

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 25 <sup>th</sup> September 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>12 Upper St Martin's Lane, London, WC2H 9FB,</b>		
<b>Proposal</b>	Variation of condition 4 of planning permission dated 9 May 2017 (RN: 16/06996/FULL) for use of an area of the public highway measuring 2.732m x 9.576m for the placing of 11 tables, 22 chairs and barriers in connection with the existing restaurant (Dishoom); namely the use of the pavement may continue until 30 September 2019.		
<b>Agent</b>	Harrison Clark Rickerbys Limited		
<b>On behalf of</b>	Dishoom Limited		
<b>Registered Number</b>	18/04326/FULL	<b>Date amended/ completed</b>	30 May 2018
<b>Date Application Received</b>	24 May 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	No		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

12 Upper St. Martin's Lane is a ground floor restaurant unit (Unit 34) within the Longmartin St Martin's Courtyard/Slingsby Place development. Unit 34 is occupied by Dishoom and is located on the Upper St Martins Lane frontage.

Planning permission has been granted for tables and chairs at this location since 2009. The most recent permission was granted at committee on 9 May 2017 to allow the use of an area of the public highway measuring 2.732m x 9.576m for the placing of 11 tables, 22 chairs and barriers in connection with the existing restaurant (Dishoom) for a temporary period until 31 May 2018.

Committee requested that due to residential objections, when the applications were submitted in 2018 for the renewal of planning permission to allow the placing of tables and chairs on the public highway on this part of Upper St Martin's Lane they be referred to the Committee for decision.

This current S73 application seeks permission to vary condition 4 of planning permission dated 9 May 2017 (RN: 16/06996/FULL) to enable the use of the pavement for the placing of tables and chairs until 31 May 2020.

The key issues in this case are:

- \* The impact on pedestrian safety
- \* The impact on neighbouring residential amenity

Dishoom (Unit 34) and the adjoining restaurant unit (Unit 33) occupied by Jamie's Italian have had a series of planning permissions for tables and chairs on the public highway on Upper St Martin's Lane since 2009 and 2010 respectively. Planning permission has recently been renewed for the tables and chairs outside Jamie's Italian for a further year until 30 June 2019.

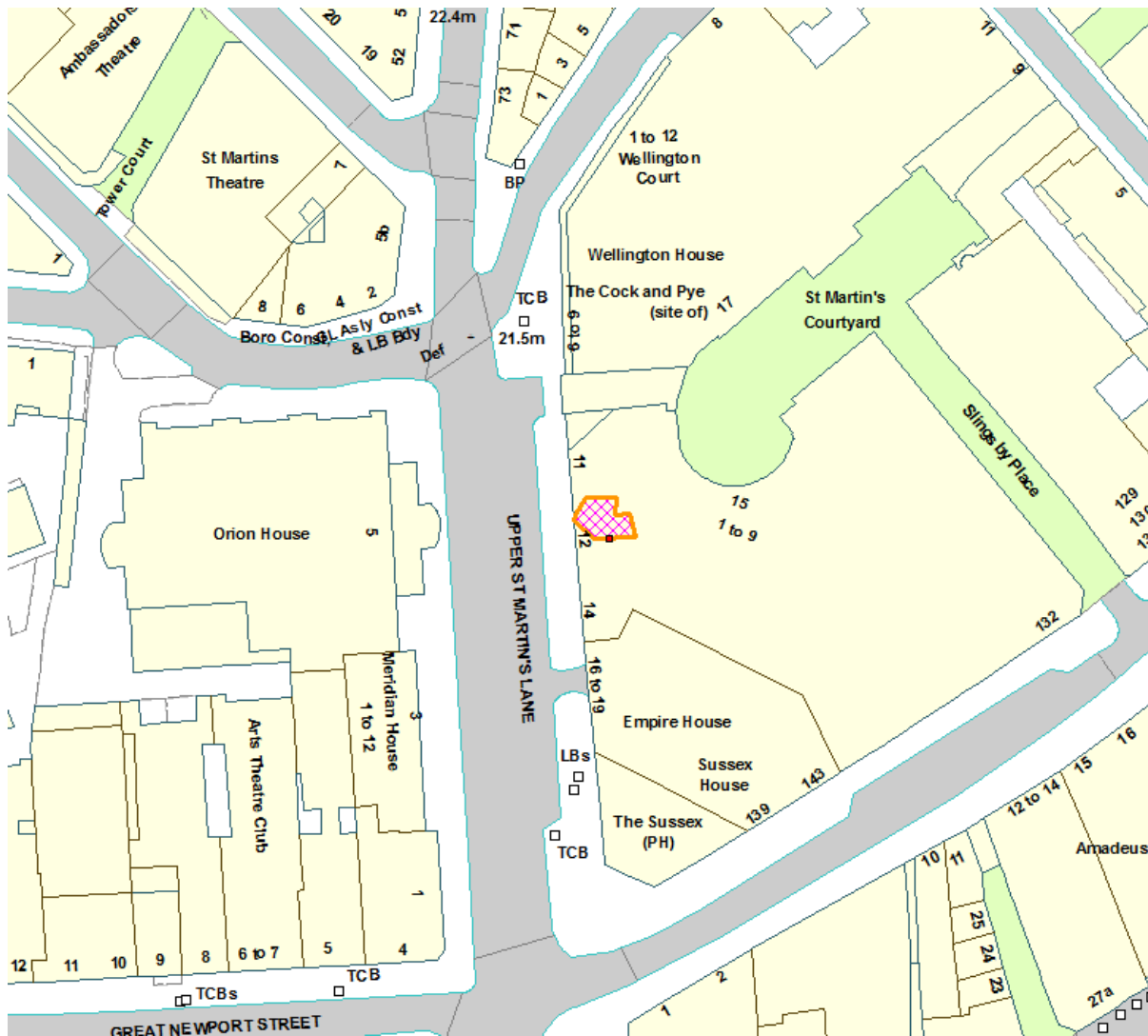
Dishoom are seeking permission for the same number of tables and chairs in the same size area as previously approved in May 2017. The pavement along Upper St Martin's Lane has recently been widened and the street trees replanted. The tables and chairs would leave 3m of clear footway for safe pedestrian movement, which exceeds the Westminster Way's recommended 2m clearway.

Objections have been received from the CGCA, which raise concerns about large queues that regularly form outside the restaurant and can lead to congestion on the public highway. The applicant is advised by way of informative to manage customers waiting to enter the premises and prevent them from congregating on the public highway where they could cause an obstruction.

It is proposed that the tables and chairs would be on the public highway from 08.00 to 23.00 daily as previously approved. Jamie's Italian in the adjoining restaurant unit have recently (May 2018) been granted permission for tables and chairs on Upper St Martin's Lane from 09.00 to 23.00 for a further one year period.

For the reasons set out in the report, the proposals are considered acceptable and in accordance with the relevant Unitary Development Plan (UDP) (January 2007) and Westminster's City Plan (November 2016) policies. Although the applicant is seeking a 2-year permission, given the concerns raised and that the adjacent unit has permission for 1 year, the application is accordingly recommended for approval on a further temporary one-year basis so that the impact of the tables and chairs can be re-assessed in a year's time.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



12 Upper St Martin's Lane

## 5. CONSULTATIONS

### COVENT GARDEN COMMUNITY ASSOCIATION:

Object to the number of tables and chairs proposed. Large queues regularly form outside this restaurant creating an obstruction on the pavement. Because of the position and number of tables and chairs, the congestion these queues cause exacerbated. The number of tables and chairs should be reduced so the applicant has space to accommodate these queues.

### HIGHWAYS PLANNING MANAGER:

The area proposed for tables and chairs is 2.7m deep leaving a clear pavement width of 3m for pedestrian movement. This satisfies the City Council's minimum requirement of 2m. However the service corridor within the area for tables and chairs (0.5m) is below the 0.9m which could cause an overspill onto the adjacent pedestrian footway.

### CLEANSING MANAGER:

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 5

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 Recent Relevant History

#### 12 Upper St Martin's Lane (Dishoom)

##### 16/06996/FULL

Variation of condition 4 of planning permission 23 April 2014 (RN14/02794) for use of an area of the public highway measuring 2.732m x 9.576m for the placing of 11 tables, 22 chairs and barriers in connection with the existing restaurant (Dishoom); namely the use of the pavement may continue until 30 April 2018

Application Permitted 9 May 2017

##### 14/08589/FULL

Installation of two wall mounted heaters at ground floor level on Upper St Martin's Lane frontage

Application Permitted 26 November 2014

##### 14/02794/TCH

Use of an area of the public highway measuring 2.732m x 9.576m for the placing of 11 tables, 22 chairs and barriers in connection with the existing restaurant (Dishoom).

Application Permitted 23 April 2015 (Temporary one-year permission – expired 30 April 2016)

Tables and chairs allowed on the public highway from 08.00 to 23.00 daily.

11/08022/TCH

Use of an area of the public highway measuring 3.164m (narrowing to 1.914m to the northern end) x 11m for the placing of 11 tables, 30 chairs, four heaters and nine barriers in connection the restaurant at 12 Upper St Martin's Lane (Unit 34).

Application Permitted 5 August 2013

09/01153/TCH

Use of an area of the public highway measuring 3.164m (narrowing to 1.914m to the northern end) x 11m for the placing of 11 tables and 30 chairs in connection with the bar proposed at 12 (formerly 10-14) Upper Saint Martin's Lane.

Application Permitted 4 September 2009

**11 Upper St Martin's Lane (Jamie's Italian)**18/01771/TCH

Use of two areas of the highway measuring 1500mm x 7500mm and for the placing of four tables, 16 chairs and five planters on the Upper St Martin's Lane frontage and 1500mm x 1055mm x 3500mm for the placing of 12 tables, 30 chairs, 12 planters and 3 umbrellas on the St Martin's Courtyard (rear frontage) in connection with Jamie's Italian Restaurant.

Application Permitted 18 May 2018 (Temporary one year permission until 30 June 2019)

Tables and chairs allowed on the public highway from 09.00 to 23.00 daily.

17/01114/TCH

Use of two areas of the highway measuring 1500mm x 7500mm for the placing of four tables, 16 chairs and seven barriers on the Upper St Martin's Lane frontage and 1500mm x 1055mm x 3500mm for the placing of 16 tables, 30 chairs, 4 benches, one waiter station, 14 planters and 3 umbrellas on the St Martin's Courtyard (rear frontage) in connection with Jamie's Italian Restaurant.

Application Permitted 22 March 2017 (Temporary one year permission until 30 April 2018)

Tables and chairs allowed on the public highway from 09.00 to 23.00 daily.

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

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

7. KEY DRAWINGS

**GENERAL NOTE:**  
DO NOT SCALE ANY DIMENSIONS UNLESS SPECIFIED AND REFER TO SET.  
THE OWNER REQUESTS THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN.

**AS BUILT**

NO.	DATE	REVISION	BY	DATE	REVISION
1		Issue for Construction			
2		Final Construction			
3		As-Built			
4		Final Construction			
5		As-Built			

**Macquay Sinclair**

PROJECT: Dishoom (Construction) - St. Paul  
 TITLE: Final Construction  
 DATE: 10/20/2023  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT NO.: 3343  
 DRAWING NO.: 03(04)D

Proposed layout

**DRAFT DECISION LETTER**

**Address:** 12 Upper St Martin's Lane, London, WC2H 9FB,

**Proposal:** Variation of condition 4 of planning permission dated 9 May 2017 (RN:16/06996/FULL) for use of an area of the public highway measuring 2.732m x 9.576m for the placing of 11 tables, 22 chairs and barriers in connection with the existing restaurant (Dishoom); namely the use of the pavement may continue until 30 September 2019.

**Reference:** 18/04326/FULL

**Plan Nos:** Site Plan; 03(04)D.

**Case Officer:** Seana McCaffrey

**Direct Tel. No.** 020 7641 1091

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

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

Reason:

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

- 2 You must not put the tables and chairs in any other position than that shown on drawing 03(04)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 on the pavement between 08.00 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. (R25BD)

- 4 This use of the pavement may continue until 30th September 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.

- 5 You can only put out on the pavement the tables and chairs shown on drawing 03(04)D. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

- 6 The tables and chairs must only be used by customers of Unit 34, 12 Upper St. Martins Lane. (C25CA)

Reason:

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

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You must keep the tables and chairs within the area shown at all times. We will monitor this

closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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

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Concerns have been raised that large queues regularly form outside the restaurant and can lead to congestion on the public highway. You are advised to manage customers waiting to enter the premises and prevent them from congregating on the public highway where they could cause an obstruction.

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.