

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4 September 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	78-80 Duke Street, London, W1K 6JQ,		
Proposal	Use of the ground and lower ground floors as a restaurant (Class A3 use), installation of new shopfronts, installation of roof level extract duct and air conditioning units within first floor rear lightwell and associated external works. (Part of land use package with 64-66 Duke Street)		
Agent	Gerald Eve		
On behalf of	Grosvenor West End Properties		
Registered Number	17/10860/FULL	Date amended/ completed	7 December 2017
Date Application Received	7 December 2017		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

1. Grant conditional permission subject to a s106 legal agreement to secure the provision of Class A1 retail floorspace on the basement and ground floors of 64-66 Duke Street.
2. If the S106 legal agreement has not been completed within 6 weeks of this resolution, then:
 - a) The Director of Planning shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not
 - b) The Director of Planning shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

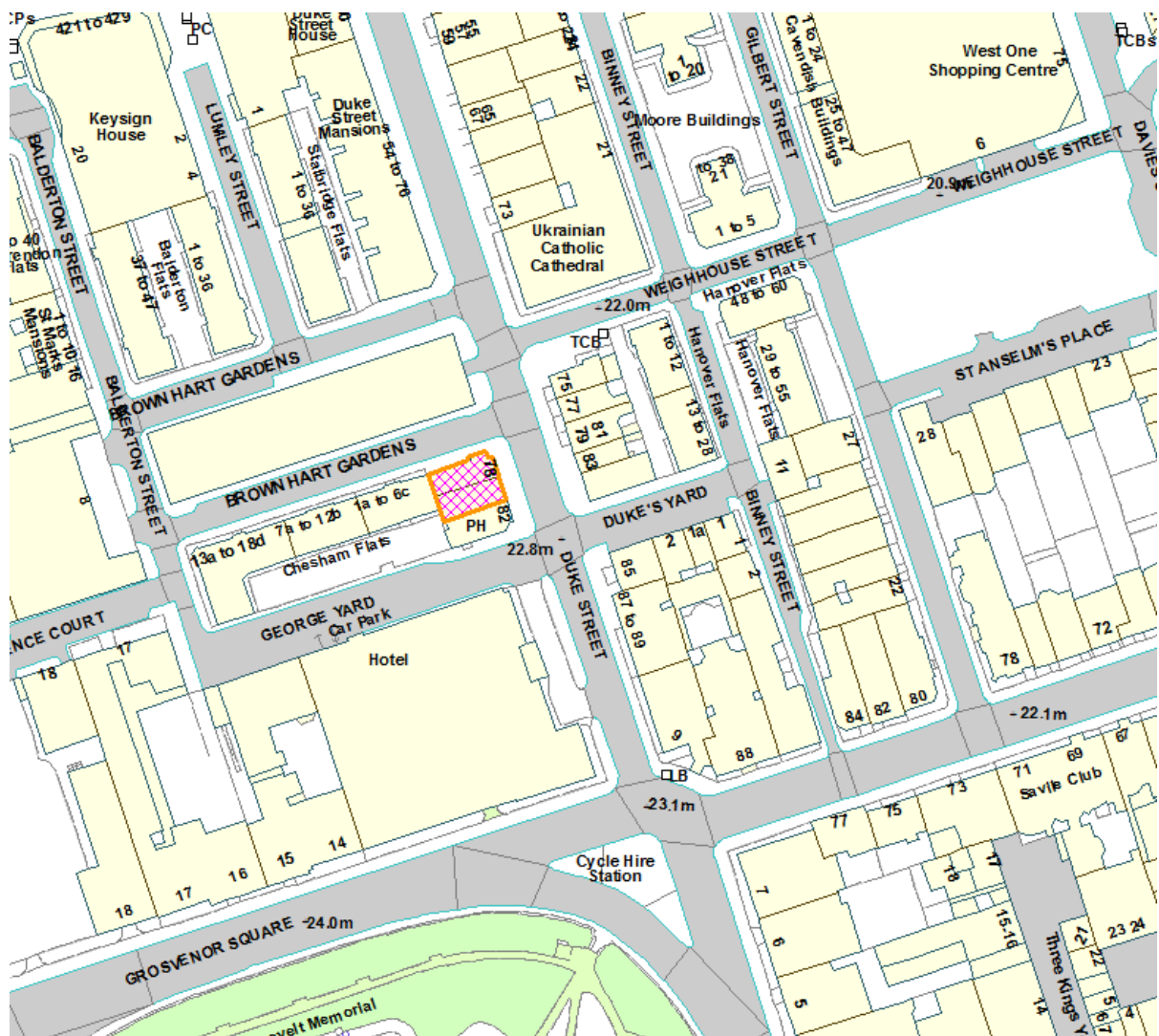
2. SUMMARY

The application relates to two adjacent basement and ground floor shop units on the west side of Duke street, which are currently trading as a hairdressing salon (Class A1) and a betting office (sui generis). Permission is sought for the amalgamation of the shop units and their conversion to restaurant use (Class A3), alterations to the ground floor facades, including a new shopfront and clear glazing to windows on the return frontage, and the installation of restaurant plant and an

internal kitchen extract duct terminating at roof level. It is proposed that the existing Class A floorspace would be relocated to premises at 64-66 Duke Street, which are currently vacant but have a lawful Class A3 use.

Objections have been received on land use, amenity and highways grounds. However, subject to appropriate operational controls and a s106 planning obligation ensuring the provision of Class A1 retail accommodation at 64-66 Duke street, it is not considered that the proposals would have an adverse impact on residents' amenities, local environmental quality or upon the retail character and function of the area. The proposed alterations are considered acceptable in terms of their impact upon the character and appearance of this part of the Mayfair conservation area. The application is therefore recommended for approval subject to a s106 legal agreement to ensure the permanent use of the basement and ground floors of 64-66 Duke Street for Class A1 retail purposes.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS' ASSOCIATION OF MAYFAIR & ST JAMES'S

Any response to be reported verbally

MAYFAIR RESIDENTS GROUP

Objection: the scheme forms part of the applicant's wider proposals to eliminate smaller retail operations in North Mayfair by amalgamating units and converting the new larger premises into a much more up-market operation; loss of small business and the services offered by them is detrimental to the amenity of local people local residents, non-residents and visitors to the area.

ENVIRONMENTAL HEALTH

No objection subject to conditions

HIGHWAYS PLANNING

No objection subject to conditions

CLEANSING

Request condition requiring submission if details of refuse stores

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

RECEIVED

No. Consulted: 82;

Total No. of replies: 3;

No. of objections: 3;

No. in support: 0

Land use:

- Loss of small retail units, for which there is a demand and which bring balance to the southern end of the street; tenants do not wish to vacate; applicant's stated plan is to close restaurants on the frontage immediately south of Oxford Street and to replace them with high end retail units
- Already numerous high-end restaurants/hotel restaurants in the immediate vicinity and vacant premises in North Audley Street and on the Brown Hart Gardens deck (since occupied); no demand for further restaurants in the area.

Amenity:

- Relocation of restaurant use would improve the amenity of occupants of the applicant's residential buildings whilst adversely affecting the amenity of residents in other parts of Duke Street.
- Roof of Chesham Flats is used residents for drying washing and as an amenity space/for growing plants, this use would be adversely affected by plant noise, smell nuisance from cooking fumes/stained washing and impact on plant growth; noise disturbance from plant in rear lightwell
- Noise from restaurant plant
- General noise disturbance from customers leaving the premises and from restaurant deliveries/collections; would exacerbate existing late night disturbance from neighbouring licensed premises and hotel operations – noise from customers, customers' cars, taxis and restaurant servicing; disturbance from

operation of a 100-seater restaurant is unavoidable even with an Operational Management Plan in place; unclear whether external seating is proposed.

- Proposed weekday and Sunday opening hours are too late and early deliveries are unacceptable.
- If permission is granted there should be no outdoor seating; a restriction on servicing hours and a requirement that all servicing should take place from Duke Street.

Highways

- Highway obstruction from restaurant servicing

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application relates to two adjacent unlisted buildings, located on the west side of Duke Street, between its junctions with the south side of Brown Hart Gardens and Duke's Yard.

The site is within the Mayfair conservation area and the core Central Activities Zone. The buildings, which are in a parade of three shop units, comprise basement, ground, three upper floors plus an attic storey. The ground floor and rear basement at 78 Duke Street are occupied as a betting office (a sui generis use) with the remainder of the basement in Class B1 office use. The basement and ground floors at no. 80 are occupied as a hairdressing salon (Class A1). The upper floors of both buildings are in office use, accessed via separate street entrances,. The third unit, no 82, is a public house, the Barley Mow (Class A4).

To the south of the public house, on the opposite side of George Yard, is the London Marriot Hotel, which fronts Grosvenor Square. To the north is Brown Hart Gardens, which comprises a central raised deck (which provides public open space and houses a small café and a weekly food market) bound to the north and south by Peabody housing blocks, including Chesham Flats, which is immediately at the rear of the application site, and the Beaumont Hotel on the western side. To the north of Brown Hart Gardens, the shopping parade (west side), which extends to Oxford Street, is principally in Class A1 retail use on the lower floors, with flats (Duke Street Mansions) above. The unit at 64-66 Duke Street is currently vacant but has a longstanding use for Class A3 purposes and this appears to be the lawful use.

The eastern side of this part of Duke Street is primarily in Class A1 retail use on the lower floors closest to Oxford Street, with a mixture of retail and café uses to the south, where the Ukrainian Roman Catholic Cathedral is also located.

6.2 Recent Relevant History

78 Duke Street

17 November 1998: Permission granted for use of the basement as offices.

September 2005: Photograph submitted as part of an application for an Estate Agent's board shows a betting office.

80 Duke Street

No relevant planning history

64-66 Duke Street

Series of permissions/consents dating back until 2002 for shopfronts, new signs and tables and chairs on the highway in association with the restaurant use.

12.7.2018: Permission granted for new plant within an acoustic enclosure to the rear flat roof in connection with the refurbishment of retail premises. The outgoing tenant is described as an Italian restaurant [Bella Italia].

7. THE PROPOSAL

The application proposes the amalgamation of the basement and ground floors at 78 and 80 Duke Street to provide a restaurant (Class A3), the installation of new shopfronts and the installation of a kitchen extract rising through building and discharging at roof level, with new air conditioning units in the rear lightwell. Ground floor window openings overlooking Brown Hart Gardens, which are currently blocked up, would be fitted with new timber windows.

The applicants propose to relocate the existing Class A1 and sui generis floorspace to the basement and ground floors of a vacant unit at 64-66 Duke Street, replacing the lawful Class A3 restaurant use at that location with a new retail shop (Class A1). This land use package would be secured by a s106 planning obligation to ensure that the restaurant use would not commence prior to the donor site being made ready for retail occupation and to ensure that 64-66 Duke Street remains in Class A1 retail use. The change of use of this unit from Class A3 to Class A1 use, and the use of sui generis betting office for Class A1 retail purposes constitutes permitted development and would not require planning permission.

The application has been amended to relocate the proposed extract duct - it originally terminated immediately below the height, and adjacent to, the roof level clothes drying area of Chesham Flats, but is now in a more central position on the roof of the application building.

The schedule of existing and proposed floorspace (basement and ground floors) is as follows:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
78-80 Duke Street			
Class A1 (Retail)	145.5	0	-145.5
Sui generis (Betting Office)	71.5	0	-71.5
Class B1 (Offices)	120.9	6.2	-114.7
Class A3 (Restaurant)	0	369.3	+ 369.3
Total	337.9	375.5	+37.6*

64-66 Duke Street			
A1 (Retail)	0	253	+253
A3 (restaurant)	253	0	-253
Total	253	253	

* The increase in GIA at 78-80 Duke Street is due to the removal of internal walls. No extension is proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Retail use

The scheme would replace the existing basement and ground floor Class A1 hairdressing salon (145.5 sqm), and the adjacent sui generis betting office (71.5 sqm) (total 217 sqm) with a restaurant. Both of these units are currently trading. No marketing information has been provided to suggest that these uses are not viable in this location.

The applicants propose to provide retail floorspace within the vacant restaurant premises (253 sqm) at 64-66 Duke Street, providing an overall increase in retail-type floorspace of 36 sqm over the two sites.

Objections have been received from the Mayfair Residents' Group and local residents on the grounds that the proposals would result in the loss of two smaller retail units as part of the applicant's wider plan to amalgamate small units to provide larger premises for more 'up market' operations. Objectors consider that the existing shops 'add balance' to the southern end of Duke Street and that the loss of these small businesses, and the services which they provide, is becoming critical for local residents, business occupiers and visitors to the area.

City Plan policy S21 protects existing retail floorspace throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. Existing non-A1 retail uses, and uses occupying shop-type premises within designated shopping centres will be protected from changing to uses that do not serve visiting members of the public and that do not have active shopfronts.

UDP policy SS4 and S6 of the City Plan aim to encourage the provision of new retail floorspace on appropriate sites within the CAZ. Policy SS5 seeks to protect and enhance the attraction of the West End International Centre and other parts of the CAZ as shopping and entertainment destinations, as well as attractive places in which to live, visit and work. It encourages a balanced mix of appropriate street-level activities, whilst seeking to maintain and safeguard local residential communities. To achieve this aim, the policy protects Class A1 uses at ground, basement or first floor level in the CAZ. Permission for the introduction of a non-A1 town centre use at these floor levels will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality. Proposals for non-A1 use 'must not lead to, or add to, a concentration of

three or more consecutive non-A1 uses or cause or intensify an existing over-concentration of A3 and entertainment uses in a street or area'

The supporting text confirms that the number of consecutive non-A1 uses is calculated by 'counting the number of non- A1 uses occupying shop-type premises (not units) running consecutively (author's underlining) at ground floor level. This will include those that continue around a corner or past an alleyway but will not include those separated by a road'. If the proposal would result in three or more consecutive non-A1 uses, it will not be permitted.

Excluding the application premises, the only other property within the parade, which occupies the entire frontage between Brown Hart Gardens and George Yard, is a public house (the Barley Mow). George Yard is a through road running between the rear of the Marriot Hotel and Chesham Flats. The applicants consider that the proposal complies with policy SS5 because, as the restaurant would occupy the amalgamated shop units, the development would result in the creation of only two consecutive non-A1 uses – the new restaurant and the public house. This policy interpretation is debatable as, on this basis, an existing restaurant could be extended to occupy numerous adjacent Class A1 retail units, and still comply with the policy. This is evidently not the objective of policy SS5 and, as a result of the proposal, the three original, separate 'shop' units within the parade would all be in non-Class A1 use.

Paragraph 7.49 of the UDP confirms that, when assessing whether the introduction of a non-A1 town centre use would have a detrimental effect on the vitality and viability or character and function of an area, account will be taken of whether the number and range of shops, particularly local convenience shops, would be reduced; whether a concentration of specialist shops is reduced; whether the viability of the remaining shops in a frontage or street would be affected; whether a dead frontage would be created and whether the proposal would change, or add to a cumulative change, in the character and function of a street, at ground floor level, from mixed use to predominantly A3 and entertainment uses. An over-concentration of A3 and entertainment uses is considered to occur when the numbers and size of these types of uses begin to dominate a street or area and the consequential effects of their operations, including the numbers of customers, begins to have a detrimental effect on the local environment and residential amenity. If such a concentration already exists, additional A3 and entertainment uses will not be permitted as this would exacerbate the existing situation. Additionally, consideration will be given to whether unacceptably high levels of late-night activity are likely to result from the proposal or already exist in the area.

A hairdressing salon is considered to be a local convenience shop and a betting office is an appropriate use within a town centre shopping frontage. Although the proposals would result in the loss of these units, there is nothing to suggest that a local convenience use could not occupy the donor site, although the rental on this unit is likely to be higher, which might deter a number of prospective occupiers. Although no shop uses would remain within the existing parade, the new restaurant use would provide a service to visiting members of the public.

The existing retail and betting office units are somewhat isolated, and do not form part of any continuous retail frontage, being separated from other shops on the west side of Duke Street by Brown Hart Gardens. The existing hairdressing salon and betting office might be considered to be 'destination uses' which are less reliant on passing trade and so not adversely affected by their isolated position. Although no

representations have been received from the current tenants, objectors have advised that they do not wish to relocate. However, the existing application premises could be amalgamated to create a large Class A1 retail unit without the need for planning permission. The relevant land use policies are designed to protect land uses rather than individual occupiers. In these circumstances it is considered that the relocation of the existing retail floorspace to the unit at 64-66 Duke Street, within a healthy retail parade immediately to the south of Oxford Street, would add to the vitality of the shopping street, would provide an overall increase in Class A1 retail floorspace, while the proposal as a whole and would not have a material adverse impact upon the retail character and function of the street, nor would it change the character of the street from a mixed use to a predominantly entertainment use. In these circumstances, and subject to a s106 planning obligation to secure the provision and retention of the retail floorspace on the donor site, it is considered that the proposals would be difficult to resist on retail policy grounds.

8.1.2 Office use

The scheme would result in the loss of 114.7 sqm of Class B1 office floorspace, on the basement and ground floors. A smaller entrance lobby would be retained, providing access to offices on the upper floors. While City Plan policy S20 seeks to protect office floorspace within the CAZ from conversion to residential use, this policy does not apply to changes to alternative commercial uses and the loss of Class B1 accommodation is therefore acceptable in land use terms.

8.1.3 Restaurant use

The proposals would provide a new restaurant of 369sqm on the basement and ground floors. Given the size of the new restaurant, UDP policy TACE 8 applies, whereby permission will generally be granted for entertainment uses of this type and size where the City Council is satisfied that the proposed development has no adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity or increased parking and traffic; and would have no adverse effect on the character or function of the area. In considering applications for planning permission for such uses the Council will take into account the need for conditions to control operational measures, including limits on customer capacity and opening hours and measures to safeguard amenity, including nuisance from cooking smells, noise and vibration (including from ventilation equipment and air conditioning plant); servicing arrangements; and proposals for the storage, handling and for the disposal of waste and recyclable materials.

Paragraph 8.88 of the UDP confirms that as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, 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 considered appropriate where there are residential uses in immediate proximity.

City Plan policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative

impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

City Plan policy S29 states that the council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment. City Plan policy S32 requires development to minimise and contain noise and vibration.

UDP policies ENV 6 and ENV 7 deal with the issue of noise pollution and require new developments to include design features and operational measures to minimise and contain noise in order to protect noise sensitive properties including the transmission of audible noise or perceptible vibration through the fabric of the building to adjoining properties. A noise and vibration assessment report is required where development or change of use could affect noise sensitive properties. When granting planning permission, conditions may be applied to restrict noise emissions, the transmission of noise or perceptible vibration and the hours of operation and to require the implementation of acoustic measures prior to the commencement of the use. Policy ENV 7 deals specifically with controlling noise from plant and internal activity. Developers will be required to demonstrate that the scheme will be designed and operated so that any noise emitted by plant and machinery and from internal activities, including noise from amplified or unamplified music and human voices, will meet acceptable standards in relation to the nearest noise sensitive properties.

Notwithstanding its close proximity to Oxford Street, the site is in close proximity to numerous residential properties including significant numbers of flats within the Peabody blocks and mansion flats and new residential developments on both sides of Duke Street, including directly opposite the site on the upper floors of 81, 83, 85 and 87-89 Duke Street and in Duke's Yard.

There are already several entertainment uses, or hotels which include entertainment-type facilities, in close proximity to the application site including:

- The Beaumont Hotel at 8 Balderton Street. Facilities including a public restaurant, bars and a private dining room are open to non-residents between 07.00 and 24.00 each day.
- The café on the deck of Brown Hart Gardens: consumption of food on the premises permitted between 08.00 and 20.00 each day. Takeaway sales permitted between 08.00 and 18.00 on Monday to Saturday and 10.00 and 18.00 on Sundays.
- A weekly food market on the deck of Brown Hart Gardens. This has been the subject of a series of temporary planning permissions. The latest of these permissions, which expires on 3 April 2019, permits a weekly food market, including hot food stalls, to take place between 11.00 and 16.00 hours for a maximum of one day per week (excluding Sundays).
- The Marriot Hotel on Grosvenor Square – which is serviced from George Yard, to the rear of Chesham Flats

Objectors have pointed to the number of 'high class' restaurants within close proximity of the proposed restaurant including restaurants in the Marriot and Beaumont hotels, restaurants in Grosvenor Square and to several vacant restaurant premises. In this context, they consider there to be no demand for another restaurant

use, particularly at the expense of the existing retail units, given the need for corner-type shops.

They have also referred to existing problems with evening and late night disturbance from licensed premises, restaurant and neighbouring hotels caused by hotel servicing in George Yard, disturbance from customers leaving neighbouring restaurant premises and noise from taxis. They consider that the proposals would exacerbate this disturbance (as a result of customers leaving the premises and noise nuisance from restaurant servicing) and contend that the area cannot accommodate the activity and additional noise disturbance associated with the new restaurant, however robust any management plan.

Objectors also consider that the proposed weekday and Sunday opening hours are too late (see below) and that this coupled with proposed restaurant servicing from 06.00 hours would result in unacceptable noise disturbance, particularly affecting residents' ability to sleep.

Should the proposals be considered acceptable, objectors have requested conditions to prevent the provision of external seating; to limit restaurant servicing (including deliveries/collections of goods, waste, and recyclable materials) to between 08.00 hours and 21.00 hours each day and to require all servicing to take place from Duke Street rather than from Brown Hart Gardens or George Yard.

This is a speculative application by Grosvenor West End Properties who would develop the site and hand the restaurant over to an operator. The applicants have submitted a draft Operational Management Plan (OMP) which includes various obligations designed to ameliorate the potential impact of the proposed restaurant upon the amenities of neighbouring residential properties and local environmental quality. This document is intended to set out the guiding principles for the operation of the restaurant which an incoming operator would put in place. The applicants have confirmed that their target operators would be high quality and well established who would be made aware of the potential impact of the proposed use upon the local environment.

The draft OMP includes the following undertakings:

- Restaurant opening between: 07:00 – 00:00 (midnight) on Monday to Saturday and between 09:00 – 22:30 on Sunday and bank holidays.
- The proposed customer capacity of 100, all situated internally.
- Servicing would take place from Duke Street between 06.00 and 09.00 hours in accordance with a daily delivery schedule. The operator will coordinate the management of the deliveries and will take all necessary steps to ensure that deliveries are kept to a minimum and are managed to minimise disturbance and to ensure highway safety is maintained.
- The entrance would be attended at all times by reception staff.
- A senior member of staff will oversee the operation at all times. It is envisaged that the operation will employ approximately 25 full and part time staff.
- No dedicated staff entrances will be provided for staff. The occupier will be responsible for the access of staff and the opening of their premises.

- The management will reserve the right to refuse entry or to remove persons from their own premises for whatever reason, at any time.
- No parking would be provided for patrons and staff and all taxi drop-offs would be made on Duke Street. A full list of public transport, public car parking and cycle parking locations within close proximity would be made available on the operators' websites.
- Notices will request that patrons recognise that the area includes residential homes and to leave the premises quietly.
- All waste will be stored within the building. Waste collection will be undertaken in line with Westminster City Council's existing arrangements.
- No designated smoking areas will be provided on the premises. Visitors and staff will be encouraged (through staff briefings and notices to visitors) to avoid smoking on adjoining residential streets and to dispose of cigarette butts in suitable receptacles.
- The operator will be encouraged to link into existing established networks in the locality, including the Safer Neighbourhood Team of the Metropolitan Police.
- The operator will engage regularly with local residents and business associations to discuss any issues and update them on any developments.
- The operator will ensure that all maintenance issues are attended to immediately, so that these can be resolved as quickly as possible. Where external works are to take place or those deemed to be of a significant nature, neighbours will be notified via the Residents' Associations, as appropriate.
- Neighbours will be provided with contact details of the restaurant management to ensure that any issues are addressed swiftly

The applicants are keen to emphasise that it is not in their interest to introduce a use that adversely affects the amenities of neighbouring occupiers. They have undertaken to contact residents who may be affected by the proposals and to provide their own point of contact to ensure that any issues arising from the proposed use are speedily resolved.

The proposed restaurant would replace a larger restaurant at 64-66 Duke Street, which is not subject to any planning controls. (It is noted that the premises licence at 64-66 Duke Street limited the opening hours of the previous restaurant at that site to between 09.00 and 01.00 hours Monday to Saturday and 09.00 and 00.00 hours on Sundays (but until 01.00 hours on Sundays before Bank Holidays There was no restriction on capacity.) Although the current land use package would enable controls to be imposed on the operation of the relocated restaurant, objectors consider that the relocation of the existing restaurant would improve the amenity of occupants of the applicant's own residential buildings (Duke Street Mansions) whilst adversely affecting the amenity of residents in other parts of Duke Street. However, planning policies which are designed to safeguard residents' amenities do not make any distinction between types of residential tenure.

The proposed operating hours accord with UDP guidelines for restaurant opening within primarily residential areas and are considered acceptable in this busy central location. The applicants have confirmed that all servicing would take place from Duke Street. Although servicing would commence at 06.00 hours, earlier than objectors have requested, this is considered acceptable given that Duke Street is characterised by ground floor commercial uses.

The draft OMP confirms that no external seating would be provided. Conditions are recommended to limit restaurant capacity, to restrict the size of any ancillary bar area; to prevent ancillary take away sales or the operation of a delivery service and to require all windows to be kept closed during restaurant opening hours. Subject to these conditions and with a condition requiring the submission of a finalised OMP which should also include details of measures to prevent customers queuing outside of the premises and a commitment to operate a complaints hotline during restaurant opening and delivery hours (and details of how/where this number will be publicised), it is not considered that the proposal would have a material impact on residents' amenities. Although the distribution of entertainment uses would be altered, given that the proposed restaurant would replace another restaurant approximately 80m from the site, it is not considered that there would be any material impact upon the character and function of the area.

8.2 Townscape and Design

The application buildings stands on the west side of the street on the corner of Brown Hart Gardens and adjoins Chesham Flats at the rear. Although one respondent has commented that the application premises are Grade II listed buildings, they are not listed. However, they stand opposite grade II listed buildings in Duke Street and the grade II listed sub-station in Brown Hart Gardens, all of which are in the Mayfair Conservation Area and to which the application premises make a positive contribution.

At ground floor level the alterations to the shopfronts accord with UDP policy DES 5 and the council's 'Shopfronts, Blinds and Signs' supplementary planning guidance. The painted timber-framed design will suit the appearance of the building and surrounding conservation area, which accords with UDP policy DES 9. Likewise the new windows at ground floor level are architecturally appropriate in terms of their design and accord with policies DES 5 and DES 9.

The proposed kitchen extract duct would be located internally and would discharge 300mm above main roof level, adjacent to the chimney on the party wall between the two properties. A condition requires full details of the extract to be submitted to ensure compliance with normal requirements. This is considered acceptable in terms of its impact upon the character and appearance of the building and surrounding conservation area and accords with UDP policies DES 5 and DES 9.

Mechanical plant is to be located in an acoustically screened enclosure in the first floor lightwell. This minimises its visual impact in accordance with UDP policies DES 5 and DES 9 and is acceptable in design and heritage asset terms.

Seen in the context of nearby listed buildings, for the reasons set out above, the proposal in its current form will maintain their setting which is in accordance with UDP policy DES 10.

Objections to the application have been received and relate mostly to amenity concerns. As the buildings are not listed, consideration of the internal alterations is limited in heritage asset terms. A concern has been raised about the increased size of the unit which results from combining two in to one. In this case, the alteration is neutral in terms of its impact on the character of this part of the conservation area. The resulting unit size is not out of character with the size of surrounding commercial premises and the outward manifestation of the change is unification of the shopfront designs – which is beneficial in terms of their appearance.

8.3 Residential Amenity

Plant

The application is accompanied by an acoustic report detailing plant proposals including the installation of air conditioning units within the rear lightwell at first floor level. It was originally proposed to site the duct within a false chimney running up the side elevation of Chesham Flats, terminating immediately below the height of the adjacent roof space. The application has since been amended. The duct would now run through the application premises and discharge in the centre of the roof, away from the neighbouring property.

Objections were received to the original application on the ground of potential noise disturbance from restaurant plant in relation to the enjoyment of the roof top amenity space at Chesham Flats and more generally. One objector has commented that, even though other hospitality/restaurant businesses in this locality have installed plant to operate in accordance with Council noise requirements, the night-time background noise level continues to rise because of the acoustic properties of this location. The objector contends that plant can be louder at other, more distant, noise sensitive locations than at the nearest noise sensitive property. The objector is concerned that noise from air conditioning equipment would amplify in both George Yard and around Brown Hart Gardens and has requested that the general increase in background noise levels is taken into account when determining maximum noise levels from air equipment.

This objection has been reviewed by the Council's Environmental Health officer. Although it is not clear what is meant by the 'acoustic properties' of the area, it is assumed that some locations are quieter at the back/behind the properties fronting onto Duke Street. This is reflected in the relatively low background noise levels within the acoustic report. The plant proposals have been assessed in the usual manner and a condition is proposed requiring noise emissions from the plant to be 10dB below the existing lowest background level at the nearest noise sensitive location. This would be sufficient to safeguard the amenities of those residents closest to the site and those occupants of properties further distant. However, it may be that there is existing plant somewhere in the vicinity which is noticeable above background levels.

The report recommends that acoustic enclosures are provided in order to achieve compliance with standard noise conditions. Subject to conditions including a requirement for acoustic screening to be installed prior to operation of the plant, it is not considered that objections to disturbance from the proposed plant could be supported and the proposals are therefore considered to comply with the relevant UDP and City plan policies.

Smell Nuisance

An objection was received to the original application on the grounds that the operation of the kitchen extract duct would result in smell nuisance to the roof of Chesham Flats which is used as an amenity space, for drying washing and for growing plants. Objectors are also concerned that the duct would make laundry dirty and affect plant growth. Given the revisions to the scheme, which repositions the extract duct away from the boundary with Chesham Flats, it is considered that the duct would adequately discharge cooking smells and that the objections cannot on smell nuisance and other grounds cannot be supported.

8.4 Transportation/Parking

Parking and Trip generation

The Highways Plan Manger has reviewed the application and considers that in terms of people arriving and departing the site, parking levels would be similar to those generated by the existing uses and that any increase in parking demand would not be significant. As the site is within a Controlled Parking Zone, anyone who does drive to the site will be subject to those controls.

However, the pattern of use associated with the site would change from activities spread throughout the day to concentrations at lunch time and during the evening with associated increased in vehicular traffic, particularly taxis.

Cycle Parking

The application has been revised to provide 2 staff cycle spaces. This accords with the requirements of London Plan Policy 6.9 and would be secured by condition.

Servicing

City Plan policy S42 and TRANS20 of the UDP require new developments to provide off-street servicing but, given the site constraints, there is no opportunity to provide this facility.

One respondent has referred to the fact that there is a no entry point in Brown Hart Gardens adjacent to the proposed restaurant, which would affect how deliveries and collections are undertaken. They are concerned that restaurant servicing has the potential to obstruct traffic on Duke Street, ‘...more so if proposed layout of Duke Street is made (sic), traffic from Balderton Street and the other section of Brown Hart Gardens is likely to increase causing more disturbance to residents in these areas’.

The Highways Planning Manager is unaware of proposals to redirect traffic in the area. As there is no existing on-street loading/unloading area near this location, deliveries would be made from Duke Street and received via a door on Brown Hart Gardens. (it is noted that the submitted drawings are incorrectly annotated and state that deliveries will be via the corner customer entrance). While details of the proposed vehicle delivery location are limited, this arrangement would appear acceptable in principle in highways terms. However, deliveries will need to be carefully managed to minimise the impact of deliveries on pedestrians, numbers of which continue to increase in the area. In these circumstances, a Servicing Management Plan would be required. The SMP should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as

detailing how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. The Plan should clearly outline how servicing will occur on a day to day basis to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users (including pedestrians).

To minimise the impact of the proposed use, and also to safeguard residents' amenities, it is considered that any permission for a new restaurant use should include a condition to prevent both take away sales and the operation of a delivery service as associated parking can reduce the availability of parking for other uses and increases potential noise disturbance.

Subject to the conditions outlined above, the proposals are considered acceptable in highways terms.

8.5 Economic Considerations

Any economic benefits generated by the proposals are welcomed.

8.6 Access

Customer access to the restaurant will be via the existing entrance to the betting shop, on the corner of 78 Duke Street. There is currently a half-step at this entrance which will be removed through the provision of a small ramp, details of which are to be submitted. Offices on the upper floors will be continue to be accessed via Duke Street. Customer WC facilities will be provided at ground floor level.

8.7 Other UDP/Westminster Policy Considerations

Refuse

The Cleansing Officer has advised that the proposals do not accord with the council's recycling and waste storage requirements. A bin store is indicated at ground floor. However, confirmation will be required of the bin capacities and bins should be marked for general waste, food waste and recyclable materials in accordance with published guidelines. A condition is recommended requiring the submission of a revised plan including this information.

8.8 London Plan

This application does 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

The draft 'Heads' of agreement are proposed to cover the following issues:

A requirement that the Class A1 retail floorspace at 64-66 Duke Street is made ready for occupation prior to the commencement of the proposed restaurant use and that this retail use will be permanently retained.

8.11 Environmental Impact Assessment

The application is not of a scale to require the submission of an Environmental Impact Assessment. More general environmental issues are discussed elsewhere in the report.

8.12 Other Issues

Means of escape

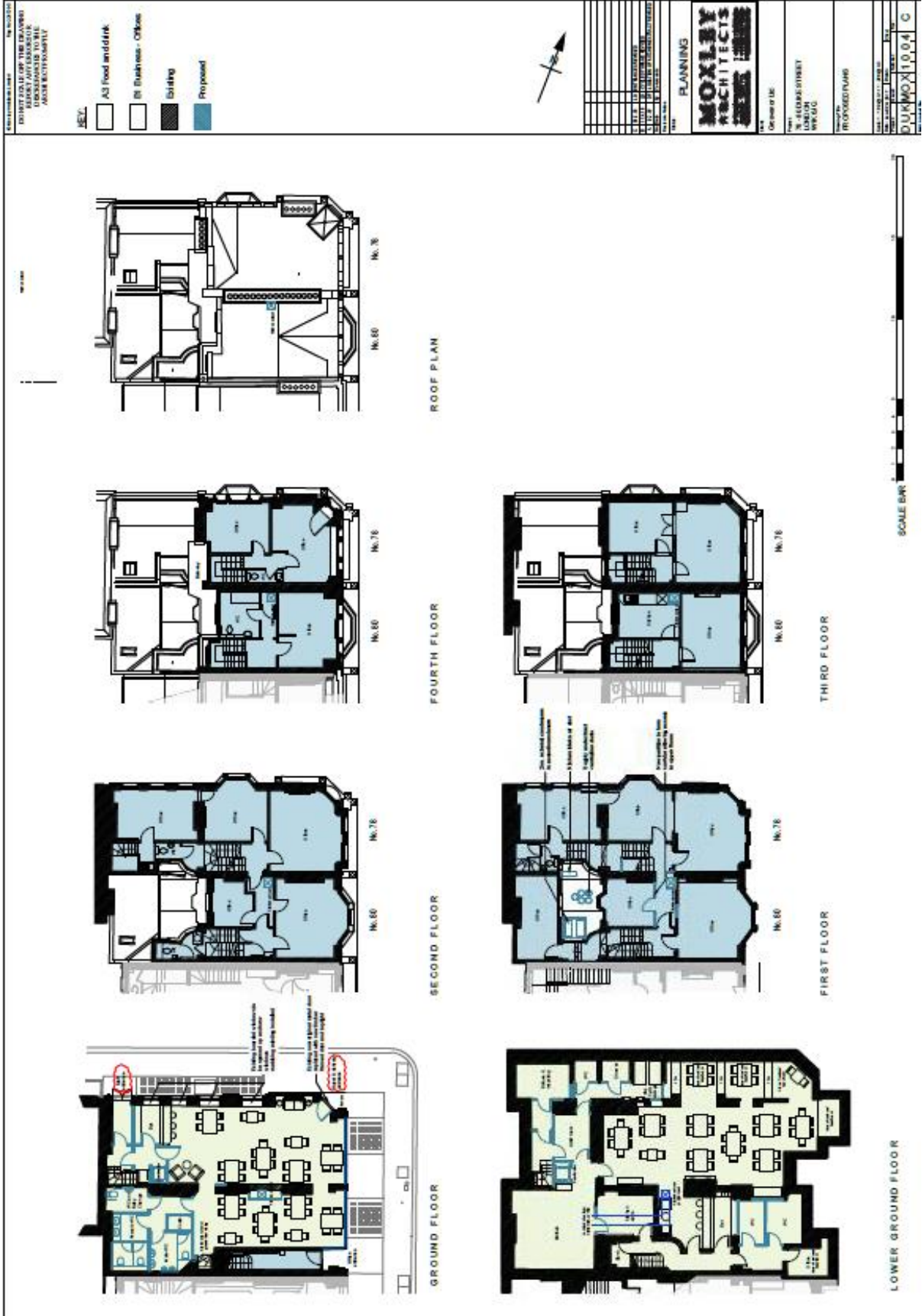
The Environmental Health officer has expressed concern that the basement shows a single means of escape for customers, via the ground floor, and that the travel distance to the ground floor exit seems 'quite significant'. This issue will be considered as part of any future application under the Building Regulations. An informative is recommended to advised that applicant that any building alterations required to address this issue may require further planning permission.

(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

9 KEY DRAWINGS





UNIVERSITY PARK
DISTRICT SCALE AND ZONING
FOR THE CITY OF HOUSTON
AMENDING CHAPTER 251

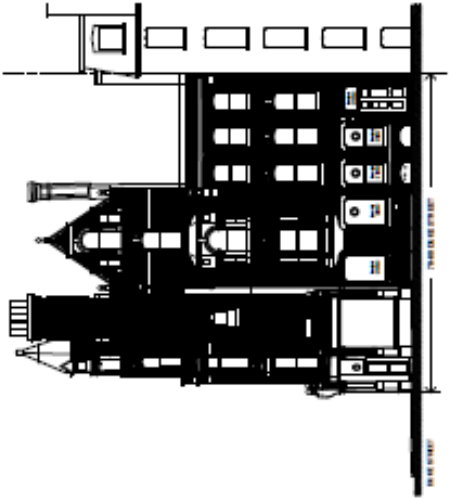
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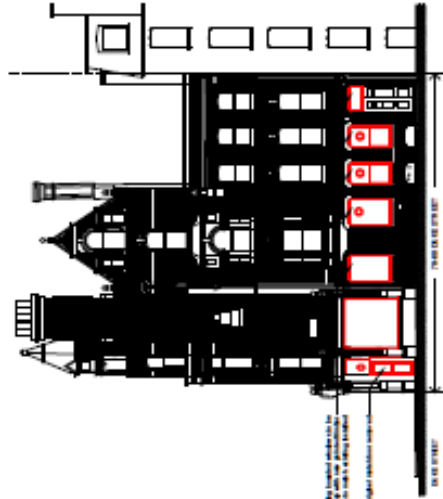
PLANNING
MOXLBY
ARCHITECTS
10000 UNIVERSITY PARK
HOUSTON, TEXAS 77036
TEL: 713.865.1000
WWW.MOXLBY.COM

PROJECT:
UNIVERSITY PARK
UNIVERSITY PARK
UNIVERSITY PARK

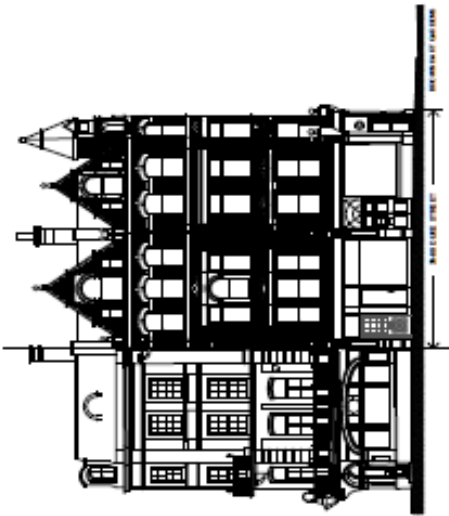
DATE:
11/11/2014
DRAWN BY:
J. MOXLBY
CHECKED BY:
J. MOXLBY
SCALE:
AS SHOWN



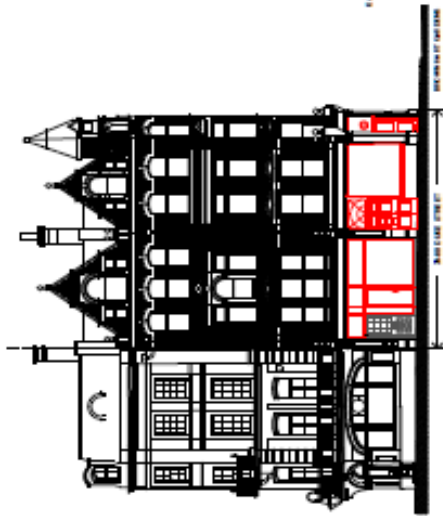
BROWN HART GARDENS ELEVATION B-B
SCALE 1:100



BROWN HART GARDENS ELEVATION B-B
SHOWING PROPOSED DEMOLITION
SCALE 1:100



DUKE STREET ELEVATION AA
SCALE 1:100



DUKE STREET ELEVATION AA
SHOWING PROPOSED DEMOLITION
SCALE 1:100



PROPOSED WORK
DUKE STREET, BIRMINGHAM
RENOVATION AND
RESTORATION OF THE
ARCHITECTURE
NOV 2015

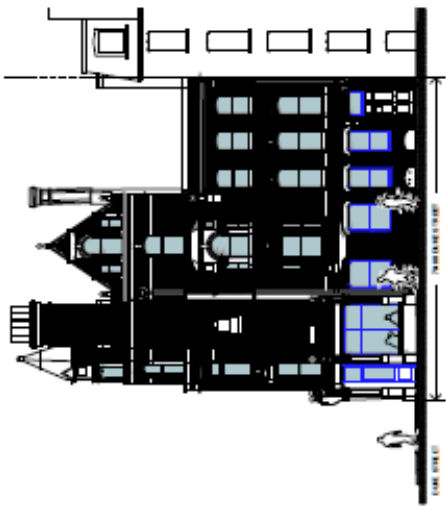
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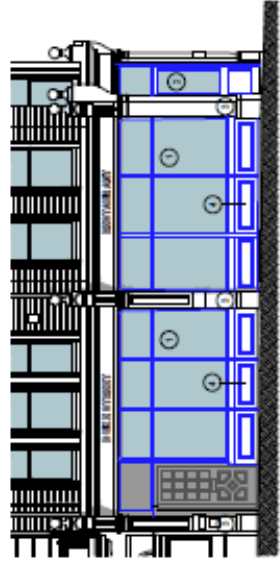
PLANNING
MOXLEY ARCHITECTS
ARCHITECTS
100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000

NOV 2015
W. B. DUKE STREET
LONDON
W1P 0JG
PROPOSED WORKS

DUMOX1011B



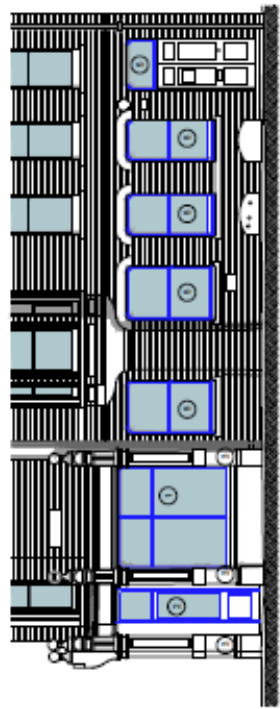
DUKE STREET ELEVATION A-A
SCALE 1:100



DUKE STREET ELEVATION EXTRACT
SCALE 1:50 @A1

Explanations:

- 1 Glass restaurant frontage with polished timber framing
- 2 Timber entrance door and top light
- 3 Existing stone work to be cleaned and repaired as required
- 4 Timber paneled lift doors
- 5 Existing boarded windows to be opened up with new polished timber windows to match existing installed



BROWN HART GARDENS ELEVATION EXTRACT
SCALE 1:50 @A1



DRAFT DECISION LETTER

Address: 78-80 Duke Street, London, W1K 6JQ,

Proposal: Use of the ground and lower ground floors as a restaurant (Class A3 use), installation of new shopfronts, installation of roof level extract duct and air conditioning units within first floor rear lightwell and associated external works. (Part of land use package with 64-66 Duke Street)

Reference: 17/10860/FULL

Plan Nos: DUK/MOX/1004C, 1011B; TPS/78-80DS/LG, G, 1, 2, 3, 4,R

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

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 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in 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)

4 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in 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 not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building facing the street unless they are shown on drawings we have approved. (C26MA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in 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 You must apply to us for approval of detailed drawings of the following parts of the development;

- i) the new shopfronts
- ii) new 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 approved 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 Mayfair 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)

7 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 and make them available at all times to everyone using the restaurant. (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)

8 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary

plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

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, 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. (R46AB)

9 You must put up the plant screen shown on the approved drawings before you use the machinery. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

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, 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. (R46AB)

10 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

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)

11 No waste shall be stored on the public highway

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)

12 You must apply to us for approval of a Servicing Management Plan (to include waste collections) which should identify process, storage locations, scheduling of deliveries and staffing arrangements and confirm how vehicle delivery size will be managed and how the time that delivered items remain on the highway will be minimised. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

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)

13 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. (C05CB)

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 8 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

14 No delivery service shall be operated in association with the restaurant use hereby approved, including deliveries by any independent delivery service operators

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

15 You must keep the bar areas to the parts of the property marked 'bar' (lower ground and ground floors) on drawing number DUK/MOX/1004 Rev C. You must use the bar areas to serve restaurant customers only, before, during or after their meals. You must only use the rest of the property as a sit-down restaurant with waiter service. You must not use it for any other purposes, including any within Class A3 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it).

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 8 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

16 Customers shall not be permitted within the restaurant premises before 07.00 hours or after 24.00 hours (midnight) on Monday to Saturday (not including bank holidays and public holidays) and before 09.00 and 22.30 hours on Sundays, bank holidays and public holidays. (C12BD)

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 8 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

17 You must not allow more than 100 customers into the property at any one time. (C05HA)

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 8 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

18 No customer seating shall be provided on any private forecourts outside the premises

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 8 of our Unitary Development Plan that we adopted in January 2007. (R05CC)

19 Other than in the case of energy or for maintenance purposes, all windows to the restaurant hereby approved shall be kept fully closed at all times that customers are on the premises and all doors shall be kept closed except for the purpose of access and egress.

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)

20 You must apply to us for approval of a management plan to show how you will prevent restaurant activities, including the treatment and disposal of glass waste, from adversely affecting neighbours' amenities and how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

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)

21 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

22 All servicing must take place between 06.00 and 09.00 hours. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

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)

23 (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 use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved 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 the restaurant use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved 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. 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. (R47AB)

24 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

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)

25 Pre Commencement Condition: You must apply to us for approval of detailed drawings of how you will give people with disabilities access to all parts of the development. These drawings must include:

- * full details of threshold levels;
- * relevant elevations, plans and cross sections of the building at a scale of 1:50 and
- * plans of all doors and any handrails at a scale of 1:20

You must not start work until we have approved what you have sent us. You must then carry out the work according to the approved drawings/details.

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)

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 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)

3 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

5 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building, including alterations to provide a secondary means of escape, or the purpose it is used for. (I23AA)

6 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to the requirement for the basement and ground floor shop units at 64-66 Duke Street to be made ready for occupation prior to the commencement of the restaurant use and to be permanently retained as Class A1 retail floorspace. (I55AA)

7 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)

8 The term 'clearly mark' in condition 7 means marked by a permanent wall notice or floor markings, or both. (I88AA)

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.