

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 July 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	50 Marylebone High Street, London, W1U 5HN		
Proposal	Variation of Condition 3 of planning permission dated 21 April 2015 (RN 14/11015/FULL) for, 'Part redevelopment with alterations and extensions for restaurant (Class A3) and retail (Class A1) use on basement and ground floors with six flats at first, second and third floors and plant to first floor rear level', in order to allow an extension to the terminal hour for the restaurant over basement and ground floor level on Monday to Saturday nights from 00.00 to 00.30 (Sundays, Bank Holidays and other public holidays are unaffected).		
Agent	RadcliffesLeBrasseur		
On behalf of	Corbin & King Restaurant Group Limited		
Registered Number	17/00989/FULL	Date amended/ completed	21 February 2017
Date Application Received	8 February 2017		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises a restaurant (Class A3) occupying the basement and ground floors of an unlisted building located within the Harley Street Conservation Area. The site is located within the Central Activities Zone (CAZ) but outside the Core CAZ. The site is not located within a stress area.

The site is at the northern end of Marylebone High Street which is mixed in character, comprising retail and restaurant uses on the lower floors with offices and residential flats above. There are a significant number of residential properties in the immediate vicinity of the site. The upper floors of the application premises, adjacent premises and properties directly opposite are all in residential use.

The restaurant is permitted to trade between 07.00 and 00:00 (Monday to Saturday) and between 08.00 and 23.30 (Sundays, bank holidays and public holidays). An area in front of the restaurant is permitted to be used for *al fresco* dining until 23.00 (Mondays to Saturdays) and 22.00 (Sundays and

Bank Holidays). This temporary permission expires on 31 May 2018.

When permission was originally granted for the redevelopment of this site in 2001, all customers were required to have vacated the restaurant by 23.30. This terminal hour was extended to 00.00 on Monday to Saturdays on 21 April 2015.

This application seeks to vary the wording of Condition 3 of the 2015 permission in order to further extend the terminal hour for the restaurant's operation from 00.00 to 00.30 on Mondays to Saturdays. No change is proposed on Sundays and Bank Holidays.

The northern end of Marylebone High Street is more residential in character than the southern end. The central issue is whether, given the character of the street and the circumstances of the case, extending the operating hours from 00.00 to 00.30 on Mondays to Saturdays would be harmful to the amenity of residents in the vicinity of the site.

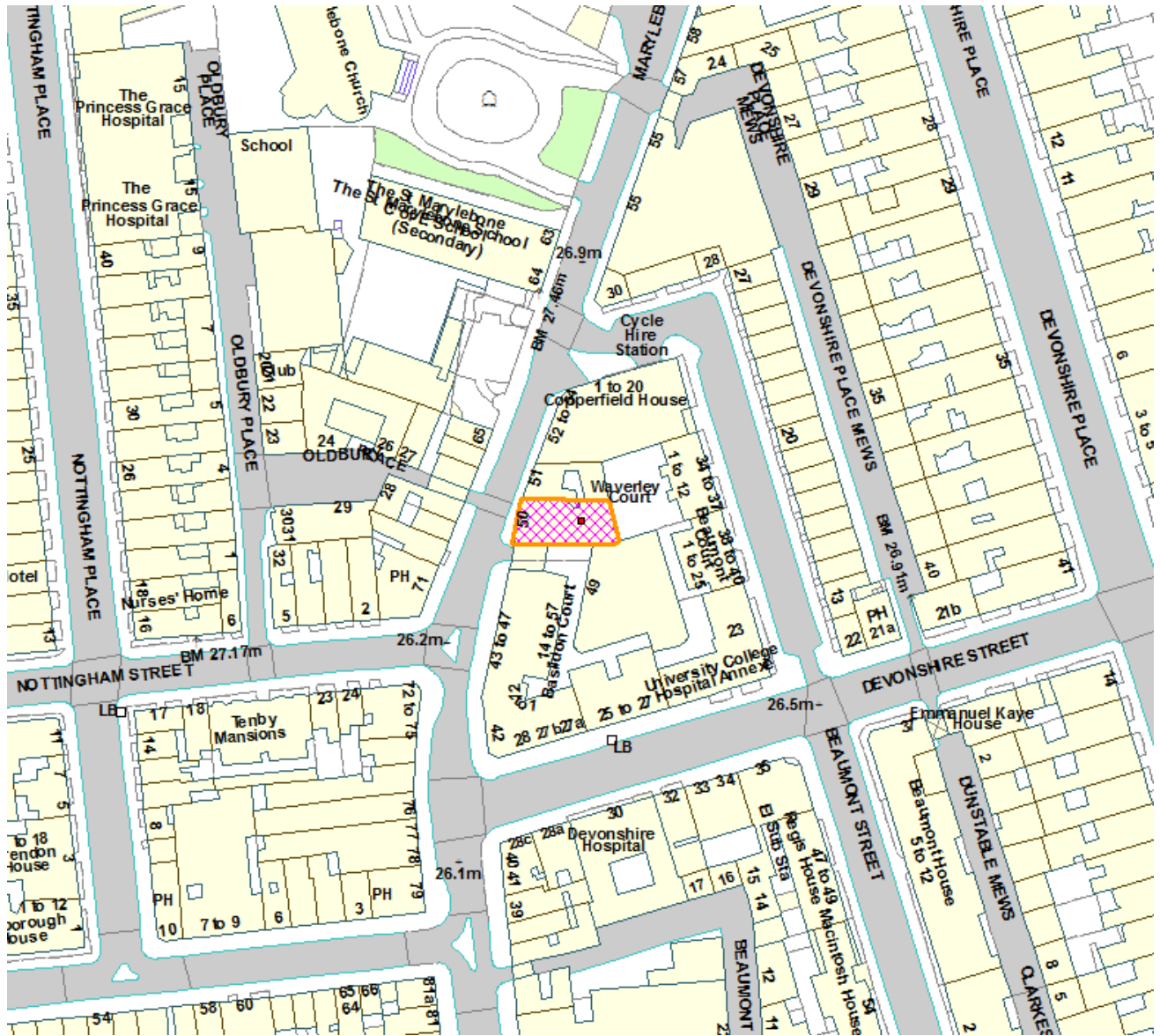
According to the approved drawings for the 2001 permission, a bedroom is located above the entrance to this restaurant at first floor level and also immediately to the north of the site at No. 51 Marylebone High Street (also at first floor level). Occupants of the flats about the restaurant and in neighbouring buildings have been consulted but no responses have been received.

Ensuring that the City is an attractive place for residents to live is of central importance, with City Plan Policy S29 stating that the City Council will resist proposals that result in an unacceptable material loss of residential amenity. However, this protection of residential amenity must be balanced against ensuring that commercial operators are not unduly restricted. The City Council's general approach to opening hours in predominantly residential areas is set out within UDP Para. 8.88 where it states:

"As a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays (other than those immediately preceding Bank Holidays) to Thursdays, and after 12.30 a.m. on the following morning on Friday and Saturday nights and on Sundays immediately preceding Bank Holidays. An earlier closing time may be sought where there are residential uses in immediate proximity".

The proposal does not accord with the City Council's general approach in predominantly residential areas on Mondays to Thursdays by opening beyond midnight. However, the site is located on a fairly busy street in a mixed use area. Furthermore, the restaurant is modest in size (i.e. under 500 sq.m) and there have been no complaints in respect to late night noise from customers leaving the restaurant. There have also been no objections to this application. For these reasons, it is considered that a terminal hour of 00.30 on Mondays - Saturdays is acceptable in the context of Marylebone High Street, as it is unlikely to cause an unacceptable loss of residential amenity for local residents. Therefore the proposal is considered to be in accordance with City Plan Policy S29 and it is accordingly recommended that permission be granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

THE MARYLEBONE ASSOCIATION - No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 185; Total No. of Replies: 0.

ADVERTISEMENT/SITE NOTICE: Yes.

6. BACKGROUND INFORMATION- Relevant Planning History

Permission was granted on 2 October 2001 (Ref: 00/06626/FULL) for, 'Part redevelopment with alterations and extensions for restaurant (Class A3) and retail (Class A1) use on basement and ground floors with 6 flats at first, second and third floors, plant to first floor rear'. Condition 5 of this permission reads:

"The restaurant use hereby permitted shall not be carried on except between the hours of 09.00 to 22.00. Between the hours of 22.00 and 22.30 no customers shall be admitted to the restaurant and by 11.30pm all customers shall have vacated the restaurant".

An application (Ref: 10/02902/FULL) to vary Condition 5 of the 2001 permission to allow the restaurant to open at 07.00 hours daily was refused on 16 June 2010 on the grounds that the earlier opening hours would result in noise and disturbance to residents. On 27 January 2011 an appeal against this refusal was allowed, permitting the restaurant to open at 07.00 on Mondays - Saturdays and 08.00 on Sundays.

An application (Ref: 14/04632/TCH) to use of the two areas of public highway both measuring 1.85m x 0.75m for the placing of 2 x tables and 4 x chairs in connection with the restaurant (Class A3) at No. 50 Marylebone High Street was permitted on 1 July 2014. Condition 3 limited the operating hours to between 09.00 - 18.00. An application (Ref: 14/08495/FULL) to vary the wording of Condition 3 to extend the operating hours to 08.00 to 23.00 hours (Mondays to Saturdays) and 09.00 to 22.00 hours (Sundays and Bank Holidays) was permitted on 27 October 2014. The latest 'tables and chairs' permission (Ref: 16/02290/TCH) has the same condition in respect to hours of use and is a temporary permission that expires on 31 May 2018.

An application (Ref: 14/11015/FULL) was granted on 21 April 2015 to vary Condition 3 of planning permission dated 13 May 2014 (RN:14/01407/FULL) (a permission granted following an application to vary the servicing hours of the 2001 permission) to allow an extension of trading hours to 07.00 to 00:00 Monday to Saturday (from 07.00 to 23.30) (no change was proposed on Sundays or Bank Holidays).

7. BACKGROUND PAPERS

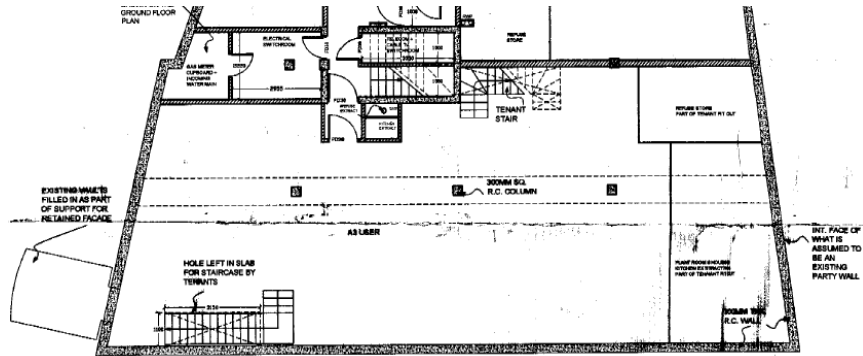
1. Application form
2. Response from Marylebone Association, dated 24 March 2017

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

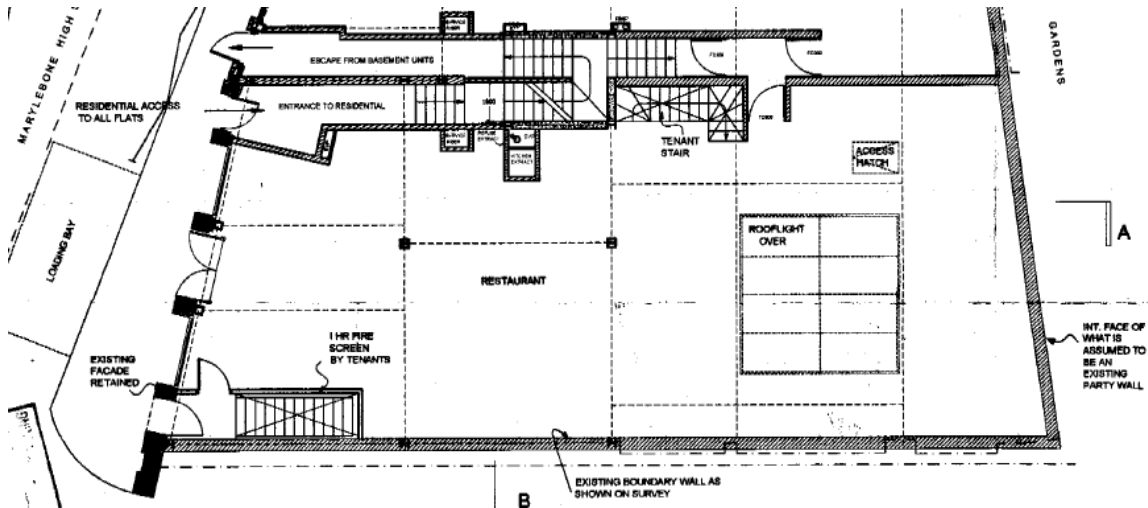
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER:
PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk.

8. KEY DRAWINGS

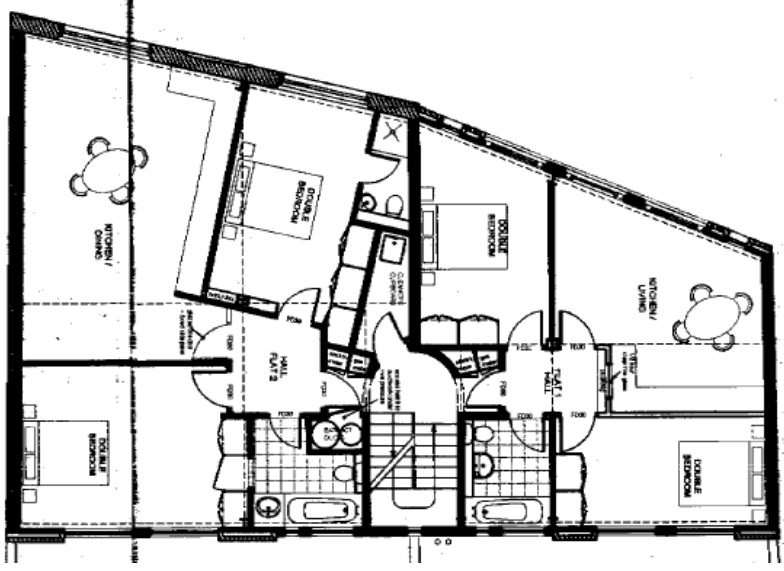
Permitted basement floor plan (2001 permission):



Permitted ground floor plan (2001 permission):



Permitted first floor plan (2001 permission – second and third floors similar):



DRAFT DECISION LETTER

Address: 50 Marylebone High Street, London, W1U 5HN,

Proposal: Variation of Condition 3 of planning permission dated 21 April 2015 (RN 14/11015/FULL) for, 'Part redevelopment with alterations and extensions for restaurant (Class A3) and retail (Class A1) use on basement and ground floors with six flats at first, second and third floors and plant to first floor rear level', in order to allow an extension to the terminal hour for the restaurant over basement and ground floor level on Monday to Saturday nights from 00.00 to 00.30 (Sundays, Bank Holidays and other public holidays are unaffected).

Reference: 17/00989/FULL

Plan Nos: 961/97/01-08; 775/P10X, P11R, and P12M.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

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	The restaurant use hereby permitted shall only be used for restaurant purposes and for no other purpose (including any other purpose within Class A3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or reenacting that Order). Any bar use shall remain ancillary to the primary restaurant use and drinks shall not be sold or supplied within the restaurant other than to diners immediately before, during or immediately after their meal.
	Reason: We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (November 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)
3	Customers shall not be permitted within the ground and basement floor restaurant premises before 07.00 or after 00.30 (the following morning) on Monday to Saturday (not including bank holidays and public holidays) and before 08.00 or after 23.30 on Sundays, bank holidays and public holidays. (C12BD)

	Reason: To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)
4	The refuse store(s) shown on approved drawing no. 775/P10X, P11R, P12M shall be provided prior to the occupation of the development and thereafter shall be maintained permanently for the storage of refuse for the occupiers of the development and shall be used for no other purpose, unless otherwise agreed in writing by the City Council as local planning authority. Refuse shall be stored within the premises at all times, other than immediately prior to collections. (C14D)
	Reason: To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)
5	No doors or gates shall be hung so as to open over or across the public highway. (C24A)
	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 TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)
6	The roof of the building shall not be used for sitting out or for any other purpose not previously approved by the City Council as local planning authority, except as a means of escape in the case of emergency. (C21A)
	Reason: To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)
7	The means of access and egress for people with disabilities to the retail and restaurant units shall be permanently retained to the satisfaction of the City Council as local planning authority, in accordance with the detailed drawings approved on 22 November 2001 (RN 01/09102/ADFULL).
	Reason: To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)
8	Notwithstanding the provisions of Class A3 of the Town and Country Planning (Use Classes)

	Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) no food or drink of any kind shall be sold on the premises for consumption off the premises. (C05C)
	Reason: We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (November 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)
9	The total capacity of the ground floor restaurant use hereby approved shall be a maximum of 100 customers at any one time of which a maximum of 20 shall be accommodated within the ancillary bar area.
	Reason: We cannot grant planning permission for unrestricted use within Class A3 because it would not meet S24 and S29 of Westminster's City Plan (November 2016) and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05CC)
10	The glazing to the rooflight shall be fixed shut and permanently retained as such.
	Reason: In order to protect the amenity of adjoining occupiers.
11	The blinds within the rooflights at rear first floor level shall be retained in situ and closed between the hours of sunset and 9.00am.
	Reason: In order to protect the amenity of adjoining occupiers by preventing the outbreak of artificial lighting.
12	No music shall be played in the restaurant and retail units hereby approved which is audible outside the premises.
	Reason: In order to protect the amenity of adjoining occupiers.
13	<p>Servicing of the retail unit at No. 51 Marylebone High Street shall only take place between the hours of 8.00am and 18.00 and at no other time.</p> <p>Servicing of the restaurant unit at No. 50 Marylebone High Street shall only take place between the hours of 07.00 and 18.00 (Mondays to Fridays) (except Bank Holidays) and 08.00 - 18.00 (Saturdays, Sundays, and Bank Holidays).</p>
	Reason: In order to protect the amenity of adjoining occupiers.

14	The plant screen installed at rear first floor level shall be retained in place for as long as plant is in situ in this location.
	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 Harley Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 4 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26DD)
15	No mechanical plant, ductwork, tanks, satellite or radio antennae or other structures shall be located on the roof other than those shown on the drawings hereby approved. (C26P)
	Reason: Because these would harm the appearance of the building, and would not meet S25 or S28, or both, of Westminster's City Plan (November 2016) and DES 1 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R26HC)

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.

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.