

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 August 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	28 South Molton Street, London, W1K 5RE,		
Proposal	1. Use of the basement, ground and first floor for retail and restaurant use (sui generis) purposes, external alterations to Davies Street including the installation of vents at ground floor level. 2. Use of an area of public highway (on South Molton Street) measuring 21.7m x 3.15m for placing 28 tables and 56 chairs and 19 breeze screens.		
Agent	Bidwells		
On behalf of	Caffe Concerto Ltd		
Registered Number	1. 18/03818/FULL 2. 18/02313/TCH	Date amended/ completed	9 May 2018
Date Application Received	1. 9 May 2018 2. 23 March 2018		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

1. Grant conditional permission.
2. Grant conditional permission, for a temporary period of one year.

2. SUMMARY

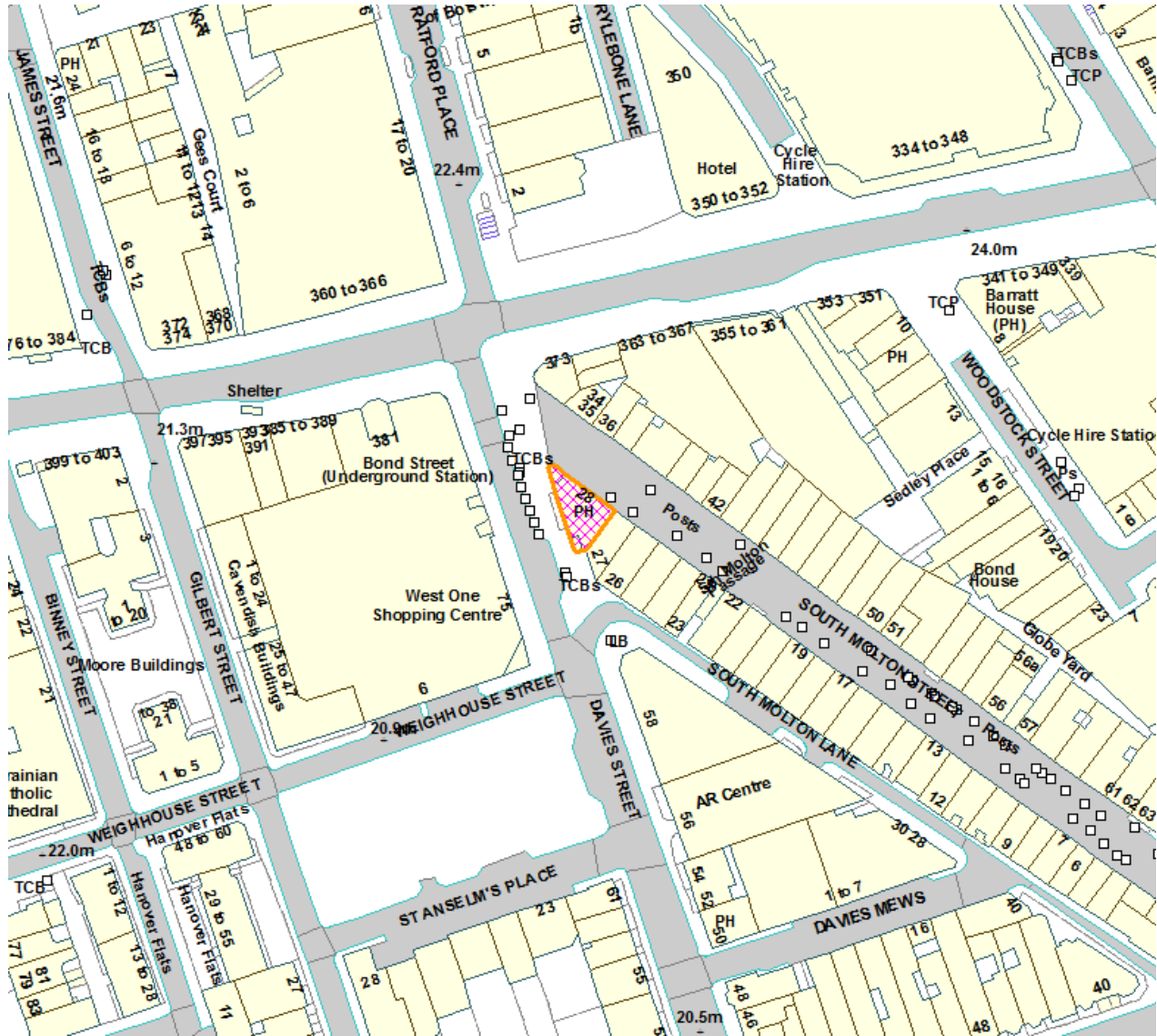
The application site relates to the basement, ground and first floor of this triangular building, situated off Oxford Street. The building has frontages on South Molton Street and Davies Street and was constructed in 2012, following consent granted in 2009. The lawful use of the building is for retail purposes over basement, ground, first and second floors, offices at third and fourth floor level and a residential unit at fifth floor level. Permission is sought (retro speculatively) for the use of the basement, ground and first floors as a retail/restaurant (sui generis). Permission is also sought for the placing of tables and chairs on the highway on South Molton Street.

The key issues for consideration are:

- the loss of retail floorspace;
- the impact of the proposed use on the character and function of the area; and
- the impact of the tables and chairs on the highway.

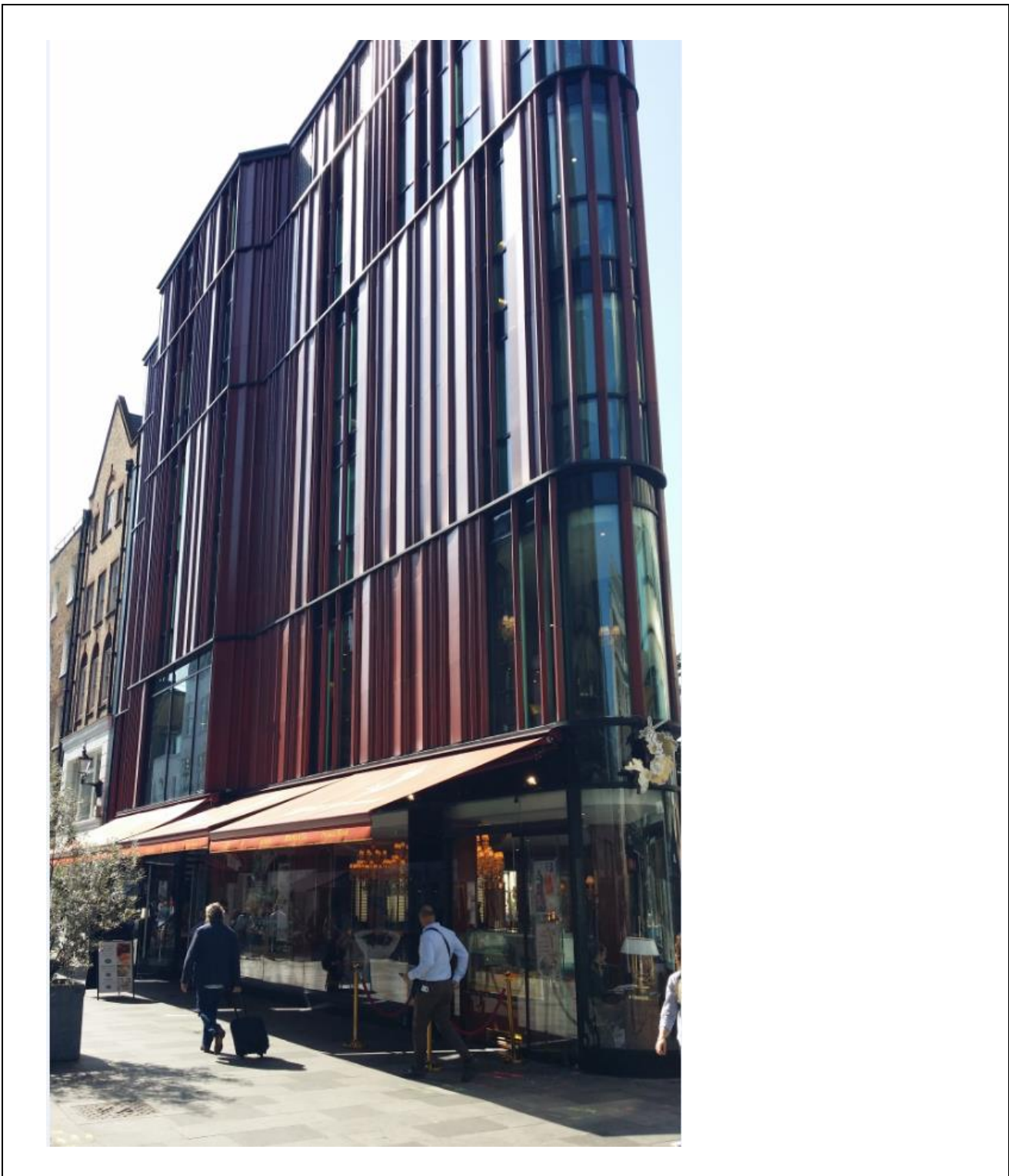
A retail use in this location has only existed since 2012, when the building was redeveloped. Prior to the demolition, the basement and ground floors were in use as a public house. It is considered that although the loss of the retail use is regrettable, the re-introduction of a complementary use, which include external seating in the West End Special Retail Policy Area is acceptable and in line with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan).

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



5. CONSULTATIONS

Application 1

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER

Objection – lack of cycle parking.

CLEANSING

No objection.

ENVIRONMENTAL HEALTH

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 27

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Application 2

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER

No objection, although concern raised to the density of tables and chairs.

CLEANSING

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 73

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is a triangular building, set back from Oxford Street and with frontages on South Molton Street and Davies Street. This is a new building following consent, which was granted in 2009, for the demolition of the existing building and redevelopment to create a building comprising basement, ground and five upper floors. The consent included the use of the basement, ground and first floors for retail

purposes, offices at second and third floors and three residential flats at fourth and fifth floor level.

Permission was subsequently granted in 2012 for the use of second floor for retail purposes (Class A1) and fourth floor for office purposes (Class B1). However, the second floor retail use does not form part of the application site.

Prior to 2009, the basement and ground floor were in use as a public house (Hog in the Pound).

The site is located in Core CAZ, the West End Special Policy Retail Area (WESPRA) and the Mayfair Conservation Area.

6.2 Recent Relevant History

Planning permission was refused on 26 April 2018 for use of the basement, ground and first floor for retail, cafe, restaurant use (sui generis) purposes, external alterations to Davies Street including the installation of vents at ground floor level.

The application was refused on the following grounds:

1. Your proposal would lead to the loss of retail floorspace over basement, ground and first floor levels. This unit has not been vacant for 18 months and a marketing report has not been submitted indicating that the retail unit is not viable. This is contrary to Policy S21 of Westminster's City Plan that we adopted in November 2016.
2. Your plans do not show suitable arrangements for ventilation and getting rid of cooking including reheating smells. This means that your use could cause a nuisance to nearby residents and street level environment. This would not meet S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE8, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

Planning permission was granted on 14 December 2012 for the use of the second floor for retail purposes (Class A1) and fourth floor for office purposes (Class B1).

Planning permission was granted on 6 September 2009 for the demolition of the existing building and redevelopment to provide a new building comprising basement, ground and first floor as retail (Class A1), second and third floor as offices (Class B1) and fourth and fifth floors as three self-contained residential flats (1x1 bed and 2x2 bed). Installation of roof plant.

There is no planning history for tables and chairs outside this premises. Therefore, it appears that tables and chairs associated with the previous public house on this site did not benefit from planning permission or indeed a street trading licence.

7. THE PROPOSAL

Permission is sought for the use of the basement, ground and first floors for retail and restaurant purposes (sui generis). The proposed user (and current occupier) is Caffè Concerto who operate a number of other cafes in the West End.

External alterations are proposed to the Davies Street elevation, which include the installation of four vents at ground floor level.

The proposed use comprises a mix of retail and restaurant elements and the applicant has stated that in terms of the sale of goods, 73.5% of the sales are retail sales with 26.5% for dining in. There are 40 internal covers, therefore it is not considered that the amount of covers would fall with Class A1. A separate application for tables and chairs has also been submitted and this includes external dining for 56 covers (96 covers in total).

The basement is used for back of house facilities including prep areas, dry stores, fridges and freezers. The customer toilets are also located at this level. The first floor (according to the submitted plans) are the companies office accommodation, HR, training facility. The website shows that the first floor is used for additional seating for the use. However, the applicants have stated that the first floor is only used for training purposes.

The applicants have indicated that there is no primary cooking from the premises with food being cooked off-site and reheated as ready meals on site.

Permission is also sought for the use of the public highway on South Molton Street for the placing of 28 tables, 56 chairs and 19 screens in an area measuring 21.7m x 3.15m.

The scheme has been amended since its original submission to reduce the proposed area and the number of tables and chairs.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of retail floorspace

The lawful use of the basement, ground and first floors is for retail (Class A1) purposes, comprising 426.4sqm.

City Plan Policy S6 states that the Core CAZ is an appropriate location for a range of commercial uses, with retail floorspace being a priority throughout the area. City Plan Policy S7 relates to the WESPRA, which states that the unique status and offer of the WESPRA will be maintained and enhanced.

City Plan Policy S21 deals directly with retail floorspace and states that existing A1 floorspace will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. In addition, UDP Policy SS5 states that A1 uses at ground, basement or first floor in the CAZ will be protected. This policy goes on to state that proposals for

non-A1 uses must not: 1. Lead to, or add to, a concentration of three or more consecutive non-A1 uses; 2. Cause or intensify an existing over-concentration of A3 and entertainment uses in a street or area.

Long-term vacancy is defined as being a period of 18 months and during this time, the unit should be marketed widely and on terms that are no more onerous than market conditions in the area. The unit has not been vacant for 18 months and a full marketing report has not been submitted.

As detailed above, permission was refused in May 2018 for the loss of retail floorspace on this site. In this resubmission, although a full marketing report has not been submitted, TK Retail Property Consultants have submitted a report, which provides further background to the problems faced by retailers in this location.

The freeholders of the building are Bosideng, as well as owning the site, they opened a menswear store over the basement, ground, first and second floors. The Bosideng retail unit left the premises in approximately November 2016 and during the next 15 months the retail floorspace was occupied by temporary retail tenants, who despite benefitting from discounted rental rates struggled to trade well. During this period, the freeholders marketed the retail floorspace, and apart of Caffé Concerto who eventually occupied the site, the other interest in this unit was from café/restaurant premises.

It is important to look at the previous history of the site. As set out above, prior to the redevelopment proposals, the basement and ground floor were occupied by a public house (from 1963-2011). City Plan Policy S7 relates to the WESPRA and states that the development of oasis areas of rest, including seating area, and A3 cafes and restaurant uses where appropriate in terms of scale and location, to support the main retail areas in the WESPRA. The applicants have submitted various independent research documents relating to the need to provide leisure uses in addition to retail uses to allow visitors to spend more dwelling time in high streets. It is recognised that the site is located off the main primary frontage and therefore is in an area where cafes and restaurants are more appropriate.

The applicants that the primary use of the premises would be for a sale of food and drink for consumption off the premises, with sales from this retail element being 75% of the business.

The loss of retail floorspace in this location does not strictly comply with City Plan policy S21. However, it is considered that as a retail use has only been operational for a short period and the lower floors historically (prior to the demolition of the building) have been in use as a public house, it would be difficult to justify a reason for refusal on the loss of the retail floorspace.

Introduction of retail/restaurant use (sui generis)

The proposed retail/restaurant/cafe (sui generis) comprises 426.4sqm therefore UDP Policy TACE8 applies. This relates entertainment uses which will be generally be permissible, provided that the City Council is satisfied that the proposal has: no adverse effect upon residential amenity or local environmental quality as a result of noise;

vibration, smells; increased late night activity; increased parking and traffic and no adverse effect on the character or function of its area.

There is a residential flat at fifth floor level, which is accessed via an entrance on Davies Street. The proposed use will include 40 internal covers at ground floor level. External seating is also proposed. The first floor will be used as an ancillary training facility, the applicants have stated that this area will not be used by members of the public. A condition is recommended to ensure that the first floor is not used for additional seating. The proposed use will be open to members of the public from 07.30-23.00 daily. These hours are in line with core opening hours set out in the UDP, and are considered acceptable. Any bar area should be limited to 15% of the use floorspace and this will be secured by condition.

As set out above, all food on-site is cooked and prepared off-site and is then heated in the kitchens via microwave oven and a Merrychef oven (an oversized microwave type unit). The menu has been submitted and this includes light bites including bread and olives, with starters including soup, salads and antipasto, toasted baguettes and sandwiches, pasta and risottos, pan fried salmon steak, lamb shank, chicken escalopes etc. The cafe also offers a large amount of cakes, which can be ordered and sold directly from this premises.

The applicant has not proposing to install a full height extract duct and is proposing to deal with cooking, heat, fumes and odours via a recirculation ventilation system (RecoAir). Environmental Health have stated that as an alternative to a full height discharging system a recirculation scheme may be permitted in the following circumstances:

- no external discharge of cooking fumes;
- all food equipment to operate by electricity only.

The applicant has confirmed that a recirculation system has been installed and there will be no external discharge of cooking fumes and all the food equipment is operated by electricity only. The re-circulation system includes a cut off system, which means that it will stop working if the maintenance regime is not carried out. Therefore, in these circumstances no cooking (or re-heating) would be able to take place. A maintenance regime has been submitted and an Operational Management Statement has been submitted, which states that the maintenance regime will be complied with, both of which will be secured by condition.

A condition preventing primary cooking is not considered to be necessary as there will not be any discharge of cooking fumes.

On this basis, it is considered that the proposed use is acceptable and in line with policies TACE 8 and S24.

8.2 Townscape and Design

The grilles at ground floor level on Davies Street are considered acceptable.

8.3 Residential Amenity

Four vents are proposed at ground floor level on Davies Street, one vent is a dummy vent, with one being used as a W.C extract and one as an air intake.

Re-circulation systems generate heat and one of the vents at ground floor level will be a bleed vent, which will be used to dissipate heat. Hot air could have an impact on amenity. However, as the nearest residential is located at fifth floor level, it is considered that the hot air will disperse and not have a detrimental impact on amenity. The bleed vent cannot dissipate all the heat generated by the re-circulation system and the applicant has confirmed that the existing internal condenser units will ventilate the kitchens.

In terms of the impact of the proposed tables and chairs, there is a residential flat at fifth floor level, which is accessed via Davies Street; there are also a number of residential flats on the upper floors in South Molton Street. The supporting text for UDP Policy TACE11 states that regard to the proximity of residential properties will be taken into account when considering the acceptability of the tables and chairs.

No objections have been received to the application and it is considered that the tables and chairs are acceptable in amenity terms, subject to a condition restricting the hours that the tables and chairs can be on the highway.

8.4 Transportation/Parking

The Highways Planning Manager has objected to Application 1, on the basis of the lack of cycle parking. As this is a new building, all cycle parking was approved for the residential and office uses. As there is no additional floorspace being created, it is not considered reasonable to request that further internal cycle spaces are provided.

In terms of the tables and chairs application, South Molton Street is a pedestrianised street, with vehicular access (servicing) from 07.00 – 11.00. The street is 12.6m wide and the Westminster Way states, for shared streets, each premises on each side of the street could occupy a quarter of the available space, leaving 50% of the highway as pedestrian clearway.

As set out above, the proposal has been amended to reduce the area the tables and chairs occupy and this is now in line with the Westminster Way. The Highways Planning Manager has raised concerns that the density of the tables and chairs may result in the proposed area being breached. However, it is considered that there is enough space to service the tables and chairs and permission could not be reasonably be withheld on these grounds.

It should be noted that this part of South Molton Street is likely to get busier when the Davies Street Crossrail station opens in December 2018. Therefore, the tables and chairs may cause an obstruction in the future. For this reason, the tables and chairs are limited to a one-year temporary consent to allow the City Council to assess the impact the tables and chairs may have on the public highway.

8.5 Economic Considerations

Any economic benefits generated by the proposals are welcomed.

8.6 Access

Access to the retail/restaurant use will be via the existing entrances on South Molton Street and Davies Street.

8.7 Other UDP/Westminster Policy Considerations

Not applicable.

8.8 London Plan

The applications do not raise any 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 these applications.

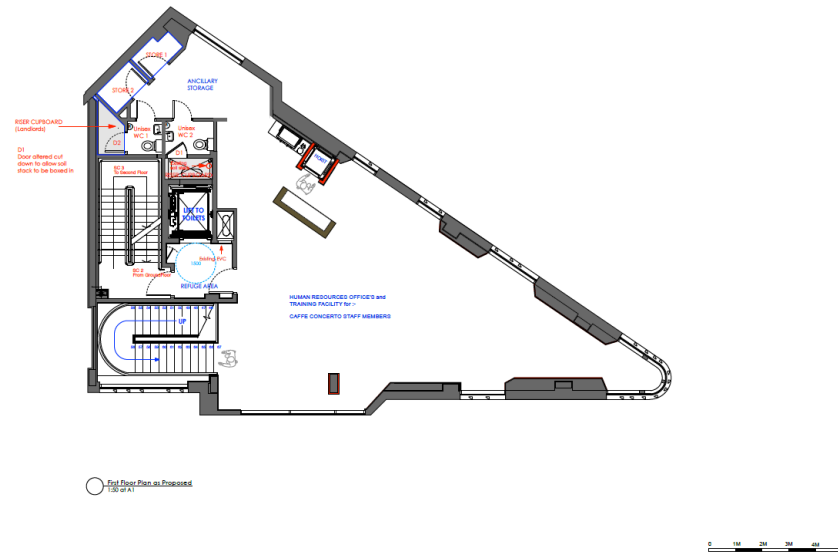
The proposals are not CIL Liable.

8.11 Environmental Impact Assessment

The proposals are of an insufficient scale to require an Environmental Impact Assessment.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk

Proposed first floor plan



ALL DIMENSIONS TO BE CHECKED ON SITE

NOTES

- REVISIONS
- REV A LP 06.08.17 Removed disabled toilet.
 - REV B AK 21.08.17 The block number revised. General work and setting out to be done as per recent site survey.
 - REV C DT 21.08.17 Drainage shown. New toilet location shown. Floor slab indicated.
 - REV D DT 28.09.17 Trench in level. Drainage shown. Additional tables and chairs shown.
 - REV E AK 03.08.17 Furniture proposed. Number of chairs indicated.
 - REV F AK 28.08.17 Furnishings indicated.
 - REV G HW 24.10.17 Updated food hot desk.
 - REV H HW 28.11.17 Drainage & services proposed.
 - REV I DT 14.12.17 Storage area shown. Ceiling reduced to 2.00m. Ceilings.
 - REV J DT 28.12.17 Disabled toilet shown. E.V.C note shown.
 - REV K DT 22.12.17 Disabled toilet shown.
 - REV L DT 08.01.18 Existing changing facilities and lockers near cabotage shown. New urban toilet shown. 1800 x 1200mm.
 - REV M DT 08.02.18 Additional service ducts shown with cabinet opening doors. Ceiling heights indicated.
 - REV N DT 08.02.18 Furniture removed. Additional notes added.

FOR BUILDING CONTROL APPROVAL

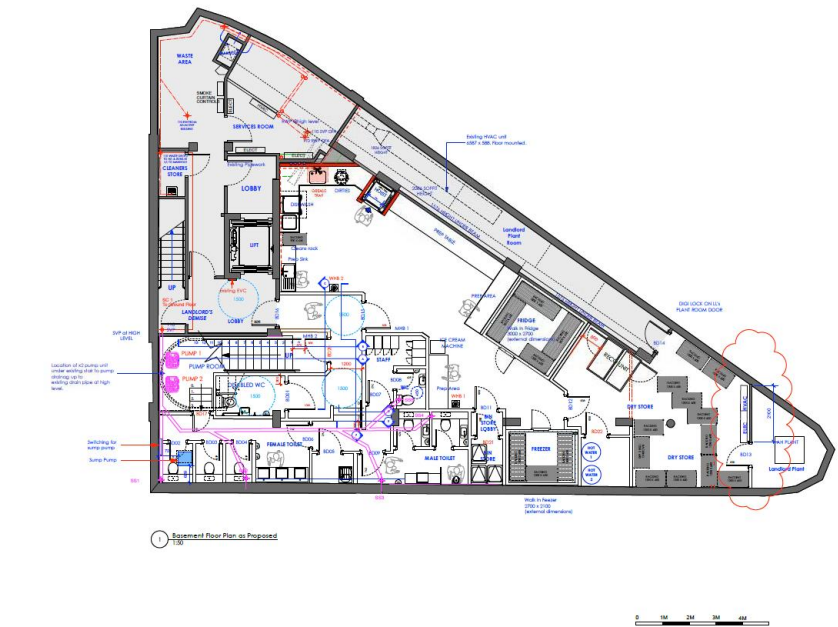


CLIENT
CAFFE CONCERTO
CAFFE CONCERTO
28 SOUTH MOLTON STREET

FIRST FLOOR PLAN AS PROPOSED

SCALE	DATE
1:50 @ A1	--
1:100 @ A3	--
DRAWN BY	CHECKED BY
AK	--
REVISION NUMBER	REV
03.013 - 101.3	Q

Proposed basement plan



DO NOT SCALE FROM THIS DRAWING. ALL DIMENSIONS TO BE CHECKED ON SITE

- REVISIONS
- REV A AK 29.08.17 1800 x 1200mm toilet.
 - REV B AK 08.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV C AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV D AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV E AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV F AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV G AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV H AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV I AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV J AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV K AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV L AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV M AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV N AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV O AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV P AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV Q AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV R AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV S AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV T AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV U AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV V AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV W AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV X AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV Y AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.
 - REV Z AK 28.09.17 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet. 1800 x 1200mm toilet.

FOR BUILDING CONTROL APPROVAL

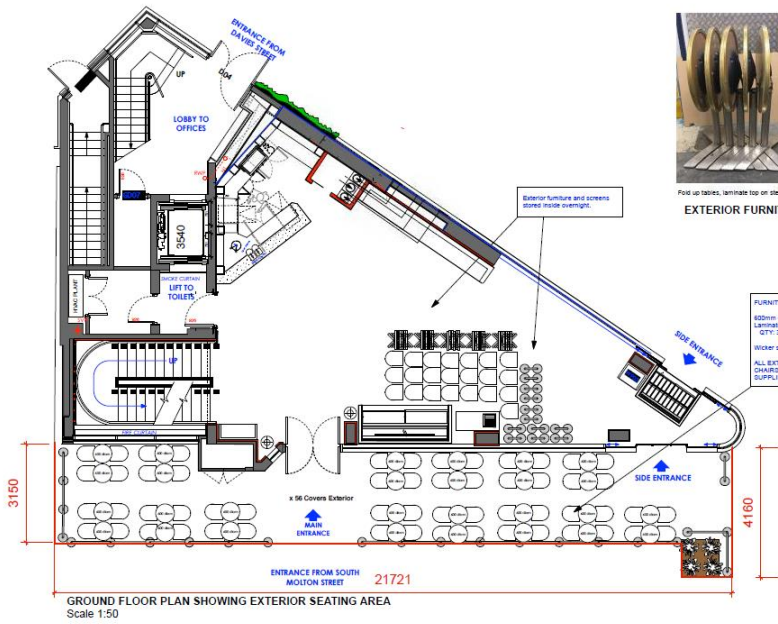


CLIENT
CAFFE CONCERTO
CAFFE CONCERTO
28 SOUTH MOLTON STREET
LONDON W1K 5RP

BASEMENT PLAN AS PROPOSED

SCALE	DATE
1:50 @ A1	--
1:100 @ A3	--
DRAWN BY	CHECKED BY
AK	--
REVISION NUMBER	REV
03.013 - 101.1	W

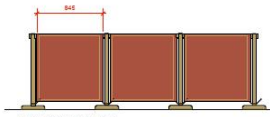
Proposed tables and chairs layout.



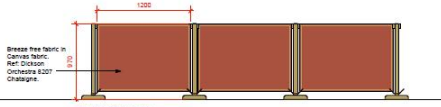
FURNITURE SCHEDULE

500mm diam Table	Laminate top and steel fold up base	QTY: 31
Wicker stackable chairs		QTY: 62
ALL EXTERNAL TABLED AND CHAIRS SUPPLIED BY CLIENT		

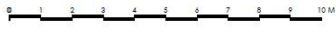
TOTAL AREA FOR PROPOSED SEATING AREA:
67 SQM



SIDE ELEVATION BREEZE FREE SCREENS
Scale 1:20



FRONT ELEVATION BREEZE FREE SCREENS
Scale 1:20



DO NOT SCALE FROM THIS DRAWING
ALL DIMENSIONS TO BE CHECKED ON SITE

REV A 18.01.18 JET
Plan amended to larger scale. Dimensions added to furniture

REV B 18.01.18 JET
Notes amended. Scale bar added.

REV C 18.01.18 JET
Breeze free screens added, including text height.

REV D 22.06.18 DT
Seating area reduced to 2.10m. Tables to zone of seating removed. Screens repositioned along entire perimeter and replaced with various barriers.

REV E 27.06.18 DT
Logic to remove free screens removed

SECTION
TOWN PLANNING

DOVER DESIGN
www.doverdesign.com
TEL: +44 (0)1323 73 2444
DRAWING PROJECT NUMBER

CLIENT
CAFFE CONCERTO

JOB TITLE
**CAFFE CONCERTO
28 SOUTH MOLTON STREET**

DRAWING TITLE
**EXTERIOR SEATING AREA
Tables, Chairs and Planter location.**

SCALE
1:50 @ A1
1:100 @ A3

DATE
11.10.18

DRAWN BY
AK & JT

CHECKED BY
AK & JT

NO. 03.013 - 098

DRAFT DECISION LETTER

- Address:** 28 South Molton Street, London, W1K 5RE,
- Proposal:** Use of the basement, ground and first floor for retail and restaurant use (sui generis) purposes, external alterations to Davies Street including the installation of vents at ground floor level.
- Reference:** 18/03818/FULL
- Plan Nos:** 03.013-101.1 W, 03.013-094, 03.013-101.3 Q, menu for use received 09.05.18, 12771/DW/001 RD, RecoAir Installation, Operating and Main Instruction Manual for Cookline Recirculation Unit dated 22 January 2018, Breakfast/Afternoon Tea menu dated 23 July, Main menu dated 23 July 2018, email from Bidwells dated 13 August 2018

Case Officer: Helen MacKenzie

Direct Tel. No. 020 7641 2921

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 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 use the basement, ground and first floors only for retail/restaurant use (sui generis). You must not use it for any other purpose.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 4 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE TACE8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 5 Customers shall not be permitted within the retail/restaurant premises before 07.30 or after 23.00 each day. (C12AD)

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 TACE8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 6 All cooking and reheating equipment must be operated by electricity only and should be limited to the hot food products to those described in the menus (Breakfast/Afternoon Tea and Main Menu) dated 23 July 2018.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 7 You must not allow more than 40 customers into the property at any one time. (C05HA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 8 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores (R, O, W and Waste Cooking Oil) and make them available at all times to everyone using the waste store. (C14EC)

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)

- 9 You must carry out the installation, operating and maintenance of the recirculation ventilation equipment in accordance with the Instruction Manual dated 22 January 2018 and the statement within the email from Bidwells dated 13 August 2018

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 10 You must only use the first floor as a training facility for members of staff of the retail/restaurant/cafe use hereby approved. It must not be used for additional seating for customers.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

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 hot food operation as described in the approved documents shall not be altered in any way with regards to cooking methods, or hot food types sold. Any application to remove or vary the condition 6 must submit details of extraction which shall consist only of either a 'full height' system or in limited circumstances where all cooking equipment is electric only an 'approved recirculation' scheme (any extraction scheme proposing 'low-level' external discharge to get rid of cooking fumes will not be accepted as being suitable as per Westminster Environmental Health requirements for new premises wishing to provide an extensive hot food operation).

DRAFT DECISION LETTER

Address: 28 South Molton Street, London, W1K 5RF

Proposal: Use of an area of public highway (on South Molton Street) measuring 21.7m x 3.15m for placing 28 tables and 56 chairs and 19 breeze screens.

Reference: 18/02313/TCH

Plan Nos: 03.013-098 D

Case Officer: Helen MacKenzie

Direct Tel. No. 020 7641 2921

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 and fabric banners in any other position than that shown on drawing 03.013-098 D. (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 You can only put the tables and chairs and fabric banners on the pavement between 07.30 and 23.00. (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 The tables and chairs must only be used by customers of the retail/restaurant use at basement, ground and 1st floor level of 28 South Molton Street. (C25CA)

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.

- 5 This use of the pavement may continue until 30.09.2019. 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.

- 6 You can only put out on the pavement the tables, chairs and other furniture/ equipment/ screening shown on drawing 03.013-098 D.

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 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)

- 3 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)
- 4 You are advised that the Davies Street Crossrail Station will open in December 2018, we will monitor the impact of the station (in terms of increased pedestrians) and the tables and chairs outside this site. The number of tables and chairs may have to be decreased or removed when/if you renew the consent next year.

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.