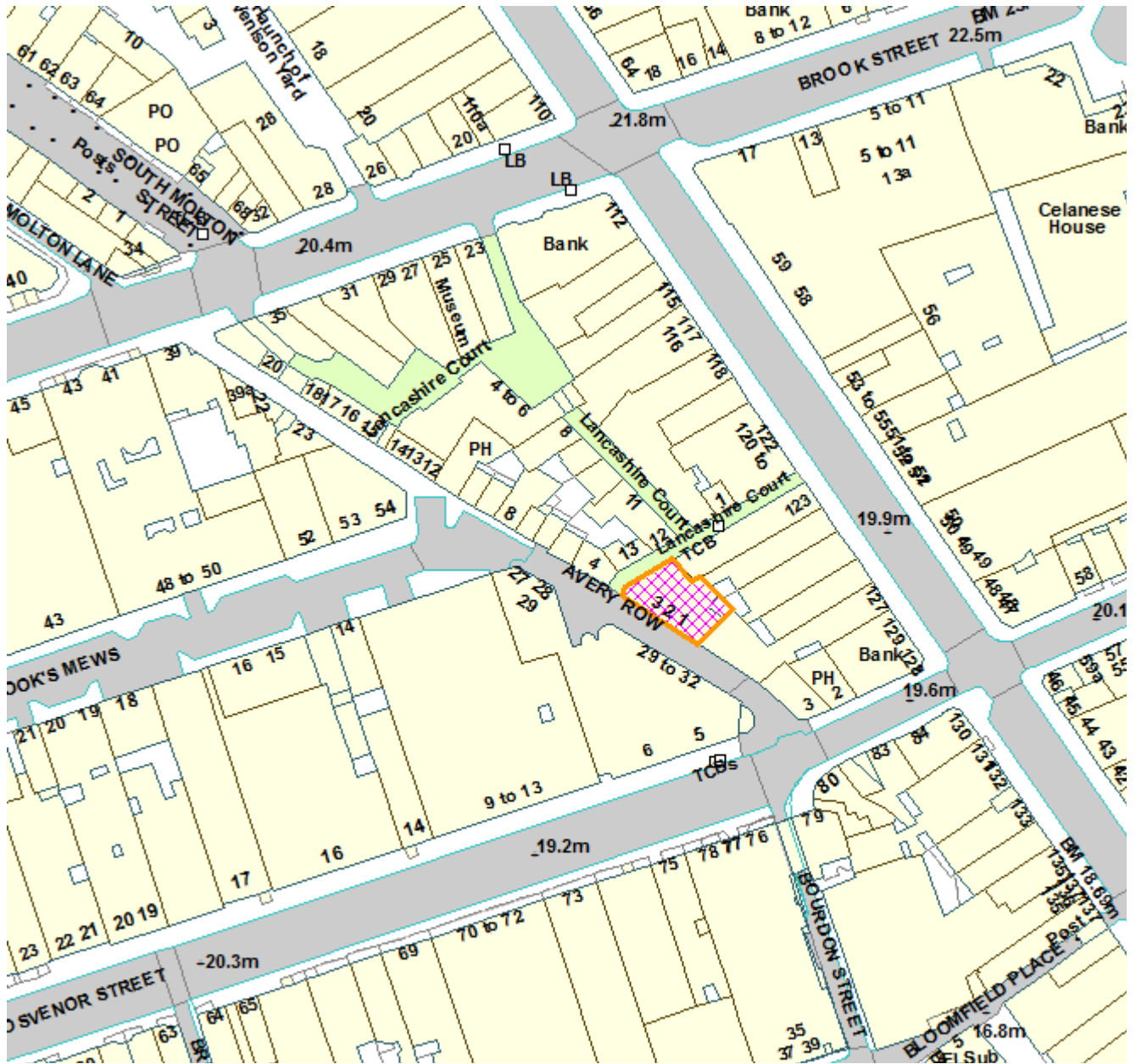
The application premises is a vacant office building (Class B1) within Mayfair. Permission is sought for use of the basement to 2nd floors as a restaurant (Class A3). The 3rd floor does not form part of the application and would remain as offices. New ventilation ductwork and plant is proposed at roof level to be located behind a louvred screen.

The key issues for consideration are:

- The impact that the proposed restaurant would have on character and function of the area in land use terms,
- The impact on residential amenity,
- The impact of the works at roof level on the appearance of the building and the character and appearance of the Mayfair Conservation Area.

The area is mixed use in character comprising a mix of commercial uses on the lower floors with offices and residential above. Subject to appropriate conditions the provision of a restaurant (Class A3) is considered acceptable in land use and amenity terms. In design terms the proposed roof level plant is not considered to be unduly prominent. The scheme complies with policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan and is therefore recommended for approval.

3. LOCATION PLAN



4. PHOTOGRAPHS



View from West up Avery Row



Long View from South up Avery Row



View of 1-3 Avery Row from Lancashire Court



View from South up Avery Row



Long View up Lancashire Court



Rooftop looking East view 1



Rooftop looking East view 2



Rooftop looking East view 3



Rear Lightwell



Existing Roof Plant



Rooftop looking Northwest

5. CONSULTATIONS

RESIDENT SOCIETY OF MAYFAIR & ST. JAMES'S

No objection.

HIGHWAYS

No objection subject to conditions.

CLEANSING

Objection; details of storage of waste cooking oil is required;
Waste storage (food, recycling and general waste) should be labelled.

ENVIRONMENTAL HEALTH

No objection subject to condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 41

Total No. of replies: 3

No. of objections: 2

2 objections received on the following grounds:

Land use

Overconcentration of restaurants

Amenity

Noise nuisance from plant;
late night activity;
servicing/deliveries/ refuse collection;
odours;

Other

Impact of staff smoking/ waste on the street.

1 letter of conditional support for a new restaurant provided that

a) deliveries and refuse collection is not from the Brook's Mews

b) collection is between 8am and 10pm

c) noise nuisance can be addressed.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

Avery House 1-3 Avery Street comprises basement, ground, and three upper floors situated on the eastern side of Avery Row, which links Brook Street and Grosvenor Street within Mayfair. The application premises fronts onto Avery Row and Lancashire Court to the north. The application relates to the use of the basement to 2nd floors, the 3rd floor is not part of the application site.

The immediate surrounding properties are largely in commercial use at ground floor level with predominately commercial offices on the upper floors, although there are a some residential flats in the immediate vicinity. This includes residential at No's 4-9 Avery Row to the north and at No 29 Avery Row opposite. The site lies within the Core CAZ but is outside the West End Stress Area. The building is not listed but lies within the Mayfair Conservation Area.

6.2 Recent Relevant History

On 8 June 2016 permission was granted for dual /alternative use of basement, ground and first floor for either retail (Class A1) or financial and professional institution (Class A2) RN 16/03419/FULL.

7. THE PROPOSAL

Permission is sought for the use of basement, part ground, first and second floors as a restaurant (Class A3). The third floor of the building will continue to be used for office purposes with an independent access from Lancaster Court.

The application is speculative, no operator has been identified. The total floorspace is 412 m² (GIA). The indicative plans show the kitchen, storage and back of house facilities located in the basement with seating on the ground and upper floors. The applicant advises that the maximum capacity would be 180 covers. An extract ventilation duct will run internally through the building terminating at roof level. New plant will be located at roof a new louvered enclosure will screen existing and the proposed new roof top plant.

DETAILED CONSIDERATIONS

7.1 Land Use

Loss of office use

City Plan Policy S6 identifies the Core Central Activities Zone (in which the site is located) as an appropriate location for a range of commercial and cultural uses and complementary residential use. There are no specific policies which prevent existing offices from changing to other commercial uses. The loss of the office floorspace is considered to be acceptable in land use terms.

New Restaurant

As stated the proposed total restaurant floorspace is 412m² GIA as such the application is assessed against UDP Policy TACE8 and City Plan Policy S24. These policies state

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 on residential amenity, health and safety, local environmental quality and the character and function of the area.

Two individual objections have been received from residents within Avery Row that there is an overconcentration of restaurants in the vicinity and the increased activity associated with the proposed restaurant would be harmful to the area and residential amenity. These objections refer to increased activity associated with servicing from both deliveries and refuse collection, potential noise and odours from plant and disturbance from staff and customers smoking outside the premises.

A further resident in Avery Row has written supporting the principle of the provision of a new restaurant, provided that servicing is acceptable and refuse is not collected from the end of Brooks Mews and collection is limited to between the hours of 8am and 10pm.

Avery Row has an active ground floor frontage comprising shop units in predominately retail (Class A1) use. As set out in the history (section 6.2 of this report) permission was granted on 8 June 2016 for use of the basement, ground and first floors of the application premises for retail purposes. This establishes the principle of introducing a service use on the lower floors of the premises.

Although the application is speculative, an Operational Management Strategy (OMS) has been submitted. The key details of the OMS are as follows:

- i) The use will operate as a sit down waiter service restaurant with no takeaway facility.
- ii) Opening hours are: 8am to midnight Monday to Thursday, 8am to 00.30 on Friday and Saturday and 9am to 23.00 on Sunday.
- iii) Deliveries would be limited to between 07.00 and 22.00 on Mondays to Fridays

Avery Row comprises primarily small shop units with only two entertainment uses in the street namely, the Iron Duke Pub on the eastern side and La Petite Maison restaurant at No's 53-54 Brooks Mews which fronts onto the western side Avery Row. Lancashire Court a small mews situated to the north east of the site comprises a number of restaurants. The proposal would introduce a further restaurant into the street block, however this would be only the second restaurant in Avery Row. Although there are a significant number restaurants in Lancashire Court it is considered that use of the application premises would not result in an overconcentration of restaurants. The provision of a restaurant in this location within Mayfair is considered acceptable subject to the operational details being acceptable.

The size of the premises and proposed restriction of the capacity to 180 covers would result in the provision of a medium sized restaurant. Although this would result in greater activity in the evenings than the existing lawful office use, this is not considered to be excessive and harmful to the character and function of the area. The proposed opening hours are the normal core hours for licensed premises. Subject to a condition that the restaurant closes at midnight on weekdays, ½ past midnight at the weekends and 11pm

on Sunday activity associated with customers entering and leaving the premises is considered to be acceptable as it would not result in undue noise nuisance to residents in the locality.

The scheme includes the provision of a full height extract duct and new roof level plant. Environmental Health have confirmed that the duct would adequately disperse cooking fumes and the plant is likely to comply with the standard noise conditions. Objections that this aspect of the application would result in nuisance are not considered sustainable. It is recommended that the details of the duct and plant are secured by condition.

Avery Row is a narrow pedestrianised street. Deliveries will be made via Brook's Mews and or Grosvenor Street. Objections have been received that servicing from deliveries would result in nuisance. A servicing management plan estimates that there would be typically 7 deliveries per day limited to between 7am and 10pm. This is the same as estimated for the extant permission for retail use approved in 2016. The number and time of deliveries are considered acceptable and it is recommended that this is secured by condition. Refuse will be stored on site and taken at a pre-arranged time to be collected from a contractor on Grosvenor Street.

The OMS states that seating and a bar area will be available in the restaurant where diners can wait to be seated without queuing on the street. Front of house staff will be available during all opening hours to supervise the arrival and departure of diners. It is recommended that the OMS details how staff and customers who wish to smoke will be managed to address a concern raised by a resident. A condition is recommended that the restaurant use is carried out in accordance with an updated and approved OMS. Conditions are also recommended to prevent live or recorded music being audible outside the premises and preventing the restaurant having either takeaway or delivery services. Subject to these conditions the restaurant use is considered acceptable as it would be neither harmful to the character and function of the area, or residential amenity.

7.2 Townscape and Design

The application premises is one of the higher buildings in this part of the Mayfair Conservation area, consisting of a basement, ground and three upper floors. Immediately to the north of the site are a row of grade II listed townhouses, which are lower than Avery House.

The proposed plant is set back from the front elevation and is similar in height to the existing hand rails. The main roof is recessed from the front elevation. Given that Avery Row is narrow the roofline is not visible in long views. The proposed alterations at roof level would not be visibly from street level views nor would they be unduly prominent from private views. The works are considered acceptable in design terms compliant with UDP policies DES 5 and DES6.

7.3 Residential Amenity (Daylight/ Sunlight and sense of enclosure)

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

7.4 Transportation/Parking

Car Parking

The Highways Planning Manager raises no objections to the proposal and considers that the proposal is unlikely to have a significant impact on car parking in the area.

Cycle Parking

The London Plan Policy 6.9 requires 1 cycle parking space per 250 m² of non-food retail, minimum of two spaces. 412 m² of A1 non-food retail would therefore require a minimum of two spaces. The proposal includes space for four bicycles therefore the bicycle parking provision is policy compliant. It is recommended that the cycle parking is secured by condition.

Servicing

The site is located on a pedestrianised street with a Controlled Parking Zone beyond, which means that single/double yellow lines in the vicinity can allow loading and unloading to occur within Brook Mews and on Grosvenor Street. The largest regular servicing vehicle expected to be associated with the development is the refuse collection vehicle. The Highways Planning Manager has advised that the proposed servicing requirements as detailed in section 7.1 of this report would not have an adverse impact on the public highway. The recommended condition preventing the operation of a delivery service will ensure highway congestion is minimised.

7.5 Economic Considerations

Any economic benefits generated are welcomed.

7.6 Access

The access arrangement remains unaltered.

7.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

Refuse storage will be provided at basement level. The Cleansing Manager advises that this needs to include storage for cooking oil and the recyclable and residual waste storage should be identified. It is recommended that these details are secured by condition.

7.8 London Plan

This application raises no strategic issues.

7.9 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.

7.10 Planning Obligations

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

7.11 Environmental Impact Assessment

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

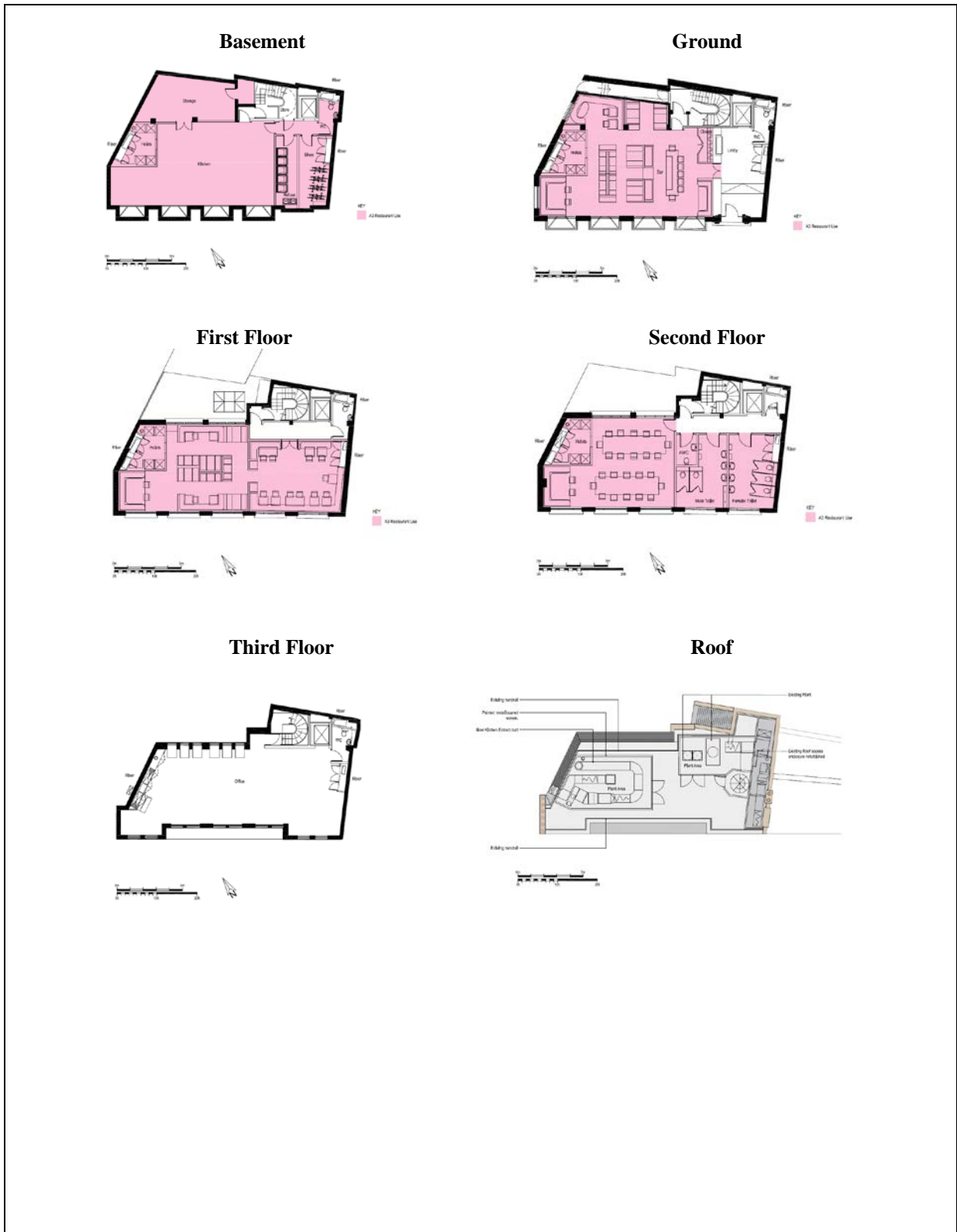
8. BACKGROUND PAPERS

1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 27 June 2017
3. Memorandum from Environmental Health dated 13 July 2017
4. Memorandum from Cleansing dated 9 June 2012
5. Memorandum from Highways Planning Manager dated 12 September 2017
6. Letter from occupier of Flat F, 29 Avery Row, dated 21 June 2017
7. Letter from occupier of 7A Avery Row, London, dated 26 June 2017
8. Letter from occupier of 29A Avery Row, London, dated 18 July 2017

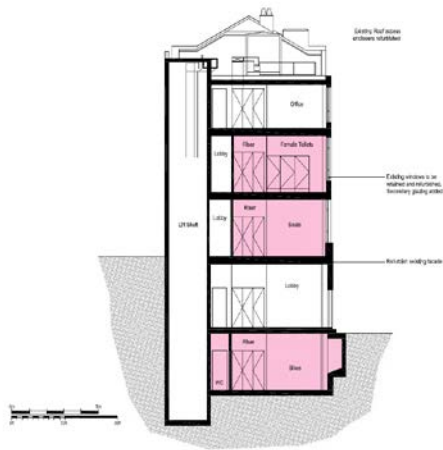
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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



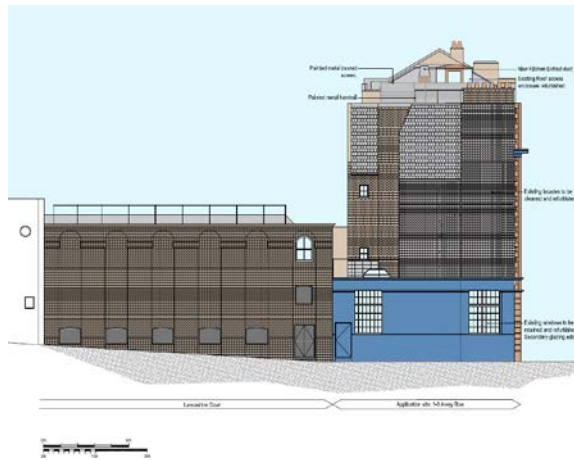
Section



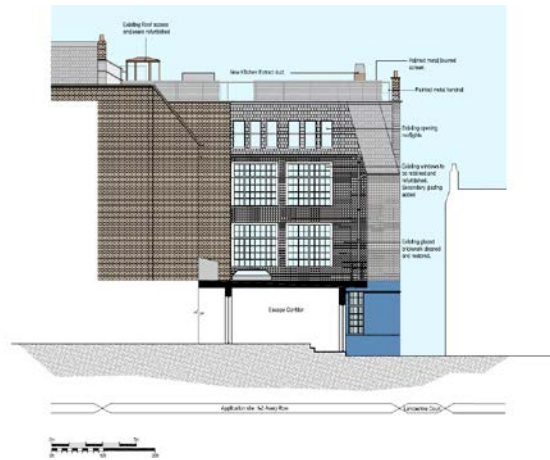
Avery Row Elevation



Lancashire Court Elevation



Rear Elevation



DRAFT DECISION LETTER

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

Proposal: Use of part basement, ground, first and second floors for restaurant purposes (Class A3) with associated plant and ventilation duct and metal louvred screen at roof level.

Reference: 17/04406/FULL

Plan Nos: Drawings 1726-1200-C, 1726-1300-D, 1726-1302-D, 1726-1104-E., , Section 3.2 & 3.4 of the D&A Statement prepared by Brimelow McSweeney Architects dated May 2017

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

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 carry out any building work which can be heard at the boundary of the site only:, , * between 08.00 and 18.00 Monday to Friday;, * between 08.00 and 13.00 on Saturday; and, * not at all on Sundays, bank holidays and public holidays., , Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must not sell any hot-food take-away on the premises, nor operate a delivery service, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 8 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 4 The provision of a bar and bar seating must not take up more than 15% of the floor area of the restaurant premises. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

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

- 5 You must not allow more than 180 customers into the property at any one time (including any customers waiting at a bar).

Reason:

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

- 6 You must not play live or recorded music on your property 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)

- 7 Customers shall not be permitted within the restaurant premises before 08:00 or after 00:00 Monday to Thursday, before 08:00 or after 00:30 on Saturday and before 09:00 or after 23:00 on Sunday.

Reason:

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

- 8 (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.

- 9 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

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

- 10 You must apply to us for approval of details of refuse storage including how waste cooking oil is going to be stored on the site. Recyclable waste, general waste and food waste must be clearly labelled. You must not commence the use hereby approved start work on the relevant part of the development until we have approved what you have sent us. You must then provide the waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the premises. You must not use the waste store for any other purpose. (C14CD)

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)

- 11 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

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 2015.

- 12 You must erect the proposed metal louvred screened enclosure screen prior to occupation. You must then keep it in that condition for as long as the duct and plant remains in place. (C26HA)

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)

- 13 The plant/machinery hereby permitted shall not be operated except between 0700 and 0000 midnight daily and between 0000 midnight and 0030 on Sunday mornings.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 14 The extract duct hereby approved shall be installed in full prior to the commencement of the restaurant (Class A3) use hereby approved and shall be retained in situ for the life of the development.

Reason:

To ensure that cooking odours are adequately dispersed, as required by S29 and S31 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 15 You must apply to us for approval of an addendum to the submitted Operational Management Statement

to detail how staff and customers who wish to smoke will be managed. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the approved Operational Management Statement at all times that the restaurant is in use. (C05JB)

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)

- 16 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)

- 17 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

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 All servicing must take place between 07.00 and 22.00 on Monday to Fridays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

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)

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

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.