

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 21 March 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Ground Floor Townsend House , 22-25 Dean Street, London, W1D 3RY		
Proposal	1 - Installation of new shopfront, incorporating openable sash windows. 2 - Use of the public highway for the placing of 5 tables and 20 chairs in an area measuring 0.90m x 8.00m in association with the existing restaurant.		
Agent	Indigo Planning Ltd		
On behalf of	Firezza Ltd		
Registered Number	1. 17/00285/FULL 2. 17/00796/TCH	Date amended/ completed	13 January 2017
Date Application Received	1. 13 January 2017 2. 1 February 2017		1 February 2017
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

- 1 - Grant conditional permission.
2 - Grant conditional permission.

2. SUMMARY

The application site is an unlisted building located within the Soho Conservation and the Core Central Activities Zone (CAZ). The building comprises a ground floor restaurant, offices on the first to second floors and 12 residential flats at third to sixth floor levels.

Separate applications have been submitted for the installation of a new shopfront to the restaurant, incorporating openable windows, and ii) for the placing of tables and chairs on the highways in association with the restaurant use.

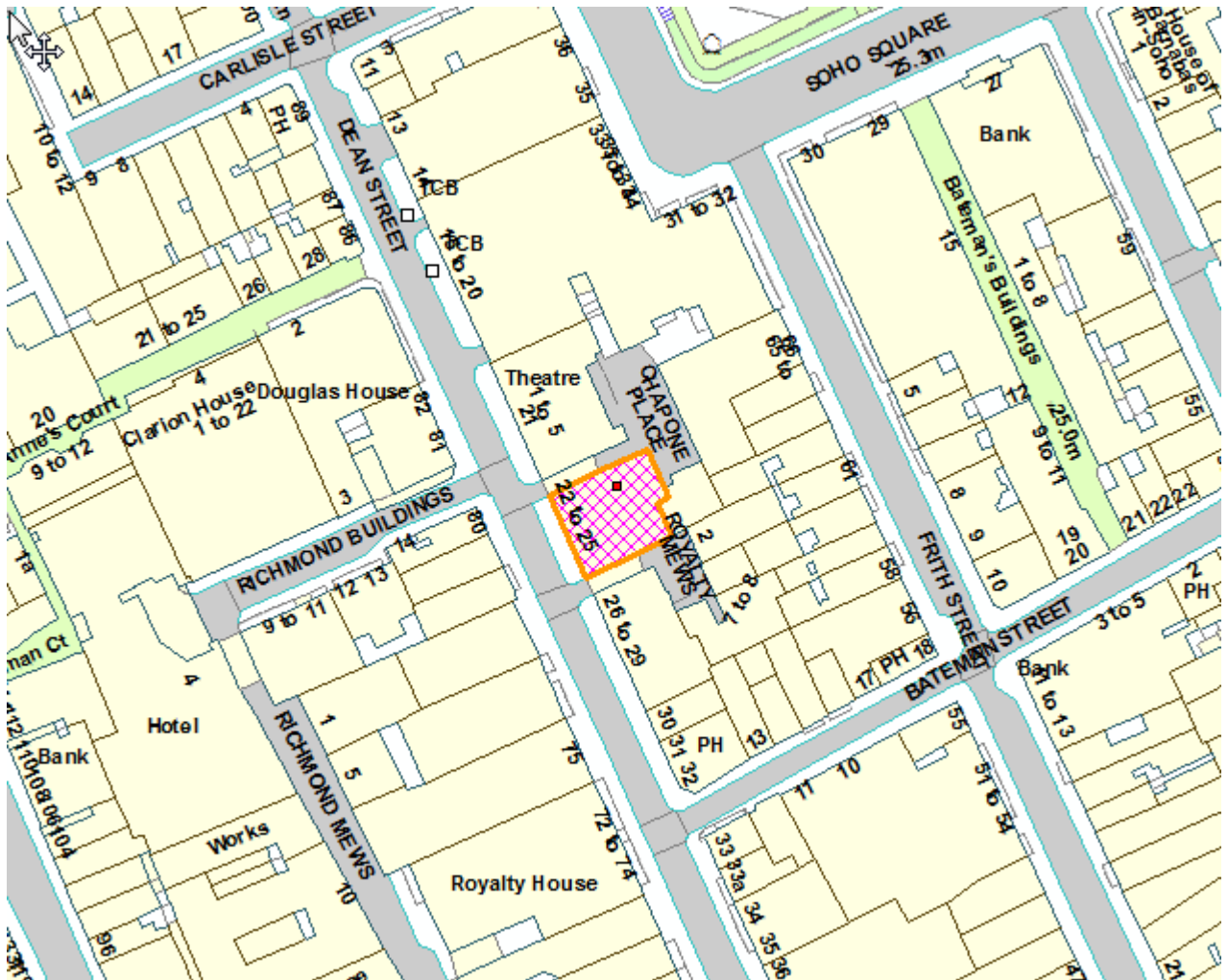
The key issues for consideration are:

- The impact of the opening windows upon the amenities of neighbouring residential properties.
- The impact of the proposed tables and chairs upon the amenities of neighbouring residential properties.

Subject to conditions, the proposals are considered to comply with relevant Unitary Development Plan

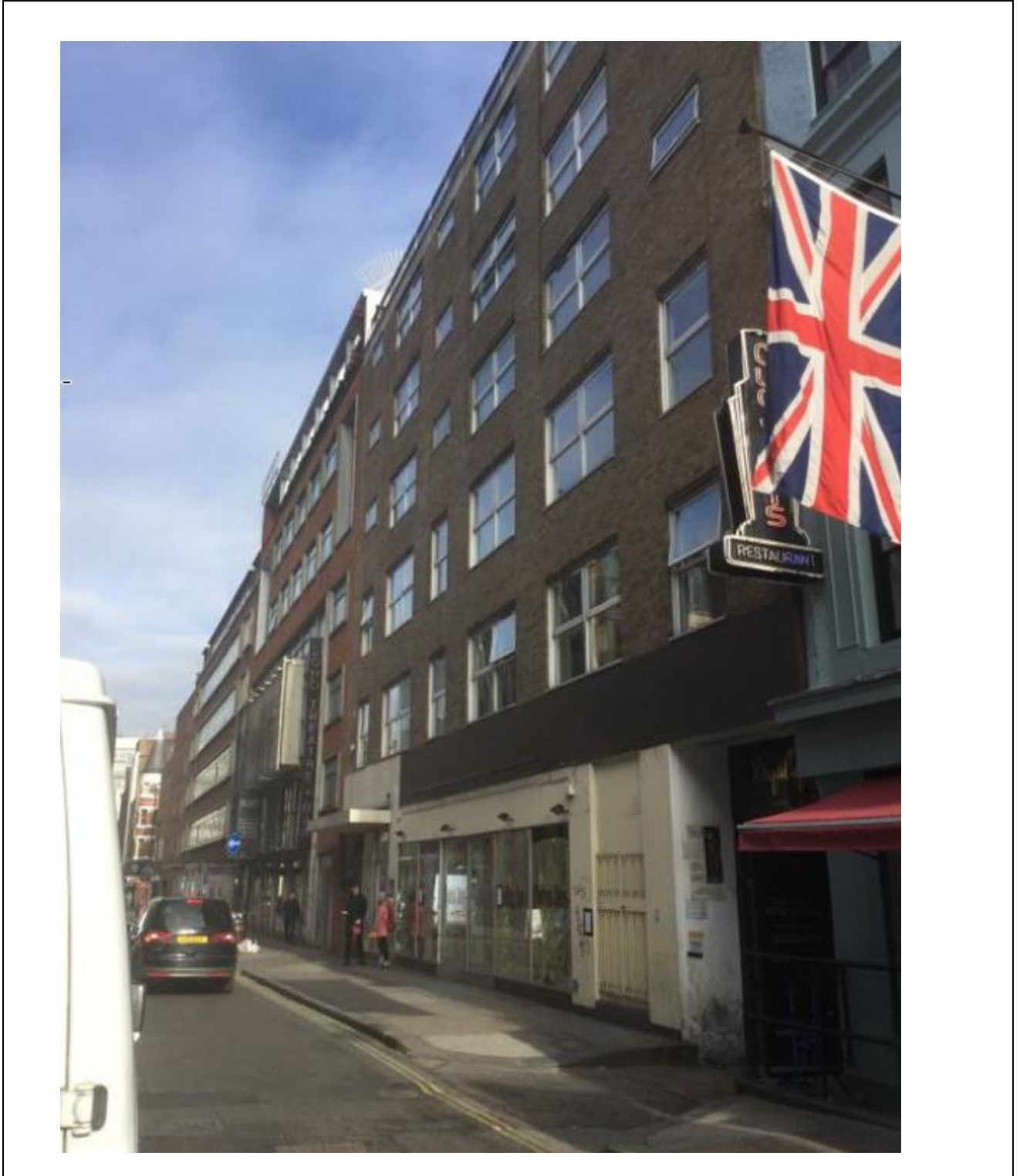
and City Plan policies and are therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

Application 1 (Shopfront)

SOHO SOCIETY:

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 29 Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

Application 2 (Tables and chairs)

SOHO SOCIETY

No objection

CLEANSING

No objection

HIGHWAYS PLANNING

Concern about the ability to removal/store benches

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 24 No of replies: 1 No. of objections: 1

The Townsend House Residents' Association would object to the application if the applicants do not propose to replace the shopfront awning (as this helped to ameliorate nuisance from cigarette smoke /passive smoking to the upper floors)

PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application premises is a ground floor restaurant within an unlisted building located on the east side of Dean Street, within the Soho Conservation Area. The site is within the West End Stress Area.

The first and second floor of the building are in office use (Class B1). The third to sixth floors are occupied as twelve residential flats (Class C3) properties over third to sixth floors.

There is an internal storage area at the rear of the premises, which is accessed from Chapone Place.

The permitted restaurant opening hours are between 07:00 and 01:00 Monday to Saturday and 09:00 and 00:00 on Sunday.

This part of Dean Street is characterised by a mix of retail and restaurant uses at ground floor with residential and office uses on the upper floors.

6.2 Recent Relevant History

9 May 1995: Certificate of Lawful Use (Existing) issued in relation to the use of the ground floor as Class A3 restaurant (95/02240/CLEUD).

The site has a history of permission (since 2012) for the use of the public highway for the placing of 5 tables and 20 chairs, in an area measuring 12.6m x 0.9m, in association with the ground floor restaurant use. The latest of these expires in 31 January 2019.

The premises have now changed hands and the proposed seating layout is different from that previously approved.

At the time of drafting this report, in addition to the applications for tables and chairs and a new shopfront, a further application is under consideration for:

- the display of an A-board (17/01618/ADV).

Further applications have recently been approved for:

- the display of 1x externally illuminated fascia sign and 1x projecting sign (17/00286/ADV), approved on 18.01.2017;
- the display of 3 x externally illuminated fascia signs and 1x projecting sign (17/01092/ADV), approved on 14.02.2017.
- The installation of four external condenser units (17/00284/FULL), approved 6.03.2017.

7. THE PROPOSALS

Application 1:

This application is for the installation of a new shopfront consisting of openable sash windows above a fixed stallriser.

The application has been amended to revise the shopfront design. Bi-folding doors have been replaced by sash windows above a fixed stallriser of a more traditional design. Wall heater and light fittings which were to be attached to the ground floor elevation to serve the proposed external seating area, have also been omitted.

Application 2:

This application is for the use of the public highway for the placing of 5 tables and 20 chairs in an area measuring 0.90m x 8.00m in association with the restaurant use.

The seating layout, which originally proposed 5 tables and 10 benches, has been amended to include individual seats rather than benches.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The premises are in lawful restaurant use. These applications do not raise any land use issues.

8.2 Townscape and Design

The application premises is located within the Soho Conservation Area, adjacent to a grade I listed building at 26- 29 Dean Street and opposite a number of grade II and grade II* listed buildings on the west side of Dean Street. This 20th century building has a particularly wide frontage, in contrast to the narrow plot widths which are more typical of the conservation area

The existing shopfront is of no architectural merit and its removal is considered uncontentious in design terms. Officers considered the original proposals, with a fixed timber stallriser and bi-folding windows above, to be unacceptable in design terms. Policy DES 5 of the City Council's Unitary Development Plan states that permission will generally be granted for new shopfronts '*where they relate satisfactorily to the design of the upper parts of the building*' and '*where the new shopfront is not designed to be entirely or largely openable, in the absence of local circumstances or established patterns of trading activity.*'

Furthermore, the City Council's Supplementary Planning Guidance 'Food and Drink Premises', (1999) also states that '*an opening shopfront often has folding or sliding doors, which, when open, create an opening in the shop frontage which may extend almost the full width of the ground floor. In most cases these shopfronts do not relate architecturally to the building in which they are installed, or to the street. Creating these openings within a terrace of more solid and traditional shopfronts can be harmful to the appearance of the street and the character and appearance of a conservation area...*'

When open, bi-folding windows across the width of this building, would have created a large void in the streetscape and would have failed to relate architecturally to the upper floors of the building, A greater degree of vertical subdivision was considered necessary to ensure the new shopfront relates more successfully to the design of the upper parts of the building and to reduce the extent of the void created. The revised design, with sliding sash windows and fixed vertical mullions in between, reduces the extent of opening and the size of the void created. The proposals incorporate less glazing than the existing shopfront and echo the treatment of fenestration to the upper floors, which is welcomed. The revised shopfront is considered acceptable in design terms.

Subject to conditions to secure details of the proposed shopfront the proposal is considered to comply with DES 5 and DES 9 of the City Council's Unitary Development Plan and is considered to preserve the character and appearance of this part of the Conservation Area.

The provision of external seating is considered acceptable in townscape terms.

8.3 Amenity

8.3.1 Shopfront

Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development. Similarly, Policies ENV 6 and ENV 7 of the UDP seek to control noise disturbance from development. Of particular relevance, is paragraph 9.108 of Policy ENV 7 which states that 'The City Council will discourage provision of openable shop fronts that would enable noise from inside the premises to be heard outside'.

The nearest residential properties are located on the upper floors of the application building. Records indicate that there are further residential properties on the upper floors of 78 and 79 Dean Street, opposite the site. No objections have been received to this application

The existing shopfront incorporates two sets of double doors which are openable, but their use is not controlled by condition. Openable shopfronts will generally be resisted where there is the potential for internal noise to escape and cause disturbance to neighbouring residents. Given the proximity of flats on the upper floors of the building, the applicants have agreed to a condition requiring the openable elements of the shopfront to be closed at 22:00 hours. Given the need to safeguard residents' amenity it is also recommended that a condition is imposed to restrict noise levels from within the premises when the shopfront windows are open. Subject to these conditions, in this busy central street, it is not considered that the proposals would have a material impact upon the amenities of neighbouring residents.

8.2 Tables and chairs

In addition to policies S29 and ENV 7, detailed above, the supporting text to UDP Policy TACE 11 states that the City Council normally would not permit external tables and chairs where the upper floors of the building are in residential use. However, in this case, there is a history of permission for the placing of 5 tables and 20 chairs on the highway outside the premises, dating back to 2012. The latest of these permissions was granted in January 2017.

The premises have changed hands and the new tenants have applied for a revised seating layout with 5 tables and 20 chairs within a slightly reduced area (0.90m x 8.00m). The use of the seating would be limited to between 10:00 and 23.00 (Monday to Saturday) and between 10.00 and 22.00 (Sundays and Bank Holidays). These hours are the same as those previously permitted.

No objection has been received to the proposed seating. However, residents of the building have advised that they would object to the application if the applicants do not intend to replace the shopfront awning, which previously flats on the upper floors from nuisance/passive smoking from cigarette smoke rising from the outside seating area. Whilst the Council could not reasonably insist upon the replacement of the awning, it is referred to on the submitted drawings for the replacement shopfront. However, the awning

details were removed from the shopfront application as awning, with a premises name, would benefit from deemed advertisement consent.

The residents are also concerned that the door marked 'service door' on the submitted plans is, in fact, the entrance door to the flats. However, this door to which the objector relates is actually a new service door to the restaurant, which does not currently exist. The plans have been amended to clarify this point.

8.4 Highways

The Highways Planning Manager expressed concerns about the original application regarding the applicant's ability to store the proposed benches within the premises at times when the restaurant was open but after the time when the seating was required to be removed from the highway (23.00 hours). Permanent structures are not permitted to be stored on the public highway, and the licensed area must be capable of reverting to highway use so that it can be washed down.

The applicant has since amended the proposal to replace the benches originally proposed with individual chairs (similar to the extant permission). This would facilitate the removal of the tables and chairs which will be moved to an internal storage area at the rear of the premises, accessed from Chapone Place.

The Highways Planning Manager has reviewed the amended layout and has raised no objection.

The Westminster Way requires a minimum 2m width of public highway beyond the proposed seating area to be maintained, free of physical obstructions to allow for pedestrian traffic. The submitted plans indicate that the proposals would comply with this requirement and the proposal is therefore considered acceptable on highways grounds.

8.5 Economic Considerations

Any economic benefits arising from these applications are welcomed.

8.6 Access

Access to the property would be retained as existing.

8.7 Other UDP/Westminster Policy Considerations

None.

8.8 London Plan

These applications raise no strategic issues.

8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of these applications are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

Planning obligations are not relevant in the determination of these applications.

9. BACKGROUND PAPERS

Application 1

1. Application form
2. Response from the Soho Society dated 7 February 2017

Application 2

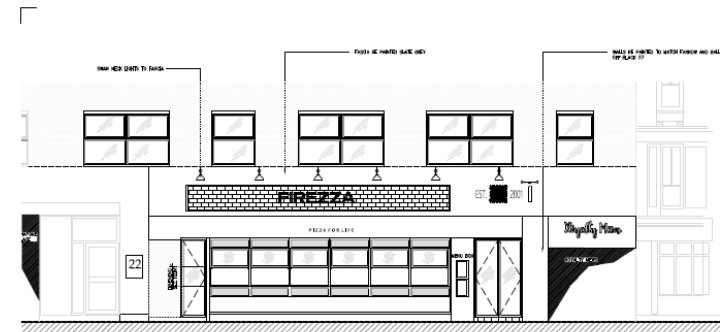
- 1 Application form and e-mail dated 7 March 2017
- 2 Response from the Soho Society dated 7 March 2017
- 3 Responses from Highways Planning Manager dated 27 February and 8 March 2017
- 4 Response from Project Officer (Waste) , dated 20 February 2017
- 5 Objection on behalf of the Townsend House Residents' Association dated 23 February 2017

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

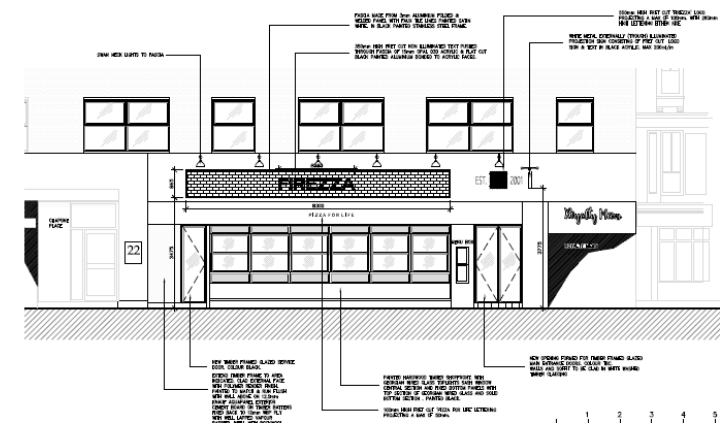
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk

10. KEY DRAWINGS

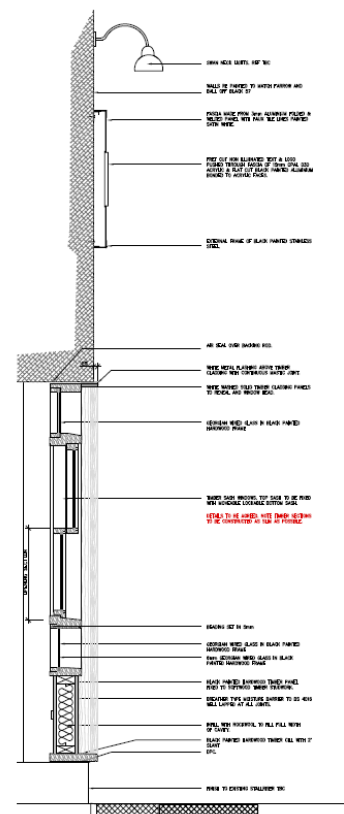
Application 1 – replacement shopfront



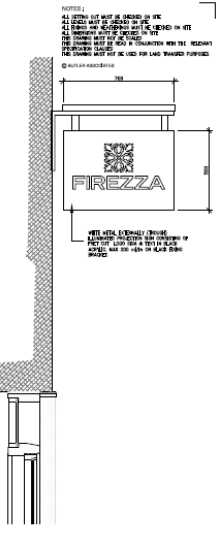
15 FRONT ELEVATION WITH SASH WINDOWS OPEN SCALE 1:50



16 FRONT ELEVATION WITH SASH WINDOWS CLOSED SCALE 1:50



17 SHOPFRONT SECTION SCALE 1:10

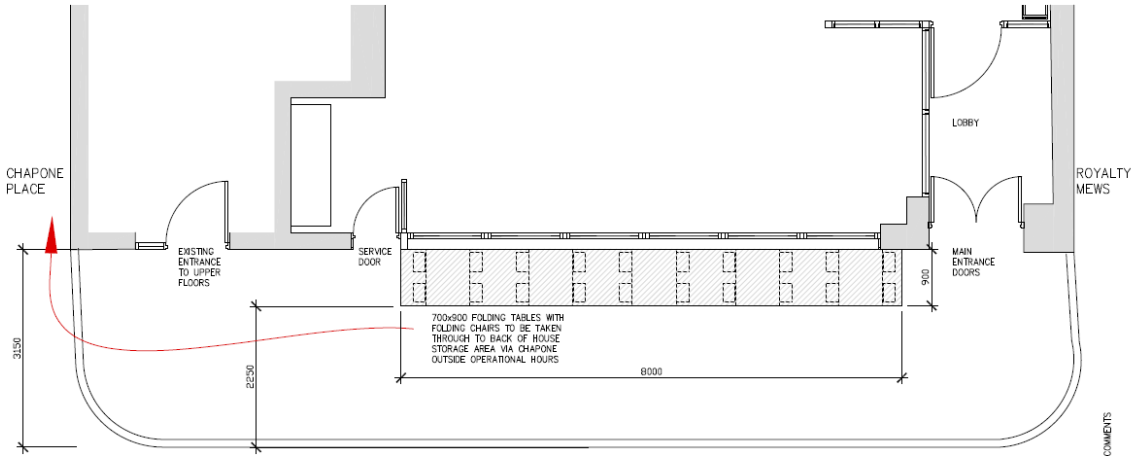


18 SHOPFRONT SECTION SHOWING PROJECTING SIGN - SCALE 1:10



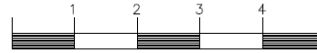
Project:	PIZZERIA
Location:	22, QUEEN STREET, LONDON W1D 3JY
Architect:	BUTLER ASSOCIATES
Structural Engineer:	BUTLER ASSOCIATES
Scale:	AS SHOWN
Date:	18/08/2024
Drawn By:	[Signature]
Checked By:	[Signature]
Project No.:	1684/P10
Sheet No.:	C

Application 2 –tables and chairs



DEAN STREET

EXTENT OF AREA USED FOR EXTERNAL SEATING



C. 06/03/17 REVIEWED TO PLANNING CONSULTANT COMMENTS
revision date notes

Drawing		Date	Scale
PROPOSED EXTERNAL SEATING PLAN		JAN 2017	1:50
1684/D103		Drawing No.	Ref.
1684/D103			C
24, CRYSTAL PALACE ROAD, CRYSTAL PALACE, LONDON E9 8JH T: 020 3008 1100 F: 020 3008 1101 E: info@butlerassociates.co.uk			

DRAFT DECISION LETTER

Address: Ground Floor Townsend House , 22-25 Dean Street, London, W1D 3RY

Proposal: Installation of new shopfront, incorporating openable sash windows.

Reference: 17/00285/FULL

Plan Nos: 1684/P10 REV C

Case Officer: Shaun Retzback

Direct Tel. No. 020 7641 6027

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: between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 on Saturday; and not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and 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 S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must close the shopfront windows hereby approved between 22:00 each day and 08.00 the following morning.

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 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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must apply to us for approval of 1:5 and 1:20 drawings of the following parts of the development sliding sash windows. You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these detailed drawings. (C26DB)

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 Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 At times when the shopfront hereby permitted is open
- (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant, 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 when the windows within the shopfront are open, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.
- (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within restaurant, 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 when the windows within the shopfront are open, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.
- (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved when the windows within the shopfront are open. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in

- respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
 - (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
 - (f) The proposed maximum noise level to be emitted by the activity.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

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 The lettering on the canopy has 'deemed' consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. This means that you do not need to apply for planning permission for the canopy. However, if you want to light up the lettering by spotlight or other means, you will need to apply for 'express' consent under the advertisement regulations. And if you remove the lettering, the canopy will require planning permission. (I43AA)

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: Ground Floor Townsend House , 22-25 Dean Street, London, W1D 3RY

Proposal: Use of the public highway for placing 5 tables and 20 chairs in an area measuring 0.90m x 8.00m with the existing ground floor use.

Reference: 17/00796/TCH

Plan Nos: 1684/D103 REV C

Case Officer: Shaun Retzback

Direct Tel. No. 020 7641 6027

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 You must not put the tables and chairs in any other position than that shown on drawing 1684/D103 REV C. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 Customers are permitted to use the tables and chairs between 10.00 - 23.00 (Monday - Saturday) and 10.00 - 22.00 (Sunday and Bank Holidays). (C25BA),

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 4 You can only put the tables and chairs on the pavement between 10.00 - 23.00 (Monday - Sunday).

Outside of these hours all furniture will be stored within the restaurant.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 5 The tables and chairs must only be used by customers of the ground floor unit. (C25CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 6 This use of the pavement may continue until 31 March 2019. You must then remove the tables and chairs. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 7 You can only put out on the pavement the tables and chairs shown on drawing 1684/D103 REV C. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 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. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

- 3 You cannot put tables and chairs in the area unless you have a street trading licence. If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)

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.