

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 16 January 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	Ground Floor, 100 St Martin's Lane, London, Wc2n 4az,		
Proposal	Dual use of part of the ground floor as either offices (Class B1) and/or showroom (Sui Generis) for display of clothing and accessories range.		
Agent	Daniel Watney LLP		
On behalf of	Bishopsgate Long Term Property Fund Nominees No.1 Limited		
Registered Number	17/08138/FULL	Date amended/ completed	15 September 2017
Date Application Received	11 September 2017		
Historic Building Grade	Unlisted		
Conservation Area	Trafalgar Square		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

100-101 St Martin's Lane, which is an unlisted six storey building located in the Trafalgar Square Conservation Area. The building is in office use and has recently been refurbished. The application relates to part of the ground floor located at the rear of the site. The entrance to the building is from St Martin's Lane.

Planning permission is sought for the dual use of part of the ground floor as offices (Class B1) and/or showroom (sui-generis) for the display of clothing and accessories range. Objections have been received on the ground that the proposed alternative use would have an adverse impact upon the amenities of neighbouring residents.

The key issues in this case are:

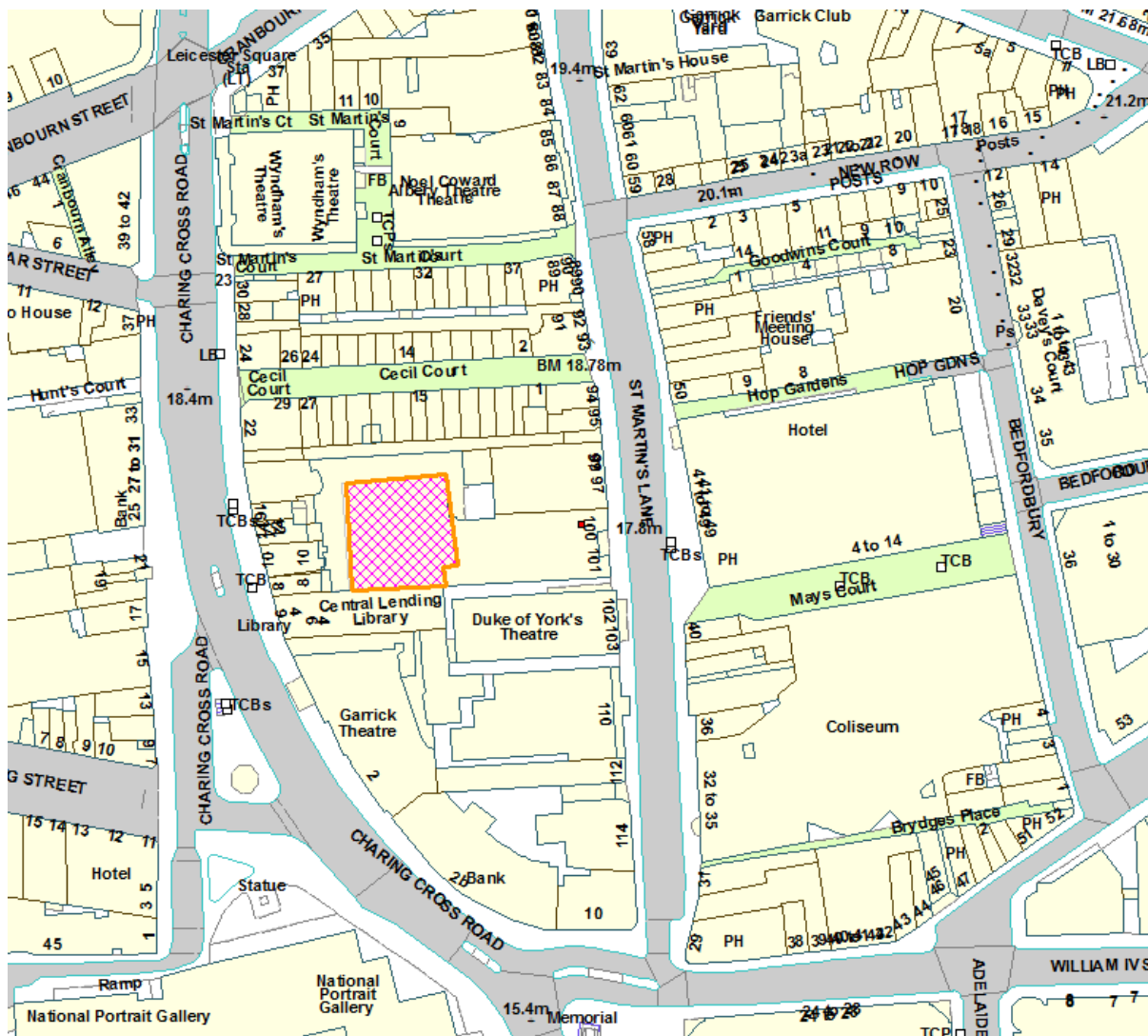
- the acceptability of the proposal in land use terms;
- the impact of the proposed alternative use upon residents' amenities.

An application for dual use is being applied for to allow flexibility in the use of the space by the tenant

for offices and showroom during its occupation, but also to enable the space to revert to offices fully in the event that the space was to be vacated over the course of the next 10 years.

The potential loss of the existing office floorspace is considered acceptable in land use terms, as is the proposed alternative use, which is low-key in nature given it would not be open to the general public, and would not adversely affect neighbours' amenities. The scheme complies with relevant UDP and City Plan policies and is therefore recommended for approval.

3. LOCATION PLAN

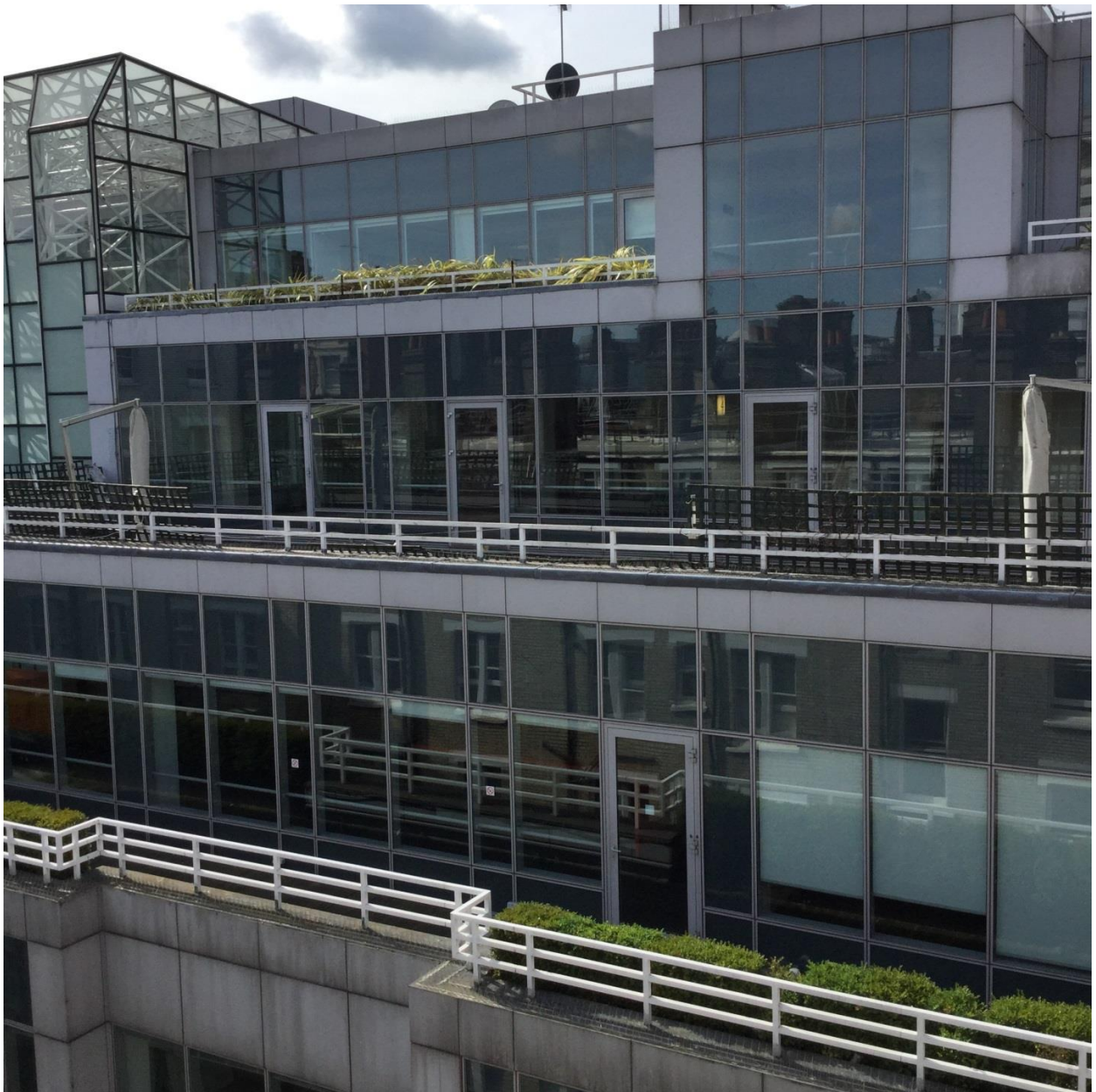


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4. PHOTOGRAPHS



101 St Martin's Lane



View of office building (3rd, 4th and 5th floors) from Cecil Court



Courtyard area/ Ground floor level of office building

5. CONSULTATIONS

COVENT GARDEN COMMUNITY ASSOCIATION:

The CGCA objects to permission for dual use. Granting the applicant permission to potentially change the use at some point in the future without the need to apply for planning permission or consult with neighbouring residents at that time effectively removes this premise from planning control. Given the recent history with planning proposals at this sensitive location and the impact those proposals would have had on neighbouring residents, only one consented use should be permitted.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 150

Total No. of replies: 5

No. of objections: 5

No. in support: 0

Objections from the Burleigh Mansions Residents Association and neighbouring residents on the following summarised grounds:

Land use

- Dual use could avoid control of any future use of the building;
- Building only works for its original purpose as offices;
- Historically this site has experienced difficulty filling capacity without reverting to robust use of multi-occupancy and it is not characteristic of the building for a single company to inhabit the size space for which this application seeks change of use;
- Dual use sought in this application can be met by existing 'ancillary use' which, were any tenant in-situ, would be in use already. Ancillary use carries no binding conditions, time or costs to implement and fully accommodates the business aims without the restrictions this application would impose on both the landowner and the business tenant and this raises questions;
- It is unlikely that an Small and Medium sized Enterprise garment industry wholesale business would be financially viable operating in such a large space out of a prime class office building of this type;
- Potential increase to unspecified changes in hours of operation and alteration of user demographic associated with a change to A1 use class and;

Amenity

- Offices are in close proximity to residents who have suffered in past from bad behaviour of office staff in terms of noise pollution and light pollution (lights left on all night);
- Loss of privacy, noise and light pollution is an ongoing problem;
- Generic nature of proposal would result in further developments that would cause a nuisance for the neighbouring residents;
- An A1 use will increase impacts in terms of loss of privacy, noise and light pollution;
- Restrictive conditions to limit the number of people who might be invited to special events, no music played after 18:00 hours, no lights to be left on after 22:00 hours and respect shown in every way towards resident's basic right to privacy, peace and quietness in their homes if permission is granted

Other

- Concerns about the applicants conduct on the integrity of the planning process, for example, the applicant has failed to provide a certificate for this application to the property owner most impacted by the proposal (Peabody) and did so only to Gascoyne Holdings; works have been undertaken without planning permission; applicant's use of divisive local stakeholder engagement; applicant misleading the planning department; unreliable facts in the previous application;
- The building remains vacant despite the applicant repeatedly indicating that the building has tenants and is misleading planning officers and;
- It is unlikely that the tenant's tenancy empowers them with the right to change of use permissions independent of the landlord;
- Gaming of the system;
- The authenticity of details the applicant chooses to supply should be confirmed.

6. BACKGROUND INFORMATION

6.1 The Application Site

100-101 St Martin's Lane is an unlisted six storey building located in the Trafalgar Square Conservation Area. The building is located in the Core Central Activities Zone. The building is in office use and has recently been refurbishment.

The relevant part of the application site is bound by 8-16 Charing Cross Road (including Faraday House and Garrick Mansions) to the west, properties along Cecil Court (including Burleigh Mansions) to the north and 97-99 St. Martins Lane (includes Talbot House) to the east. The rear of these buildings look towards the application site. The upper floors of these properties are in residential use.

6.2 Recent Relevant History

87/03993/FULL

30 March 1988 permission granted for the redevelopment of the site to provide an office building.

16/10998/FULL

Installation of trellis and "faux buxus" screening, associated refurbishment and restricted use of existing flat roof areas at third, fourth and fifth floor levels and part of the lower ground courtyard as amenity spaces in connection with the existing office use, contrary to the requirements of the planning permission dated 30 March 1988. Installation of new door and external staircase from ground to courtyard level.

Refused on 14 February 2017 and dismissed on appeal

Reasons for refusal:

The use of part of the flat roofs and courtyard as outdoor amenity spaces would lead to an unacceptable increase in noise disturbance for people in neighbouring residential properties. This would not meet 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.

7. THE PROPOSAL

Planning permission is sought for the dual use of part of the ground floor as offices (Class B1) and part showroom (sui-generis). The applicant indicates that this is for the display of clothing and accessories range. The Agent has not specified the name or brand of the occupier of the space. No internal or external alterations are proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

An application for dual use is being applied for to allow flexibility in the use of the space by the tenant for offices (Class B1) and showroom (Sui Generis) during its occupation, but also to enable the space to revert to offices fully in the event that the space was to be vacated over the course of the next 10 years

8.1.2 Proposed office use

The continuation of the lawful office use is acceptable in land use terms.

8.1.3 Potential loss of offices

Policy S20 of Westminster's City Plan (November 2016) relates to offices and seeks to restrict the loss of office space to housing, however, the loss of offices to other commercial uses are acceptable. The proposal is therefore in accordance with this policy.

8.1.4 Proposed showroom (sui generis)

The Agent has advised that the ground floor is vacant and a new tenant has been secured who wishes to use the space for offices but also as part showroom (sui-generis) for the display of a range of fashion clothing, footwear, and accessories that it trades 'business to business'.

The showroom aspect would extend to approximately 80% of the floor area (although a precise layout has not yet been finalised and therefore has not been provided). Given that a significant portion of the floor would be dedicated to this showroom, it is expected that the number of employees within the showroom would be below that which would otherwise be expected if the space was to be used solely as offices, which would be in the region of 40 – 50. The showroom would not be open to the public or have any retail element, which would fall within Class A1 use (retail). It is also not intended to have any fashion shows or anything similar. Employees would simply pull clothes from rails and show clients during meetings. It is considered that the proposed showroom use would be low key in nature and comparable to the existing commercial use of the building as offices.

There are no planning conditions attached to the original permission for the use of the building as offices (ref. 87/03993/FULL) that limit the intensity of the occupation of the ground floor as offices. In this regard, it is considered that in the event of planning permission being granted, the dual use could be conditioned which would allow the use

to alternate for a period of 10 years under a 'dual' permission, and whichever subsisted after ten years would become the lawful planning use from that date onwards. Having regard to the use of the rest of the building being offices, it is more than likely that the use of the ground floor would return to an office in the future.

8.2 Townscape and Design

No alterations are proposed.

8.3 Residential Amenity

The relevant part of the application site is bound by 8-16 Charing Cross Road (including Faraday House and Garrick Mansions) to the west, properties along Cecil Court (including Burleigh Mansions) to the north and 97-99 St. Martins Lane (includes Talbot House) to the east. The rear of these buildings look towards the application site. The upper floors of these properties are in residential use.

Objections have been received on the ground that the proposed dual use would have an adverse impact upon the amenities of neighbouring residents in terms of loss of privacy, noise pollution and light pollution. Policies ENV13 of the UDP and S29 of the City Plan seek to protect and improve residential amenity within the City.

In terms of noise and privacy, indeed, there may be a marginal improvement given the smaller number of people that are likely to be on the floor in a normal day, as indicated on the illustrative layout (showing the relatively few work-stations, compared to a typical office). The applicant has confirmed that there would 10 permanent employees and the maximum number of staff present in the building at any one time would be around 20 people (including visitors/ clients). This number would be less than the existing unrestricted office use with capacity for circa 40-50 staff.

The applicant has also confirmed that the showroom is to operate regular office hours and there is no intention to have fashion shows, or any special events or similar which would extend outside of normal office hours. In addition, the showroom would not be open to members of the public and its visitors is likely to be the same as that expected at any regular office.

In terms of light pollution, the lights on the floors are on motion sensors and would go off when nobody is on the floor. The proposed showroom is also located on the ground floor which below the height of the most neighbouring residents' windows which mostly occupy the upper floors of neighbouring properties. The clothing rails are also likely to be positioned next to the windows and would shield light to a certain extent. It is not considered that the level of light pollution from the showroom use would be any different to that from the other office use.

It is considered that the proposed showroom use is unlikely to have any noticeable impact upon residents' amenities in terms of loss of privacy, noise and light pollution. Conditions are proposed to prevent live or recorded music from being played or for any activities associated with the showroom to take place outside of the building.

8.4 Transportation/Parking

6 cycle racks would be allocated for the ground floor in the basement, which is in excess of the Council's UDP standard for offices which would normally require 4 cycle spaces to be provided for a more intense office use (the total ground floor area is 460sqm). There would be no change to the existing servicing and refuse arrangements.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

No changes would be proposed to the existing access.

8.7 London Plan

This application raises no strategic issues.

8.8 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.

8.9 Planning Obligations

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

8.10 Other Issues

Concerns have been raised in respect of ancillary use. It is considered that if the showroom space were somehow used at a level in a way such that it could reasonably be regarded as being ancillary to the lawful B1 office use, then planning permission would not be required since there would be no material change of use. However, a level beyond ancillary use appears to be proposed in this case, hence the need for the planning application. The dual use provides added flexibility to the freeholder to revert to office use, which is the lawful use of the entire building. Moreover, planning permission would be required if there is a change to a Class A1 (retail) use.

Concern has been raised with the level of information supporting this application. It is considered that an appropriate level of information has been submitted to assess this planning application.

Concerns have been raised with regards to the certificate of land ownership. The applicant has clarified that the Peabody Estate does not have any interest in the application site and the only interests are the applicant, who owns a long leasehold interest, and the freeholder of 101 SML, which is Gascoigne Holdings and accordingly Certificate B has been served on them.

The Covent Garden Community Association have objected on the basis that by granting planning permission for dual use it would effectively remove the premise from planning control. In response, it is considered that the showroom is likely to have a comparable impact as the existing office use. It should also be noted that the application seeks the ability for the space to revert back to the existing lawful use as offices, and, if the new tenant was to vacate within the next 10 years, the introduction of any other use except for office or showroom would require planning permission.

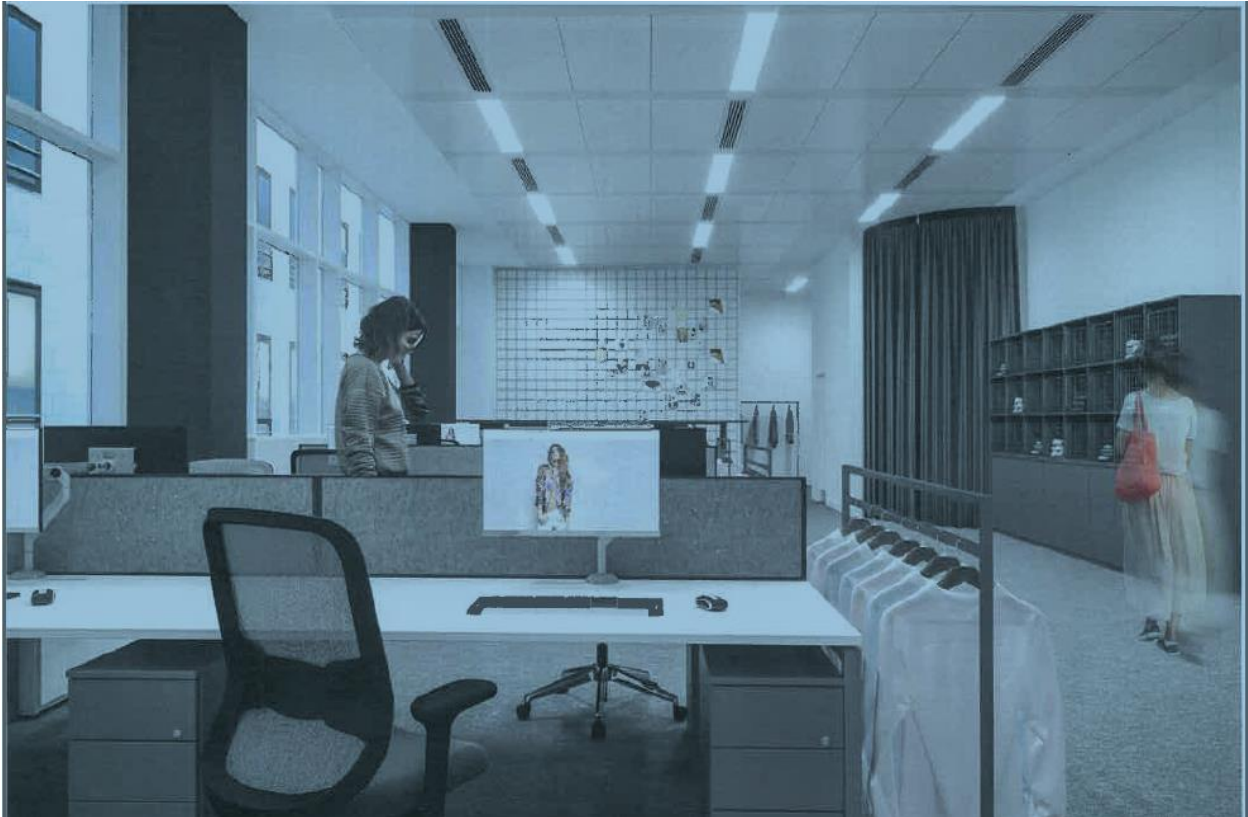
9. BACKGROUND PAPERS

1. Application form
2. Response from Covent Garden Community Association dated 15 October 2017
3. Letter from occupier of Flat 42 Burleigh Mansions, 96 Saint Martin's Lane, dated 30 November 2017
4. Letter from occupier of 45 Westminster Bridge Road dated 27 November 2017
5. Letter from occupier of Flat 5, 20 Charing Cross Road, dated 28 November 2017
6. Letter from occupier of Flat 29, Burleigh Mansions, 20 Charing Cross Road dated 1 December 2017
7. Letter from occupier of 9 Faraday House, 18 Charing Cross Road dated 1 December 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: DAVID DORWARD BY EMAIL AT ddorward@westminster.gov.uk

10. KEY DRAWINGS



Indicative photomontage of typical layout

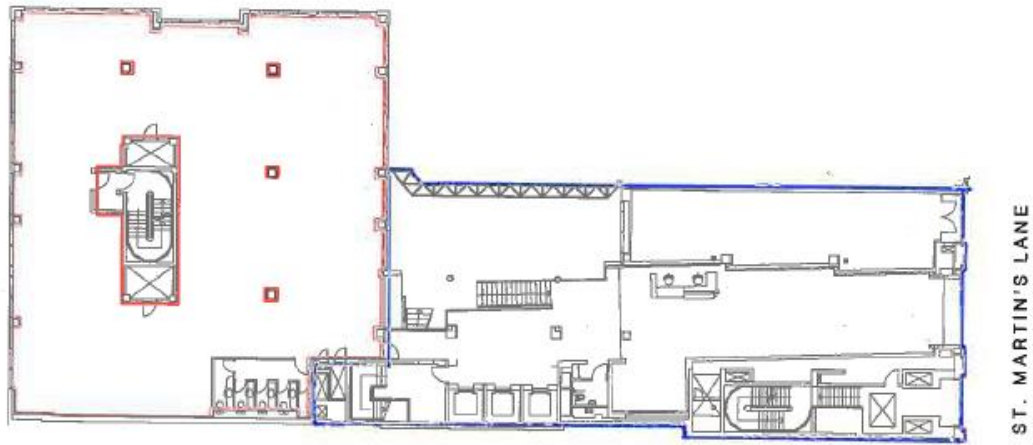


Indicative photomontage of typical layout

1221



Indicative photomontage of typical layout



Site plan and location of the ground floor dual use



North elevation of building annotated to show location of ground floor windows of site



West elevation of building annotated to show location of ground floor windows of site



East elevation of building annotated to show location of ground floor windows of site

DRAFT DECISION LETTER

Address: Ground Floor, 100 St Martin's Lane, London, WC2N 4AZ,

Proposal: Dual use of part of the ground floor as either offices (Class B1) and/or showroom (Sui Generis) for display of clothing and accessories range.

Reference: 17/08138/FULL

Plan Nos: PL-EX(03)010 Rev: 00, PL-EX(03)010 rev: 01, PL-EX (03)010 rev: 01 and indicative plans, covering letter (for information only)

Case Officer: Nosheen Javed

Direct Tel. No. 020 7641 2858

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 In the event that the showroom use is implemented, the design and structure of the development shall be of such a standard that it will protect residents in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 3 In the event that the showroom use is implemented, you must not play live or recorded music that is audible outside the premises.

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 All activities related to the showroom use shall be contained within the building.

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)

- 5 The showroom use shall not be implemented until you have submitted an Operational Management Plan relating to the showroom use to us for our approval. Thereafter the showroom use must be carried out in accordance with the approved Operational Management Plan.

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, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the ground floor can change between the Class B1 office and showroom (Sui Generis) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)

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.