

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 08 August 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved West End	
Subject of Report	16 Bourdon Street, London, W1K 3PH		
Proposal	Use of the ground floor as a retail unit (Class E(a)), alterations to the ground floor front elevation including the installation of a louvre to serve an air conditioning unit, and internal alterations.		
Agent	GRA Architecture and Interiors Ltd.		
On behalf of	Grosvenor West End Properties Ltd.		
Registered Number	22/07219/FULL and 22/07220/LBC	Date amended/ completed	26 October 2022
Date Application Received	26 October 2022		
Historic Building Grade	II		
Conservation Area	Mayfair		
Neighbourhood Plan	Mayfair Neighbourhood Plan		

1. RECOMMENDATION

1. Grant conditional permission and conditional listed building consent.
2. Agree the reasons for granting conditional listed building consent as set out in Informative 1 on the draft decision letter.

2. SUMMARY & KEY CONSIDERATIONS

16 Bourdon Street is a Grade II listed building in the Mayfair Conservation Area and the Central Activities Zone. The ground floor is used as a commercial garage rented out to nearby commercial premises with the exception of the central entrance which provides access to the residential unit at first and second floors of the building.

Bourdon Street comprises a mix of primarily residential on the north side of the street and commercial garaging and retail on the ground floors to the south side of the street with residential and some offices on the upper floors of the buildings.

Planning permission is sought for the change of use of the commercial garaging at ground floor level to a retail unit. Alterations are proposed to the ground floor front elevation to include new garage doors and the installation of a louvre to service an internal condenser unit. Internal alterations are

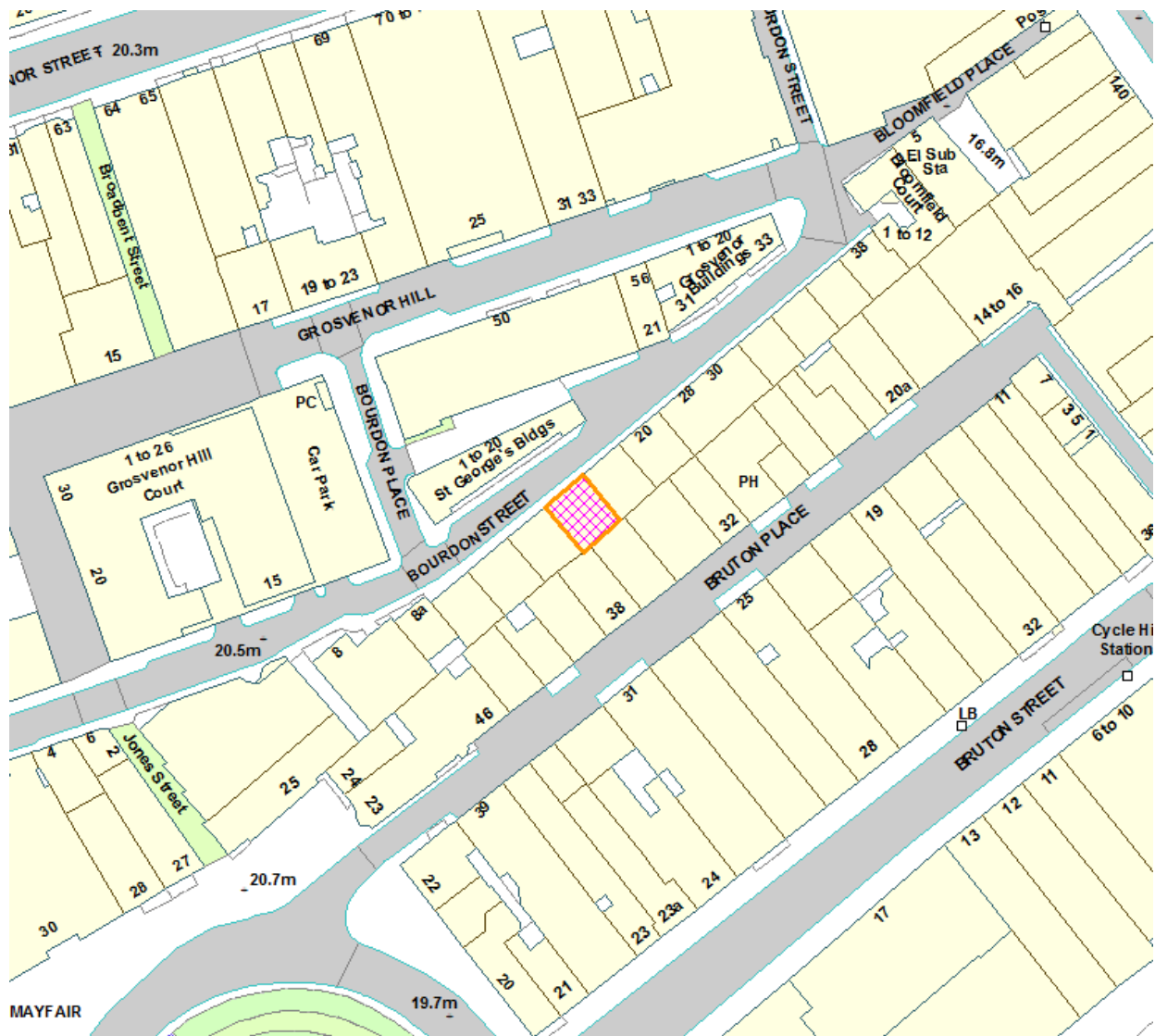
also proposed with a glass screen installed internally.

The key issue is:

- The impact on residential amenity in terms of potential noise nuisance arising from the customers and deliveries to the retail unit.

Subject to appropriate conditions including restricting the use of the premises to retail use in Class E, opening hours, acoustic mitigation and controls on the servicing, the proposal is considered acceptable. The applications comply with relevant adopted City Plan 2019-2040 policies and are therefore 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

Existing Front Elevation:



Proposed Front Elevation (CGI):



5. CONSULTATIONS

5.1 Application Consultations

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Objections on the following grounds:

- Encroachment of retail into a 'predominantly residential area'.
- Potential for a detrimental impact upon the amenity of nearby residents.
- Design of the louvres for the plant is detrimental to the listed building and conservation area.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally.

HIGHWAYS PLANNING

Acceptable subject to conditions.

WASTE PROJECT OFFICER

Further details requested.

ENVIRONMENTAL SCIENCES

Acceptable subject to conditions.

COUNCILLOR TOALE

Objections on the following grounds:

- The street is residential in character and the buildings should be retained for this purpose.
- Activity associated with a commercial unit will detrimentally impact resident's amenity.
- Potential for highways congestion resulting from deliveries and servicing of a commercial unit.
- Existing commercial units in the street cause noise disturbance to residents and impact traffic movements in the street.
- Insufficient toilet facilities in the unit.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 36

Total No. of replies: 11

No. of objections: 8

No. in support: 3

Objections on the following grounds:

Land use –

- Encroachment of retail into a 'predominantly residential area'.
- Potential future use of the premises as a restaurant.
- Garages should be given over to residential parking.
- Policy 21 of the City Plan directs art galleries to the Mayfair and St. James's Special Policy Area.

Highways –

- Existing commercial units in the street cause noise disturbance to residents and impact traffic movements in the street.
- Potential for taxis and servicing vehicles to impact upon pedestrian safety.
- There is no pavement outside the premises and it would be a hazard to anyone visiting the retail unit.

Amenity -

- Noise as disruption from 'events' being held at the art gallery.
- Insufficient staff welfare facilities with only one toilet provided.
- Loss of privacy to residents of St. George's Buildings opposite.
- Noise transference through the building structure to residential units.

Support on the following grounds:

- Existing galleries are well run and have no impact upon the amenity of local residents.
- Gallery space would be a welcome addition to the 'cultural history of Bourdon Street'.
- Existing gallery operation at 20 Bourdon Street does not result in any highways issues from vehicles and there have been 'no late night gatherings disturbing the quiet of the street'.

PRESS NOTICE/ SITE NOTICE:

Yes

5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with local residents in the area prior to the submission of the planning application. Letters were sent to local residents detailing the proposal and providing contact information should more information be required. The applicant advises that comments received were either supportive of the proposal or requested further information on various issues which was provided.

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 Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair 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

16 Bourdon Street is a Grade II listed building in the Mayfair Conservation Area to which it makes a positive contribution. The property is also located within the Central Activities Zone, the West End Retail and Leisure Special Policy Area and Central Mayfair as identified in the Mayfair Neighbourhood Plan.

The building comprises commercial garaging at ground floor level and a residential property at first and second floor levels, which is the same arrangement as the adjoining properties. The garages are not subject to any planning controls and the applicant advises that the garaging subject to this application has been used by a local commercial user.

Bourdon Street is mixed use in character with a number of retail units at ground floor level and a mix of office and residential accommodation.

7.2 Recent Relevant History

Whilst there is no relevant planning history in relation the application site, the planning history of a neighbouring site for a similar application is of relevance. A planning application at 12 Bourdon Street (RN: 15/10035) for the 'use of the ground floor as a retail unit (Class A1) and alterations to the ground floor front elevation' was refused on the 17 May 2016 for the following reason:

The introduction of a commercial use in this predominantly residential location would result in an unacceptable increase in activity, including vehicular and pedestrian traffic, that would increase noise and disturbance to residents, including blocking the highway to the detriment of pedestrian safety, and result in an overall loss of amenity to local residents (including adverse impact on the general quality of the living environment). It would also set a precedent, potentially leading to a cumulative impact, that would adversely affect the character and distinctiveness of the street and this part of the Mayfair Conservation Area.

The proposal is therefore contrary to policies S29, S32, S41, and S42 of Westminster's City Plan: Strategic Policies adopted November 2013, policies ENV 6, DES 9, TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007, and paragraphs 17 and 131 of the NPPF.

This refusal was appealed by the applicant and the appeal subsequently allowed on the 16 March 2017.

8. THE PROPOSAL

Permission is sought for the replacement of the garage doors and the installation of a new ventilation louvre to the front ground floor elevation to provide air flow for an air conditioning unit located internally.

Works are proposed internally all in association with the change of use of the existing commercial garaging unit at ground floor level to a retail unit (Class E).

The retail unit which is intended to be operated by Lyndsay Ingram gallery totals 89 sqm GIA. It is proposed that the unit will be open to between 09:00 and 18:00 Monday to Friday.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Loss of commercial garaging

The applicant states the garage has been used for car parking on a commercial basis by a nearby business occupier. The loss of off-street commercial car parking resulting from the proposal accords with Policy 27 of the City Plan 2019 – 2040, which encourages car free living to promote use of more sustainable modes of transport. The City Council has no policies seeking the retention of commercial garage spaces. An objector has

commented on the potential use of the garaging for nearby residential occupants to park their vehicles, however, City Council policies are to discourage residential parking. Further, the City Council has to assess the application in accordance with the development plan and therefore consideration for other uses is not appropriate during the consideration of this application.

Creation of a retail unit

Policy 2 of the City Plan (Spatial Development Priorities: West End Retail and Leisure Special Policy Area and Tottenham Court Road Opportunity Area) states that; "the intensification of the West End Retail and Leisure Special Policy Area (WERLSPA) over the Plan period will deliver the following priorities:

B. An improved retail and leisure experience that responds to innovation and change in the sector, including the transformation of the Oxford Street District."

Policy 14 'Town centres, high streets and the CAZ' states the following:

"Part A: The intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses is supported in principle, subject to impact on townscape and heritage. Proposals in existing town centres and high streets will enhance and diversify their offer as places to shop, work and spend leisure time.

Part G: Town centre uses will also be supported in principle throughout the parts of the CAZ with a commercial or mixed-use character, having regard to the existing mix of land uses and neighbourhood plan policies. In the parts of the CAZ that are commercial or mixed-use in character, the loss of town centre uses from the ground floor will be resisted."

Whilst the proposal is for a retail use, given that the premise is intended to be operated by an art gallery, City Plan Policy 15 (B) is also relevant. This states that proposals for new arts and cultural uses will be supported in: 1. Strategic Cultural Areas when they complement the existing cultural offer; and 2. the town centre hierarchy; and 3. commercial areas of the CAZ.

The Mayfair Neighbourhood Plan Policy MSG1 encourages sustainable growth within Mayfair, including efficient use of existing floorspace and "activity (by providing restaurants, cafés, galleries, shops, and other uses which animate the streetscene for the public). Paragraph 4.1.13 also states the following: "The requirements of the local population also need to be maintained, managed and enhanced. As well as providing for the day-to-day needs of people in the area, local shops encourage people to walk and provide opportunities for social interaction. People who are old or less mobile are particularly dependent on local shops and services."

The unit is also located within the Central Mayfair area as designated in the Growth Areas Map in the Mayfair Neighbourhood Plan. Policy MSG2 of the Plan states that growth is 'particularly encouraged' within 'Central and East Mayfair for commercial growth'.

Policy MR6.1 of the Plan states that; 'Proposals for new Creative Originals retail development in Mayfair will be encouraged.' Whilst the proposed operation by the art

gallery would be selling 'creative originals' which this policy is supportive of the application is for a retail unit and it is not considered necessary to restrict the use of the unit specifically for the display of art for sale on the premises .

A number of objections have referred to Bourdon Street as being 'predominantly residential' and that the change of use to a retail unit will change the character of the area. Conversely a number of letters supporting the application have commented on the introduction of an art gallery being a good addition to the street.

In consideration of the nature of the street it is noted that the planning application for the change of use of the commercial garaging to retail at 12 Bourdon Street was refused planning permission on the 17th May 2016 for the following reason:

The introduction of a commercial use in this predominantly residential location would result in an unacceptable increase in activity, including vehicular and pedestrian traffic, that would increase noise and disturbance to residents, including blocking the highway to the detriment of pedestrian safety, and result in an overall loss of amenity to local residents (including adverse impact on the general quality of the living environment). It would also set a precedent, potentially leading to a cumulative impact, that would adversely affect the character and distinctiveness of the street and this part of the Mayfair Conservation Area.

As detailed in the planning history section above this refusal was appealed and the appeal allowed. When considering the nature of the street the Inspector stated:

Paragraph 5:

I acknowledge that this part of Bourdon Street includes predominantly residential uses, but there are other uses very close by. These include commercial uses, such as retail, restaurants and cafes, offices and art galleries, and other uses such as a car park. The land use evidence provided by the appellant lends weight to this finding. Local residents suggest that this locality has a quieter ambience than other localities within the CAZ. I was able to assess this on my site visit and noted that the current mix of uses in the locality results in some level of activity at present. I also noted that some uses are open at night. There is evidence before me of vehicle, pedestrian, construction and commercial activity in the locality. All of this lends weight to its description as having some mix of uses which is reflected in its character and ambience. The small scale of the proposed retail use would not adversely affect that character or appearance and could positively help to enhance a sense of community. It therefore would not compromise the attractions of residential neighbourhoods within the CAZ.

Paragraph 7:

The retail use proposed, therefore, would not be out of place in the Conservation Area and would add to the rich variety of commercial and retail uses within it. As the proposed external alterations would be limited and conditions could control their detailing, unacceptable harm would not be a consequence. As the proposed use would result in the external doors being open, there would be the potential to better reveal the historic interior of the listed building, which would be a benefit of the appeal proposal. Further, as there is currently a mix of uses in the

Conservation Area, the proposed use would not adversely affect its busy feel through additional activity, noise and disturbance. For all these reasons, therefore, the appeal development would preserve and enhance the character and appearance of the Mayfair Conservation Area.

Whilst the Inspector also notes that the appeal decision does not set a precedent as each application is determined on its own merits his assessment of the character and nature of the area is important, especially their assessment that the activity within the vicinity 'lends weight to its description as having some mix of uses which is reflected in its character and ambience.' This assessment is deemed accurate, there is a mix of uses in the vicinity with a ground floor art gallery at No. 12 (Rodeo); an art gallery at No. 20 (Lindsay Ingram) and the Tuk Tuk Flower Studio at 34 Bourdon Street. The remainder of the ground floor uses on this side of Bourdon Street is primarily commercial garaging with office or residential uses above. The opposite side of the street is primarily residential with a large block of flats at St. Georges Buildings. The wider area is very mixed use in character with Bourdon Street joining Davies Street and Berkeley Square to the west. Paragraph 14.25 of the City Plan states; 'commercial uses in the Central Activities Zone and states Town centre uses provide a key element of the mix of uses within it and contribute to its character and strategic functions. However, the CAZ is also home to many local residents and some parts of it are also wholly residential in character. To respect its many functions, and the need to protect residential amenity, policy support is therefore provided for town centre uses within the parts of the CAZ that are of a commercial or mixed-use character.' Taking into account the Inspectors decision and the uses within the street, the change of use of commercial garaging to a small retail unit is not considered to change the character of the street and the objections on these grounds are not a sustainable reason for refusal of the application.

Retail accommodation now falls within Use Class E, being 'Commercial, Business and Service', which includes a range of uses including retail, restaurant, financial and professional services, medical, offices, indoor sports and "any other services which it is appropriate to provide in a commercial, business or service locality". The applicant has sought consent for retail use with the proposed occupier being the current occupier of 20 Bourdon Street (Lyndsay Ingram Art gallery), who would occupy the unit as additional floorspace and have provided information based on this with an assessment on that basis. Other uses which fall within Class E such as restaurant, indoor sports or a creche could have un-intended consequences in amenity and highways terms which have not been considered. This issue has also been raised by a number of objectors who have commented on the potential for the unit to change to other uses in Class E (namely restaurant use) which may have potential unforeseen impacts. A condition is therefore included to restrict the use of the premises as retail within Class E and this is considered to address the objectors' concern about this issue.

Letters in support of the proposal have been received which have commented on the benefits of an additional retail use to the 'cultural history' of the street. The benefits of retail accommodation in general for the local residents and visitors to the West End are noted and retail is a welcome land use in appropriate locations in the Central Activities Zone.

The applicant has confirmed that the premises would only be open between 09:00 and 18:00 Monday to Friday. Given the proposed use as retail shop, it is not considered the

use would result in unacceptable noise from customers or staff such that it would impact on other occupiers within the street, especially given it will only be open during the day. A condition is attached to restrict the shop opening times to those specified. Given this the objections on these grounds are not considered sustainable.

An objector has commented that the location is unsuitable for an art gallery as it is located outside of the designated Mayfair and St. James's Special Policy Area. The application is for general retail use of the unit, but it is proposed to be occupied by an art gallery. The objector considers Policy 21 of the City Plan restricts gallery spaces to the Mayfair and St. James's SPA and as this property is outside the designated area the application should be refused on those grounds. However, this is not what the policy says, the policy requires; 'Developments in the Mayfair and St. James's Special Policy Areas (SPAs) that enhance the character and function of both areas as centres for the art trade and luxury retail, through the provision of additional floorspace for use as art galleries, antique trading or luxury retail, is encouraged.' There is nothing in the policy to restrict art galleries solely to the designated area of the SPA and other relevant policies make it clear that retail floorspace is an acceptable land use within suitable areas of the Central Activities Zone. The objection on these grounds is not therefore considered sustainable.

9.2 Environment & Sustainability

Not relevant to a development of this scale.

9.3 Biodiversity & Greening

Not relevant to a development of this scale.

9.4 Townscape, Design & Heritage Impact

Legislative & Policy Context

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') requires that "*In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*"

Section 66 of the LBCA Act requires that "*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*"

Section 72 of the LBCA Act requires that "*In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*"

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Design Consideration

16 Bourdon Street stands on the south side of the street and has a fine façade of red-brick. It is part of a row of mews buildings dating from the late nineteenth century and, at ground floor level, it contains many features contributing to its special interest such as decorative wall-tiles, timber boarding, brick paving, and vestiges of the partitions forming the original stalls. The ground floor comprises two main compartments the smaller of which is likely to have been a carriage house and harness room, with the larger one being stabling, and there is a door giving access from the street to the upper floors. The timber doors to the carriage house are historic, but those to the stable have been altered and now incorporate a modern 'up-and-over' door beneath the retained glazed section of the original doors.

The proposed alterations involve replacing the up-and-over door with timber doors that better reflect the original design, behind which will be a glazed screen similar to others erected in buildings elsewhere in the street. Mechanical plant will be housed in an enclosure being the main entrance doors, and areas partitioned to create a WC, tea-point, and a small office. The currently blocked internal doorway between the two spaces will be reopened and enlarged which will result in the loss of some historic fabric, and the floor will be levelled in the new WC. The impact of the alterations is mostly benign in heritage asset terms, and there are benefits in terms of reinstating missing timber-boarding to the walls and the change from a private to public use will allow greater appreciation of the building's historic interior, which is a public benefit. Objections have been received to the design of the louvred panel proposed for the front elevation due to the impact on the appearance of the listed building and wider Conservation Area. Although, the ventilation panels in the new door are novel and somewhat unusual, in design and heritage asset terms they are acceptable, and they are part of a set of doors which replace the existing unattractive and incongruous up-and-over door. Therefore, this aspect of the proposal represents an improvement to the appearance of the building when seen from the street and the objections on these grounds are not considered sustainable.

In NPPF terms the degree of harm caused by the alterations is at the very low end of less than substantial, and arises from changes necessary to make the spaces work for the proposed use. This harm is outweighed by the benefit of creating public access to a historically and architecturally interesting part of the building that would otherwise be a private space in a comparatively poor state of repair. The alterations therefore accord with City Plan policies 38, 39, and 40, and with policy MD of the Mayfair Neighbourhood Plan.

9.5 Residential Amenity

Privacy

Objections have commented on the potential loss of privacy to residential occupiers of neighbouring buildings. Considering the unit has no windows and the access is directly onto the public highway it is not considered the proposal will result in any decrease in privacy to nearby residents and the objections on these grounds cannot be supported.

Noise & Vibration**Plant -**

In relation to noise from the proposed plant the application has been considered in the context of Policy S33 of the City Plan 2019-2040. This policy seeks to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant operation.

An acoustic report has been submitted in relation to the installation of the plant equipment. A single condenser unit is proposed behind part of the ground floor front façade with a louvre on the front elevation. Background noise measurements at the property have been measured at the proposed with the lowest background noise level between the hours of 07:00 and 19:00 being recorded as 45dB. As this figure is above the WHO guideline levels the design criteria is 10dB below being 35dB at the nearest noise sensitive property.

The nearest noise sensitive windows were identified as being the windows of the residential unit at first floor level of the same building at a distance of 2m from the louvre.

Acoustic mitigation measures are proposed which includes the lining of the internal walls and ceiling of the condenser unit enclosure with an acoustically absorbent material.

The acoustic report concludes that with the acoustic mitigation measures installed and the hours of operation of the plant controlled as detailed above that the noise levels at the nearest sensitive property will be compliant with the City Council criteria. Environmental Health have assessed the documentation and confirmed that the plant operation will be acceptable. Conditions are included to control noise and vibration levels from the plant, hours of operation and the installation of the acoustic mitigation measures.

Noise Transference -

In order to ensure there is no unacceptable level of noise transference through the building structure to the residential occupier on the first floor a condition is attached to ensure that no music is played in the premises. The drawings show the installation of a new 'acoustic ceiling' being installed throughout the unit to mitigate any noise transference to the floor above and this is considered acceptable in listed building terms. A standard condition is also included with regard acceptable noise levels through the building structure into adjoining residential units. The applicant has confirmed that opening hours of the retail unit are to be Monday to Friday 09:00 until 18:00 and a condition is included to require this. This will ensure that no customers are within the

premises at hours when residents would expect a quieter environment.

Customer Noise -

The Lyndsay Ingram gallery at No. 20 Bourdon Street is proposing to occupy the new retail floorspace which this proposal would provide. Some objectors have commented to say that the existing gallery hosts opening events which result in customers causing a noise disturbance outside the premises and conflicts with traffic movements given the narrow nature of the street. Conversely, some residents have written in support saying the current gallery causes no issues and they welcome the expanded gallery space. The City Council has no records of noise complaints reported at the property besides a report in 2018 of the art gallery moving bins at 00:30 at night. The proposal is for retail accommodation and as detailed in the land use section a condition is proposed to restrict the use as retail within Class E. Whether the floorspace is used as an art gallery or some other retail accommodation could not be controlled and an 'event' for a product launch or an 'opening' such as might ordinarily happen at a commercial art gallery would still be acceptable for a retail unit.

A condition has been agreed with the applicant to limit the opening hours of the premises to between 09:00 and 18:00 Monday to Friday, therefore it is not considered any 'events' would be happening at hours when noise would not be ordinarily expected from street level. Objectors have also commented on the potential for conflict between any customers outside the premises and vehicle movements. However, the same degree of conflict would be expected for any pedestrians walking down the street and given the nature of the street with a 180° bend 70m to the west, traffic naturally has to travel incredibly slowly.

9.6 Transportation, Accessibility & Servicing

Highway Impact

The loss of off-street car parking resulting from the proposal accords with the City Plan 2019-2040 Policy 27, which encourages car free living to promote use of more sustainable modes of transport.

The Highways Planning Manager has reviewed the proposal and considers that given the small size of the unit, the change of use to retail is unlikely to result in a significant increase in the pedestrian or vehicular traffic movements within the mews. The site is also within a Controlled Parking Zone so anyone driving to visit the unit or servicing the premises will be subject to the on-street parking / loading restrictions.

A number of objectors have commented on the potential for the use to result in additional traffic movements resulting from servicing with corresponding impacts on the movements of other vehicles and pedestrian safety as well as additional noise and disturbance. Photographs have been provided to show vehicles servicing the current Lyndsay Ingram Gallery. Given the objections that have been received from neighbouring residents and the potential for servicing vehicles needing to move large art works a condition is included to require the submission of a Servicing Management Plan prior to occupation of the unit.

An informative is attached to advise the applicant that the Servicing Management Plan will need to demonstrate how the proposed servicing would 'minimise the impact of the proposed development on the highway network, so as not to have a significantly detrimental impact on other highway users (including pedestrians). The SMP should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised, in this case. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users. The SMP should be responding to the physical layout of the site and provide robust procedures for any future occupant to follow, to ensure servicing occurs in an efficient manner. This will also ensure any future management company or occupant is clearly aware of their responsibilities.'

The applicant has agreed to a condition to restrict the hours of servicing to between 08:00 and 18:00 daily. This will ensure that no servicing of the unit would take place at times that would disturb residents.

Whilst it is acknowledged that the pavement outside the unit is narrow, the exterior door would be prized open during the hours of operation. Given the proposed secondary door is set back from the street frontage and the door is centrally located, it is considered that any oncoming traffic will be readily visible from within the application premises. As such, it is not considered that the proposal will have a material impact on pedestrian safety.

Accessibility

Level access will be provided throughout the premises which is noted and welcomed.

Waste & Recycling Storage

The Waste Projects Officer has requested further information to detail the provision of suitable waste and recycling storage facilities within the demise of the unit. A condition is included to require an amended floorplan be submitted to show this.

9.7 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the construction phase through the generation of increased opportunities for local employment, procurement and spending. The new retail floorspace proposed is expected to generate 2 – 3 jobs above the existing garaging use. The increase in jobs supported by this site will help to promote opportunities for local employment and will lead to increased spending in existing nearby shops and services and other town centre uses.

9.8 Other Considerations

Concern has been expressed about whether a suitable level of toilet facilities have been provided in the unit. The retail unit would measure 89m² and one toilet is provided. Whilst not necessarily a planning consideration this would be satisfactory for a retail unit of this small size and is highly unlikely to result in any issues when the unit is in operation.

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.

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e. conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10 day period following notification by the Council of the proposed condition, the reason and justification for the condition. No pre-commencement conditions are proposed.

10. Conclusion

Whilst concerns have been raised about the suitability of the street for the introduction of a retail use and possible impacts on residential amenity and highways concerns the proposal has been deemed acceptable in land use, highways and amenity grounds and it is recommended that planning permission is granted subject to relevant safeguarding conditions.

As such, the proposal is considered acceptable, mindful of policies 2, 7, 14, 15, 16, 24, 25, 27, 29, 33, 37, 38, 39, 40 and 43 of the City Plan 2019-2040 and policies MSG and MR6 of the Mayfair Neighbourhood Plan and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

(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: DAMIAN LAVELLE BY EMAIL AT dlavelle@westminster.gov.uk

11. KEY DRAWINGS

Existing Front Elevation:



Proposed Front Elevation:



1) Screens specified as 1/4" screen based on 1/4" screen base screen material. Back screen material by exact screen size.

DRAFT DECISION LETTER

Address: 16 Bourdon Street, London, W1K 3PH

Proposal: Use of the ground floor as a retail unit (Class E(a)), alterations to the ground floor front elevation including the installation of a louvre to serve an air conditioning unit.

Reference: 22/07219/FULL

Plan Nos: Acoustic Report dated 27th June 2022. Drawings: SK/11 RevA, SK/12 RevA, SK/13 RevA, TPS/2228/G/M/O2.

Case Officer: Matthew Giles

Direct Tel. No. 07866040155

Recommended Condition(s) and Reason(s)

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

Reason:

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

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

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

- o between 08.00 and 18.00 Monday to Friday; and,
- 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)

- 3 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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4 (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 Environmental Supplementary Planning Document (February 2022), 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)

- 5 The plant/machinery hereby permitted shall not be operated except between 07:00 hours and 19:00 hours daily. (C46CA)

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors 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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the Environmental Supplementary Planning Document (February 2022). (R46CC)

- 6 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 Environmental Supplementary Planning Document (February 2022). (R48AB)

- 7 You must install the acoustic mitigation measures associated with the condenser unit as detailed in the acoustic report and retain these features for as long as the unit remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13AD)

- 8 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not occupy the retail use hereby approved until we have approved what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development and thereafter permanently retain the stores according to these details. You must clearly mark them and make them available at all times to everyone using the retail unit. You must not use the waste and recycling store for any other purpose. (C14GB)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 9 The design and structure of the building shall be of such a standard that it will protect residents within the same building or 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. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

- 10 You must use the property only for retail. You must not use it for any other purpose, including any within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it). (C05AC)

Reason:

To ensure that the development is carried out in accordance with the use sought and assessed, to ensure that the parts of the building are not used for other uses within Class E that may have different or unacceptable waste storage, servicing, air quality, amenity or transportation requirements and / or impacts in accordance with Policies 16, 17, 18, 24, 26, 28, 29, 25, 32, 33 and 37 of the City Plan 2019 - 2040 (April 2021).

- 11 No live or recorded music is permitted to be played within the ground floor premises.

Reason:

To protect the environment of people in neighbouring properties, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 12 Prior to the occupation of the development, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the development. All servicing shall be undertaken in accordance with the approved strategy.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 13 Customers shall not be permitted within the ground floor premises hereby permitted

outside of the following hours:

- o 09:00 and 18:00 Monday to Friday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021).

14 Servicing of the retail unit shall only take place between the following hours:

- o 08:00 and 18:00 Monday to Friday.

Reason:

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

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 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: www.westminster.gov.uk/street-naming-numbering. (I54AB)
- 3 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.
- 4 Conditions 4 and 5 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)

- 5 With regard Condition 12 of this planning permission a robust and focused Servicing Management Plan should demonstrate how the proposed development would minimise the impact of the proposed development on the highway network, so as not to have a significantly detrimental impact on other highway users (including pedestrians). The SMP should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised, in this case. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users. The SMP should be responding to the physical layout of the site and provide robust procedures for any future occupant to follow, to ensure servicing occurs in an efficient manner. This will also ensure any future management company or occupant is clearly aware of their responsibilities.

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

DRAFT DECISION LETTER

Address: 16 Bourdon Street, London, W1K 3PH

Proposal: Alterations to the ground floor front elevation including the installation of a louvre to serve an air conditioning unit and internal alterations.

Reference: 22/07220/LBC

Plan Nos: Acoustic Report dated 27th June 2022. Drawings: SK/11 RevA, SK/12 RevA, SK/13 RevA, TPS/2228/G/M/O2.

Case Officer: Matthew Giles

Direct Tel. No. 07866040155

Recommended Condition(s) and Reason(s)

- 1 The works 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 scribe all new partitions around the decorative tile work.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in Policy 39 of the City Plan 2019 - 2040 (April 2021) and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BE)

- 3 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -
In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations. The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF. In reaching this decision the following were of particular relevance: Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
 - * any extra work which is necessary after further assessments of the building's condition;
 - * stripping out or structural investigations; and,
 - * any work needed to meet the building regulations or other forms of statutory control.

Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents. It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (159AA)

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.