

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 24 January 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Knightsbridge And Belgravia	
Subject of Report	38 Groom Place, London, SW1X 7BA,		
Proposal	Removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) for: Use from Class A1 (Delicatessen) to Class A3 (Restaurant) and alterations to ground floor windows. Namely, to enable a delivery service to take place from the restaurant.		
Agent	NTR Planning		
On behalf of	Mr Carlo Tambini		
Registered Number	16/11438/FULL	Date amended/ completed	2 December 2016
Date Application Received	2 December 2016		
Historic Building Grade	Unlisted		
Conservation Area	Belgravia		

1. RECOMMENDATION

1. Refuse planning permission – impact on residential amenity, and on the character and function of the Belgravia Conservation Area.

2. SUMMARY

38 Groom Place is an unlisted building located in the Belgravia Conservation Area which is currently in use as a restaurant 'Pizzeria Pinocchio'.

Planning permission was granted on 14 April 2015 to change the use of the Property from Class A1 ((Delicatessen) to Class A3 (café/restaurant) use (Ref: 15/01423/FULL). Condition 5 attached to this planning permission states: *You must not provide a delivery service from the restaurant premises.*

It has been drawn to the City Council's attention that Condition 5 is being breached and that the restaurant is currently operating with a delivery service.

This application seeks the removal of Condition 5 of the above planning permission.

The key considerations in assessing the proposal are:

- The impact on the amenity of neighbouring residents, and
- The impact on the character and function of this part of the city.

A number of objections have been received on grounds the delivery service is adversely impacting on residential amenity in this mews setting.

The application is recommended for refusal because the delivery service harms the environment of neighbouring residents and the character and function of the Belgravia Conservation Area. This would not meet S25, S29, and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13, and DES 9 of our Unitary Development Plan that we adopted in January 2007.

3. LOCATION PLAN



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4. PHOTOGRAPHS



38 Groom Place



Groom Place (Pizzeria on Right)
Looking North



Groom Place (Pizzeria on Right)
Looking Southwest

5. CONSULTATIONS

BELGRAVIA RESIDENTS ASSOCIATION

Any response to be reported verbally.

BELGRAVIA NEIGHBOURHOOD FORUM

Any response to be reported verbally.

BELGRAVIA SOCIETY

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER

Undesirable on transportation grounds, could be made acceptable subject to conditions requiring delivery management plan.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 30

Total No. of replies: 12

No. of objections: 9

No. in support: 3 (incl. 2 letters of support from the applicant)

Objections received on some or all of the following grounds:

Amenity

- This is a quiet residential mews.
- The restaurant is currently operating an unauthorised delivery service.
- Regular delivery vehicles/ scooters coming into the mews increase noise and nuisance adversely affecting the amenity of neighbouring residents.
- Pollution from increase in vehicular traffic.
- Drivers smoke outside neighbouring residents homes.

Transportation

- Delivery vehicles/ Scooters travel the wrong way up one way street system.
- Parking in residents only spots

Other

- The restaurant is continually in breach of the original planning permission with unauthorised outdoor seating, signage, heaters, and delivery service.

Two letters of support received from a neighbour on the following grounds:

- There should be a compromise regarding the waiting area for bikes.
- There is more disturbance from the adjacent public house where customers block the path of traffic.
- Taxis also cause more traffic disruption in the mews.
- Residents value and use the restaurant.
- Most residents including objectors themselves get deliveries each day, e.g. Deliveroo and Tesco deliveries.

- The issue of deliveries is compounded by all in the mews and it hard to distinguish what deliveries are caused by the restaurant and what is caused by others using other delivery services.
- The restaurant does its best to be friendly and accommodating, and makes an effort to minimise disturbance, and provide a fine service.
- No delivery service may put the restaurant out of business or lead to an increase in prices.

Two letters of support have also been submitted by the applicant citing the following:

- The applicant agreed not to have a delivery service due to its impact, however, didn't agree not to have a collection service from the premises.
- The collections are vital for the business and make up 35-40% of this type of business.
- Only 7-8 bikes per day frequent the restaurant.
- No mess is created from the operation.
- There are mitigating factors including other traffic including taxis and uber.
- The complaints regarding traffic and noise actually relate to other traffic not associated with the restaurant.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

38 Groom Place is an unlisted building in the Belgravia Conservation Area currently in use as a Class A3 restaurant 'Pizzeria Pinocchio'.

Groom Place is a predominantly residential mews with the application site and the nearby 'Horse and Groom' Public House the exceptions.

6.2 Recent Relevant History

Planning permission was granted on 14 April 2015 to change the use of the Property from Class A1 (Delicatessen) to Class A3 (café/restaurant) use and alterations to ground floor windows (Ref: 15/01423/FULL). Condition 5 attached to this planning permission reads:- *You must not provide a delivery service from the restaurant premises.*

The reason for the imposition of this planning condition reads:-

To prevent a use that would be unacceptable because of the character and function of this part of the Belgravia Conservation Area. This is in line with S25 of Westminster's City Plan (July 2016) and DES9 of our Unitary Development Plan that we adopted in January 2007.

In respect of the imposition of Condition 5, the officer's report notes the following:

'Of concern is the potential for local pizza deliveries through the use of mopeds or other vehicles and the impact this will have on the residents of the mews in terms of noise and disturbance. The applicant has agreed to a condition which prohibits this, in order to

receive a favourable recommendation, however it should be noted that they will be taking a view as to whether to appeal this condition at a later date.'

Another application to retain wooden decking outside the premises and the use of this area for tables and chairs (RN: 16/08409/FULL) is currently pending consideration.

7. THE PROPOSAL

Planning permission is sought for the removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) to enable the applicant to provide a delivery service from the premises.

The application form states that the applicant wishes the condition to be removed because it is unreasonable given the circumstances and renders the business unviable.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The proposal raises no land use issues.

8.2 Townscape and Design

No details have been provided by the applicant regarding the nature of the delivery service taking place at the restaurant. However, officers consider that the removal of Condition 5 would result in a restaurant clearly contrary to the character of the mews and this part of the Belgravia Conservation Area, which is characterised by an intimate and quiet nature as noted in the Belgravia Conservation Audit (para 4.3, page 18) and indeed highlighted by objections from neighbouring residents. A food delivery service involves the use of both motorised and non-motorised vehicles (predominantly the former) and particularly the use of motorbikes and mopeds. The use of any vehicles and the number of movements involved in a delivery service is highly likely to result in a consequential impact on the character and function of the area.

When permission was granted for the change of use to Class A3, it was on the basis that the proposal would not adversely affect the character and function of this part of the Belgravia Conservation Area in line with Policy S25 of the City Plan and DES 9 of the UDP and the imposition of Condition 5 specifically sought to protect these characteristics of the area. To remove the condition would undoubtedly result in an outcome contrary to the basis on which the initial application was granted.

It is considered that while the historic A1 use and current A3 use no doubt add to the vibrancy of the area and indeed the character and function of the area, a delivery service involving consistent commercial vehicular movement throughout the quiet mews area is unacceptable and contrary to Council policy. It is therefore considered that the removal of Condition 5 is unacceptable with regard to the impact on the character and function of this part of the Belgravia Conservation Area.

8.3 Residential Amenity

Objections have been received on grounds that the operators of the business at the property are operating a takeaway food delivery service and that this is having a negative impact on neighbouring residential amenity.

Groom Place is predominantly a quiet residential mews, notwithstanding the existing commercial premises at both the application site (Class A3) and the Horse and Groom Public House (Class A4). The application property is surrounded primarily by residential properties on all sides. The mews is mostly characterised by quiet residential living and is relatively enclosed, something that is highlighted by consultation responses received from neighbours.

Policies ENV 13 of the UDP and S29 of the City Plan seek to ensure that development does not harm the residential environment of surrounding properties and result in a material loss of residential amenity. As previously noted, Groom Place is characterised by a quiet residential nature and given the modest size of the restaurant premises, it is considered that to allow a delivery service to take place from the restaurant would have a significant material impact on the amenity of residents in the area and their ability to enjoy the quiet nature of the mews. The delivery service results in an increase in the number of vehicle movements associated with the restaurant, with an associated increase in noise nuisance that adversely impacts upon the residential environment and the amenity of properties within it. When permission for the A3 use was granted, officers considered that the modest size of the restaurant would mean it was unlikely there would be a significant nuisance or disruption to residential amenity. However, a delivery service being provided from the premises results in a noise nuisance not anticipated on the granting of the previous permission, nor is it acceptable now. This is of particular concern given restaurant hours are permitted from 10.00am until 23.00pm, which would result in an even greater adverse impact on the amenity of neighbouring residential properties with deliveries taking place late into the evening.

UDP Policy ENV 6 and City Plan Policy S32 seek to reduce noise pollution and its impacts and protect noise sensitive receptors. UDP Policy ENV 6 further outlines that the Council will require operational measures to minimise noise from developments and to protect noise sensitive properties. The policy also outlines that development will not be permitted where it would cause noise disturbance in tranquil areas and to seek measures to minimise and reduce noise from traffic. The noise generated by the increased traffic movements associated with the proposal results in a significant noise disruption to local residents that is having an adverse material impact on their enjoyment of the area and the residential amenity of neighbours. While UDP Policy ENV 6 enables the Council to impose operational measures to minimise noise, it is noted that the applicant has little control over the delivery or collection process given that this is undertaken by a third party delivery operator 'Deliveroo'. Therefore, any conditions imposed on granting of permission, with a view to controlling the delivery process, neither would be enforceable nor would the applicant be able to guarantee compliance from the third party operator. It is therefore considered that the proposal is contrary to UDP Policy ENV 6 and City Plan Policy S32 which seek to reduce noise pollution and its impacts and protect noise sensitive receptors.

In summary, a delivery service operating within the quiet mews would have an unacceptable impact on the environment of neighbouring residents in terms of noise and

disturbance. This would not meet S29 and S32 of the City Plan and ENV 6 and ENV 13 of the UDP.

8.4 Transportation/Parking

The Highways Planning Manager considers that the proposal is undesirable on transportation grounds but may be considered acceptable. The Highways Planning Manager advises that limited information has been submitted with the application and it is not clear what the delivery service arrangement will be. Delivery vehicles owned and operated by a site can reduce the availability of parking for other users. However anecdotal evidence suggests that the site employs a delivery company (Deliveroo) and does not use their own transport to carry out deliveries.

If the proposal was considered acceptable, a condition would have been imposed to secure the submission of a Delivery Management Plan (DMP). The DMP should clearly indicate how deliveries will occur, details of the company used, and what steps will be taken to minimise the impact on the public highway.

8.5 Economic Considerations

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

8.6 Access

The proposal raises no access issues.

8.7 Other UDP/Westminster Policy Considerations

None relevant.

8.8 London Plan

This application raises no strategic issues.

8.9 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.

8.10 Planning Obligations

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

8.11 Environmental Impact Assessment

Environmental Impact issues are not relevant in the determination of this application.

8.12 Other Issues

Not applicable.

9. BACKGROUND PAPERS

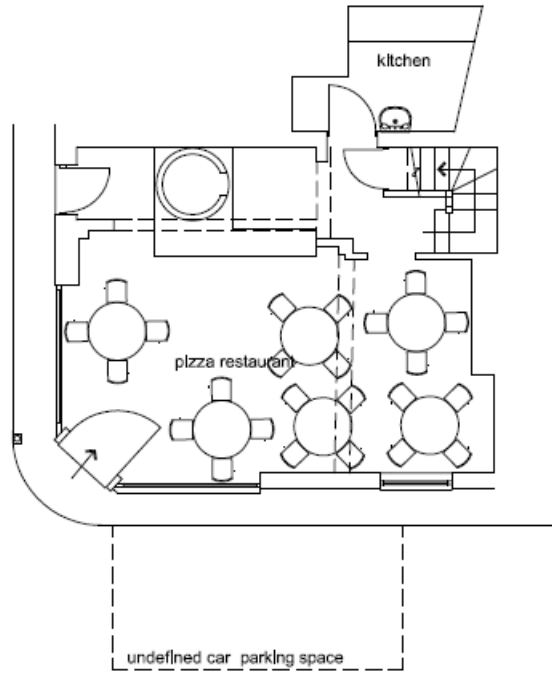
1. Application form
2. Memo from Highways Planning Manager dated 29 December 2016
3. Letter from occupier of 10 Groom Place dated 3 January 2017
4. Letter from occupier of 30 Groom Place dated 13 December 2016
5. Letter from occupier of 20 Groom Place dated 13 December 2016
6. Letter from occupier of 12 Groom Place dated 14 December 2016
7. Letter from occupier of 16 Groom Place, London, dated 14 December 2016
8. Letter from occupier of Apple Grove, Chiddingstone, dated 15 December 2016
9. Letter from occupier of 27 John Street dated 20 December 2016
10. Letter from occupier of 32 Groom Place dated 1 January 2017 (Support)
11. Letters from applicant at 38 Groom Place dated 3 and 11 January 2017 (Support)
12. Letter from occupier of 18 Groom Place, London 10 January 2017
13. Letter from occupier of 36 Groom Place, London 11 January 2017
14. Letter from occupier of 24a Groom Place dated 14 January 2017

Selected relevant drawings

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

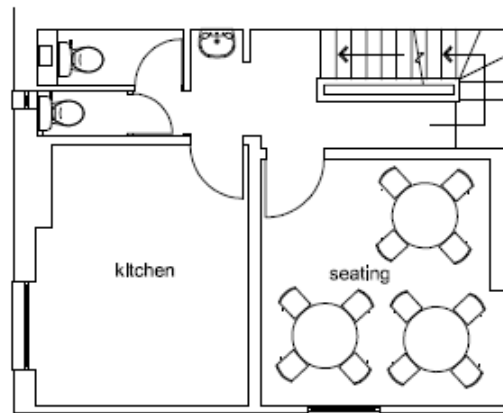
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: DAVID DORWARD BY EMAIL AT DDORWARD@WESTMINSTER.GOV.UK

10. KEY DRAWINGS



Groom Place

Ground Floor Plan as proposed



First Floor Plan as proposed

Approved floor plans (Ref: 15/01423/FULL)

DRAFT DECISION LETTER

Address: 38 Groom Place, London, SW1X 7BA,

Proposal: Removal of Condition 5 of planning permission dated 14 April 2015 (RN: 15/01423/FULL) for: Use from Class A1 (Delicatessen) to Class A3 (Restaurant) and alterations to ground floor windows. Namely, to enable a delivery service to take place from the restaurant.

Reference: 16/11438/FULL

Plan Nos: Site Location Plan.

Case Officer: Joe Whitworth

Direct Tel. No. 020 7641 1968

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

A delivery service would harm the environment of neighbouring residents and the character and function of the Belgravia Conservation Area. This would not meet S25, S29, and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 13, and DES 9 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

1. In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.
2. It is considered that an unauthorised change of use from Class A3 (Restaurant) to a sui generis mixed Class A3 (Restaurant) and Class A5 (Hot Food Take-away) may have taken place. This matter may be reported to Council's Planning Enforcement Team and enforcement action may be taken.

Item No.
4

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.