

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 16 October 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	30-32 Foubert's Place, London, W1F 7PS,		
Proposal	Dual/alternative use of the basement, ground and first floor for either retail (Class A1) or restaurant (Class A3) use and dual/alternative use of second and third floor for either retail (Class A1) use, restaurant (Class A3) use or offices (Class B1) use. Installation of an intake duct and extract duct located internally from basement to third floor terminating at roof level and enclosed within an acoustic enclosure.		
Agent	Rolfe Judd Planning		
On behalf of	Shaftesbury Carnaby PLC		
Registered Number	18/06478/FULL	Date amended/ completed	2 August 2018
Date Application Received	1 August 2018		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

30-32 Foubert's Place is an unlisted building located within the Core Central Activities Zone (CAZ) Soho Conservation Area and the designated West End Stress Area. The property occupies a corner site with a frontage to Foubert's Place to the north and Newburgh Street to the west. The building comprises basement, ground and first to third floor levels, the lawful use of the basement, ground and first floors are for retail purposes (Class A1) and the second to third floor levels are lawfully in use as offices (Class B1).

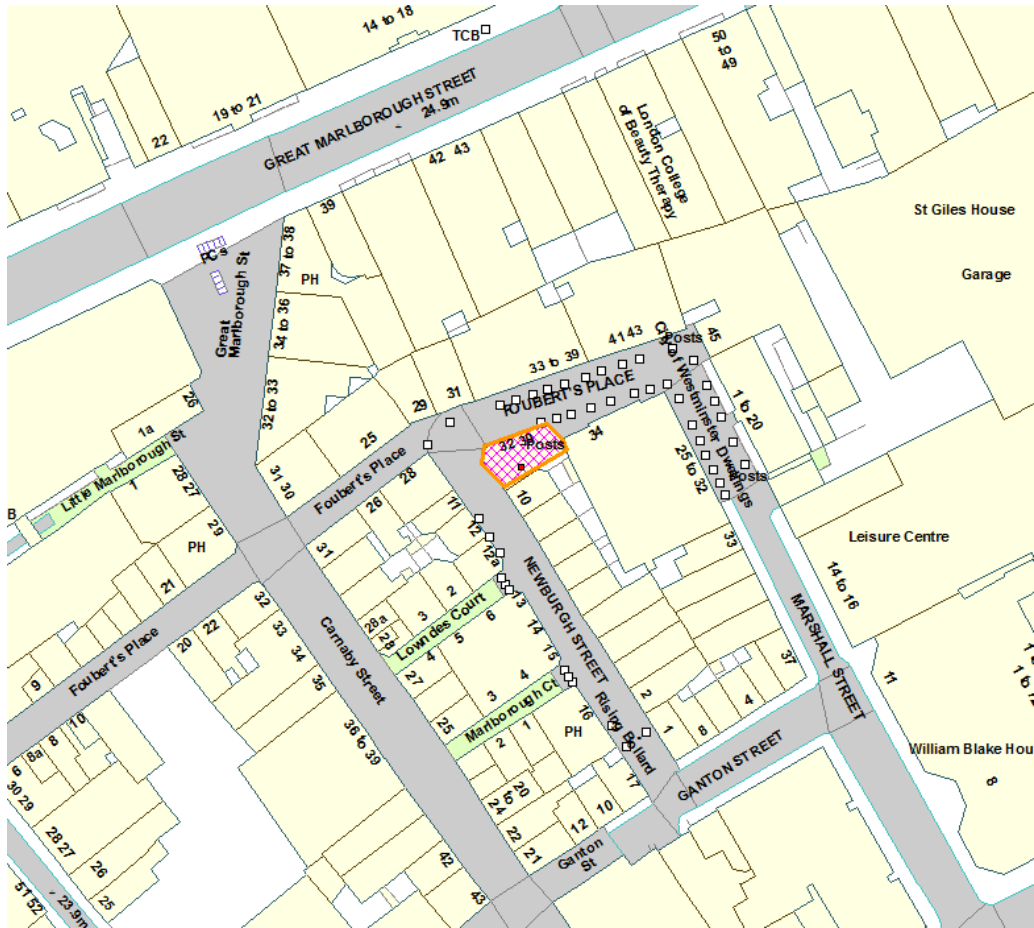
Planning permission is sought for dual / alternative use of the basement to first floors as either retail or restaurant accommodation and triple / alternative use of the second and third floor levels as either retail, restaurant or office accommodation. It is also proposed to route a new high level extract duct internally through the premises to terminate at main roof level within an acoustic enclosure.

The key issues are:

- The loss of existing retail accommodation.
- The impact of the proposed restaurant on the amenity of nearby sensitive occupiers.

The loss of retail floorspace does not comply with Policy S21, however, it is considered acceptable taking into account the proposed use, location of the property and the character of the immediate vicinity. Subject to appropriate conditions it is also considered the proposed restaurant use will be acceptable in terms of its impact upon residential amenity in the vicinity. The proposal is therefore considered acceptable in land use, transport, design and amenity terms. The application is recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and Westminster's City Plan policies.

3. LOCATION PLAN

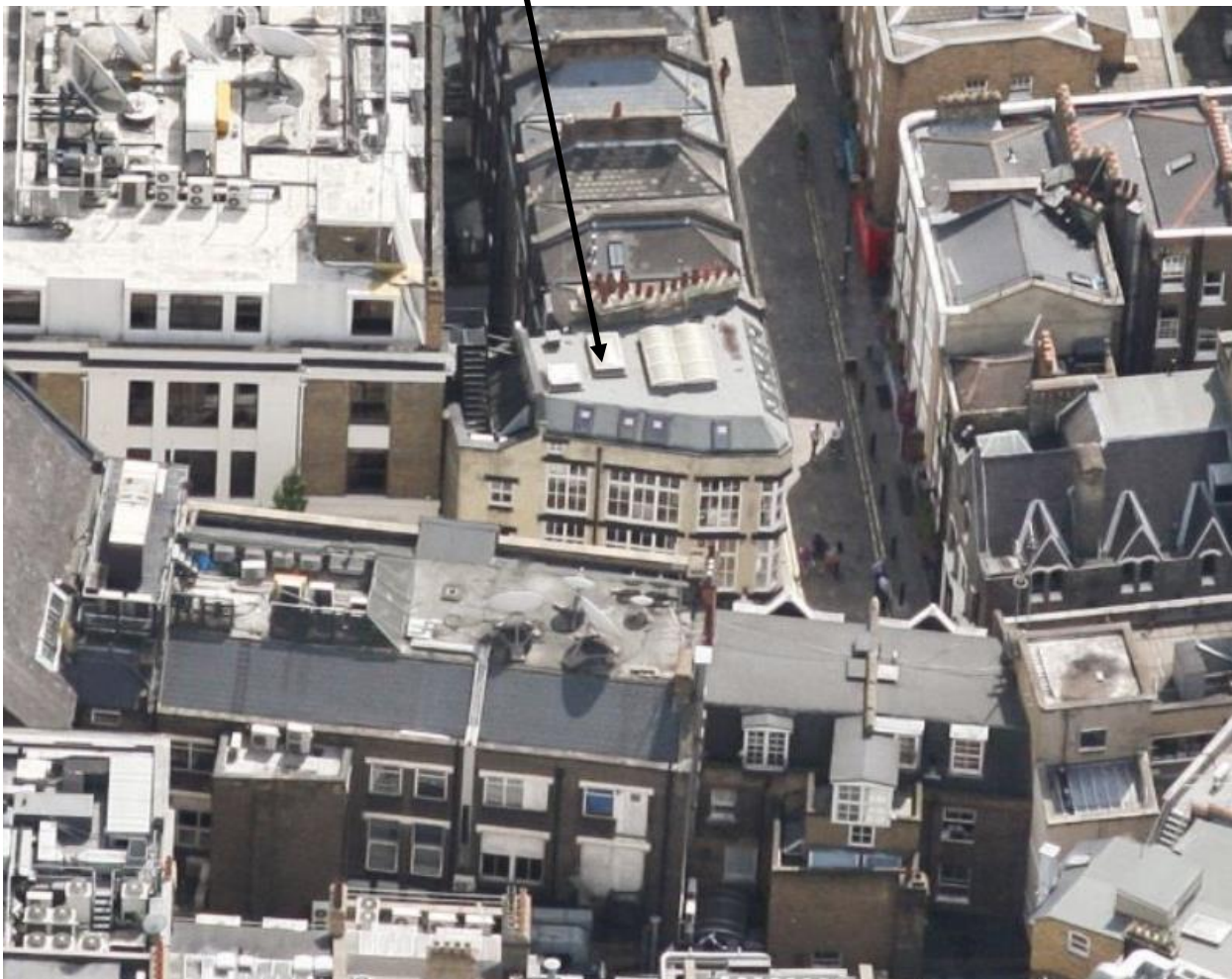


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4. PHOTOGRAPHS



Aerial photograph of the application site



5. CONSULTATIONS

SOHO SOCIETY

Objection to the increase in restaurant accommodation within Soho.

HIGHWAYS PLANNING

No objection subject to conditions.

WASTE PROJECT OFFICER

No objection subject to conditions.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

THAMES WATER

Requested the addition of informatives to any approval.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 30

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is an unlisted building located within the Soho Conservation Area, West End Stress Area and the Core Central Activities Zone. The building comprises a retail unit over basement, ground and first floors levels with office accommodation at second and third floor levels.

The building is located on the corner of Foubert's Place and Newburgh Street. Access to the retail units is gained from the chamfered corner a separate entrance to the offices on the upper floors is on Newburgh Street. The nearest residential units are located on the upper floors of 11 Newburgh Street being opposite the application site and on the upper floors of 29-31 Foubert's Place.

6.2 Recent Relevant History

Planning permission was granted on the 11 April 2018 for the dual/alternative use of the second and third floor for either retail (Class A1) use or office (Class B1) use.

Planning permission was granted on 13 November 2001 for the use of basement as Class A1 retail/ retail showroom.

7. THE PROPOSAL

Permission is sought for the dual/alternative use of the basement, ground and first floors for either continued retail or restaurant purposes, and the triple/alternative use of the second to third floors for either continued office purposes, or retail purposes, or restaurant purposes. A full height extract duct will be routed internally through the building and will extract at roof level, within an acoustic enclosure.

1. Land use table.

Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (A1)	176	0	-176
Office (B1)	101	0	-101
Flexible Retail / Restaurant (A1 / A3) (basement ground and first floors)	0	176	+176
Flexible Retail / Restaurant / Office (A1 / A3 / B1) (second and third floors)	0	101	+101
Total	277	277	0

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of office use

The proposals could result in the loss of office floorspace over the second and third floor levels. The City Council has no policies seeking the protection or retention of general office accommodation in this location where the proposed change is to another commercial use. The potential loss of the office floorspace is therefore considered acceptable in principle.

Loss of Retail Use

The proposals could result in the loss of the existing retail unit over basement, ground and first floor levels. Policy S21 of the City Plan states that 'existing A1 retail 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'. The supporting text advises that this approach will ensure that the needs of customers and retailers across the city are met through the retention of the number of shops and overall amount of retail floorspace.

As the site is located within the Core Central Activities Zone the relevant policy from the UDP relating to the loss of retail floorspace is Policy SS5. This also seeks to resist the loss of retail floorspace within the Core CAZ, and outside of the Prime Shopping Frontages. The policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

Policy SS5 (A) states that A1 uses at ground, basement or first floor level in the CAZ and CAZ Frontages will be protected.

Policy SS5 (B) says that planning permission for the introduction of a non-A1 town centre use at basement, ground and first floor level 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.

Policy SS5 (C) states 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 overconcentration of A3 and entertainment uses in a street or area.

The unit is located on the corner of Newburgh Street and Foubert's Place. The majority of the ground floor units along Newburgh Street are in use as retail with the street being parallel with Carnaby Street (which is one street to the west). Foubert's Place is also primarily retail to the west of the application site but heading east along the street from the application site the properties are in use as office accommodation at ground floor level with no further uses serving visiting members of the public along this section of the street. It is therefore considered that the existing retail unit in the building is primarily associated with the shopping frontage south along Newburgh Street as opposed to the office accommodation along Foubert's Place to the east.

With regards to the stipulations of SS5 (B) the adjoining six premises to the south along Newburgh Street are in use as retail accommodation and within Newburgh Street there are 18 ground floor units, 14 of which are retail, three restaurant and one public house. Along Foubert's Place to the west of the application site are five ground floor units (excluding those fronting Carnaby Street) of which four are retail and one restaurant.

It is therefore not considered that the loss of this retail unit to another use serving visiting members of the public would be 'detrimental to the character and function of the area or to the vitality or viability of a shopping frontage or locality' such that the proposal would be contrary to the stipulations of Part B of Policy SS5 of the UDP. The proposal would also not result in three or more consecutive non-retail uses along Newburgh Street with the adjoining ground floor unit being in use as retail accommodation, which complies with the requirement of Part C (1) of the Policy. It is noted that the adjoining building east along Foubert's Place is in use as offices and there are no units serving visiting members of the public along this section of street. In terms of the streetscape the unit would be read in connection with the retailing frontage along Newburgh Street which experiences a much greater pedestrian footfall.

With regard Part C (2) of the policy which relates to an overconcentration of entertainment uses in the area, this is discussed in the section below. The main thrust of Policy SS5, is to ensure that the character and function of an area or the vitality or viability of a shopping frontage or locality is not harmed by the replacement of shops with non-A1 town centre uses. As detailed above, the proposal is considered to accord with the requirements of the relevant retail policies in the UDP and there are only a very limited number of restaurant / public house uses within the vicinity. This area is also a secondary frontage to the primary retail accommodation along Carnaby Street and the provision of restaurant functions could be seen as providing a supporting function to the

adjoining retail destination street. Whilst the proposal does not accord with the stipulations of Policy S21 as no long term vacancy has been demonstrated, for the reasons detailed above it is not considered the loss of retail floor space can be resisted.

Provision of Retail Use

The proposals could also result in the use of the whole building for retail purposes, which would result in an increase in the retail floorspace of 101m². This retail increase is welcomed and complies with City Plan Policies S7 and S21 of and SS5 of the UDP.

Provision of Restaurant Use

The proposed potential restaurant use over the entire building would comprise 277sqm (176sqm over basement, ground and first floors and 101sqm over second and third floors). An entertainment unit of this type and size located within the Core CAZ and West End Stress Area would be considered against Policies TACE9 of the UDP and S24 of the City Plan.

Policy S24 of the City Plan requires that, *'New entertainment uses will need 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.'*

Policy TACE 9 of the UDP states that permission for restaurant uses (Class A3) will generally be permissible, where the proposed development will have no adverse impact on residential amenity or local environmental quality, and no adverse effect on the character or function of its area. Where necessary, conditions will be imposed to control capacity, hours of operation, amenity and servicing arrangements.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floor space to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

As detailed above the immediate vicinity along Foubert's Place and Newburgh Street is characterised mainly by retail units on the lower floors and offices on the upper floors. The nearest residential units are located on the upper floors of 11 Newburgh Street being opposite the application site and on the upper floors of 29-31 Foubert's Place. There are no other residential flats within the immediate vicinity.

Other licensed premises in the vicinity include the Antidote restaurant at 12A Newburgh Street and Pitta Bun at 4 Newburgh Street both of which have licensed opening hours of 10:00 till 00:30 Monday to Saturday, 12:00 till 00:00 Sundays; further there is the Kua 'Aina restaurant at 26 Foubert's Place with licensed opening hours of 10:00 till 23:30 Monday to Thursday; 10:00 till 00:00 Friday and Saturday and 12:00 till 22:30 on Sundays. It is not considered there is any saturation of entertainment premises in the vicinity with the majority of the ground floor units in use as retail floorspace.

Should consent be implemented for restaurant purposes over basement, ground and first floors for restaurant purposes, there would be 44 covers, in the event that the entire premises be used for restaurant purposes it is proposed the use would have 92 covers. Opening hours are proposed as 08:00 to 00:00 Monday to Thursday; 08.00 to 00.30 Friday and Saturday and 08:00 to 23:00 on Sundays. Paragraph 8.88 of the UDP states, *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. The proposed opening hours therefore accord with this approach and the proposed premises would close around the same time as other licensed premises in the vicinity so the proposal would not introduce additional noise from patrons at a later hour.

Conditions are proposed to control the opening times and activity in order to limit the impact of the restaurant. These conditions would ensure that the use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) and this could be used only by diners before and after meals.

A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties. Given the limited number of covers in the premises being a maximum of 92, it is not considered necessary to require the submission of an Operational Management Plan.

A high level extract duct is also proposed as part of the development, this is considered an acceptable method for odour dispersal from any new restaurant and a condition is proposed stating that if the restaurant use is implemented the extract duct is installed and thereafter retained in situ.

The Soho Society have objected to the provision of the restaurant accommodation within the Soho area due to 'over intensification'. As detailed above the majority of the ground floors units in the vicinity west along Foubert's Place, Newburgh Street and Carnaby Street are retail premises, east along Foubert's Place the buildings are in use as office accommodation. It is not considered there is an over-concentration of entertainment uses in the immediate area. Taking into account the opening hours of other licensed premises in the area and with the safeguarding conditions detailed above the restaurant use will not have a detrimental impact upon residential amenity.

The proposal enables the property to potentially be utilised as a restaurant at ground, basement and first and also, separately, at second and third floor levels. To ensure the use of the second and third floor levels as restaurant accommodation is only implemented if the use of the lower floors as restaurant use is also implemented a suitable condition is attached. This condition is necessary as insufficient information has been provided with regard suitable waste / recycling storage and odour extraction to show the upper floors could operate as an independent restaurant.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24 subject to these safeguarding conditions.

Thames Water has requested the addition of an informative on any approval detailing the requirement to install fat traps on restaurant drainage systems and to arrange for the collection of waste oils.

8.2 Townscape and Design

If the restaurant use is implemented, new intake and extract ducts would be installed to run internally through the property to terminate within an acoustic enclosure at main roof level. The enclosure would be located adjacent to the existing chimneys at main roof level and would be the same height as the chimneys. The installation would require the removal of an existing metal vent, which is currently located in this area. The proposal is considered to have a neutral impact on the character and appearance of the Soho Conservation Area and with the acoustic enclosure installed acting as visual screening for the ducting the proposal is considered acceptable in design terms.

8.3 Transportation/Parking

The Highways Planning Manager has requested the addition of a condition to any permission requiring the submission of amended drawings to show the provision of two cycle parking spaces for members of staff. However, given the very small floorplates on each floor of the building any members of staff bringing cycles into the building would have to take them through the main customer area at ground floor. It is not therefore considered there is a feasible location in the property for the provision of cycle storage.

Servicing requirements for the expanded retail operation and the potential new restaurant use are likely to be greater than the current office and retail use and there are limited on-street servicing opportunities in the vicinity. A Servicing Management Plan has been submitted with the application and the Highways Planning Officer considers this acceptable to alleviate any implications for the highway resulting from the proposal. A condition is imposed stating that the retail unit cannot be utilised as a food retail supermarket as this will have additional servicing requirements which have not been considered as part of this application. Additionally to minimise the impact of the potential restaurant use on the road network (with regard parking availability and increased noise) a condition is included stating no delivery service can operate from the restaurant.

With these conditions in place the proposal is considered acceptable with regards the highways implications of the development.

8.4 Economic Considerations

Any economic benefits generated by the scheme are welcomed.

8.5 Access

The existing access arrangements to the premises will be retained which includes steps inside the property. The applicant contends that it is 'structurally impossible' to provide level access due to the internal floor levels being 30cm higher than the street and there is no possibility of ramped access due to space constraints.

8.6 Other UDP/Westminster Policy Considerations

Plant Noise

Two kitchen fans are required to be installed on the roof of the property in association with the high level extract ducting. With regard noise from the proposed plant the application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant.

An acoustic report has been submitted in relation to the installation of the new plant equipment. The nearest noise sensitive properties are located within the building on the opposite side of Foubert's Place at a distance of 10m from the proposed plant. Consent is sought for the plant to operate at any time. Acoustic mitigation measures are proposed in the form of in-duct attenuators and an acoustic enclosure around the fans (this has been shown on the submitted drawings). The calculations demonstrate that with the acoustic mitigation measures installed the operation of the plant will be compliant with the standard Westminster noise criteria.

Standard conditions are imposed with regard acceptable levels of noise, vibration from the plant and the installation and retention of the stipulated acoustic mitigation measures as required by Environmental Health. Environmental Health has requested that a supplementary acoustic report is submitted once the plant has been chosen. However, the acoustic reports details the exact specification of the duct fans and any additional plant will require separate planning consent and on this basis a supplementary report is not considered necessary.

Refuse /Recycling

Detailed drawings have been provided of the waste and recycling storage provision within the various proposed uses and these are considered acceptable. A condition is attached to ensure that if the permission is implemented the waste and recycling storage is provided as shown on the drawings and retained in this form.

8.7 Neighbourhood Plans

The draft Knightsbridge Neighbourhood Plan and all submission documents, representations received, and subsequent modifications proposed to it have been considered by an independent examiner who has issued their final report with recommendations. The council will now consider the examiner's recommendations before publishing its 'Decision Statement'. Depending on the outcome of this, the plan will then need to proceed to a referendum before it can formally become part of the statutory development plan and be attributed full weight. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the draft neighbourhood plan, these are discussed elsewhere in this report.

The submission version of the Mayfair Neighbourhood Plan has been submitted by Mayfair Neighbourhood Forum to the council for consultation and an independent examiner is due to be appointed shortly.

8.8 London Plan

This application raises no 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 this application.

(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: HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk

9. KEY DRAWINGS

Proposed basement, ground and first floors

PROPOSED EXTRACT VENTILATION SYSTEM
PROPOSED EXTRACT VENTILATION SYSTEM TO BE IN ACCORDANCE WITH:
GUIDELINES FOR THE CONTROL OF ODOUR FROM COMMERCIAL KITCHEN EXTRACT VENTILATION SYSTEMS
WESTMINSTER CITY COUNCIL ENVIRONMENTAL HEALTH ADVICE FOR PLANNING APPLICATIONS
REFER TO ENVIRONMENTAL NOISE SURVEY & PLANT NOISE SURVEY BY HANN TUCKER ASSOCIATES FOR FURTHER INFORMATION
FOR RECYCLING & WASTE STORAGE SEE SEPARATE DRAWINGS FOR EACH PROPOSED USE

No. 250.100/PLA14 A

PRIME MERIDIAN
SHAPTESBURY CARNARY PLC
Client: SHAPTESBURY CARNARY PLC
Project: 30-32 FOUBERT'S PLACE CARNARY LONDON W1F 7PS
Title: PROPOSED PLANS
No. 250.100/PLA14 A

Proposed second and third floors

PROPOSED EXTRACT VENTILATION SYSTEM
PROPOSED EXTRACT VENTILATION SYSTEM TO BE IN ACCORDANCE WITH:
GUIDELINES FOR THE CONTROL OF ODOUR FROM COMMERCIAL KITCHEN EXTRACT VENTILATION SYSTEMS
WESTMINSTER CITY COUNCIL ENVIRONMENTAL HEALTH ADVICE FOR PLANNING APPLICATIONS
REFER TO ENVIRONMENTAL NOISE SURVEY & PLANT NOISE SURVEY BY HANN TUCKER ASSOCIATES FOR FURTHER INFORMATION
FOR RECYCLING & WASTE STORAGE SEE SEPARATE DRAWINGS FOR EACH PROPOSED USE

No. 250.100/PLA15 A

PRIME MERIDIAN
SHAPTESBURY CARNARY PLC
Client: SHAPTESBURY CARNARY PLC
Project: 30-32 FOUBERT'S PLACE CARNARY LONDON W1F 7PS
Title: PROPOSED PLANS
No. 250.100/PLA15 A

DRAFT DECISION LETTER

- Address:** 30-32 Foubert's Place, London, W1F 7PS,
- Proposal:** Dual/alternative use of the basement, ground and first floor for either retail (Class A1) or restaurant (Class A3) use and dual/alternative use of second and third floor for either retail (Class A1) use, restaurant (Class A3) use or offices (Class B1) use. Installation of an intake duct and extract duct located internally from basement to third floor terminating at roof level and enclosed within an acoustic enclosure.
- Reference:** 18/06478/FULL
- Plan Nos:** Acoustic Report (25728/PNA1Rev1), Drawings: 250.100/PLA14 RevA, 250.100/PLA15 RevA, 250.100/PLA16 RevA, 250.100/PLA17 RevA, 250.100/PLA21, 250.100/PLA19.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 on Saturday; and, not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and, not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 250.100/PLA22 and 250.100/PLA19. You must clearly mark them and make them available at all times to everyone using the property. (C14FB)

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)

- 4 In the event the restaurant use is implemented, you must install the high level duct as shown on the approved drawings before the restaurant use can operate. Thereafter the duct must be maintained in situ for as long as the restaurant use remains in operation.

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)

- 5 In the event the restaurant use is implemented, you must not allow more than 92 customers into the property at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 In the event the restaurant use is implemented, you must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the following hours:
08:00 to 00:00 Monday to Thursday;
08:00 to 00.30 Friday and Saturday; and,
08:00 to 23:00 on Sundays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 In the event the restaurant use is implemented, the management of the use shall be such that there is no external queuing of customers.

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)

- 8 In the event the restaurant use is implemented, any bar and bar seating areas must not take up more than 15% of the floor area of the property. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 9 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)
- 10 In the event the restaurant use is implemented, you must not operate a delivery service from the premises even as an ancillary part of the 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)
- 11 All servicing of the property must be carried out in accordance with the Servicing Management Plan hereby permitted.
- 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)
- 12 Notwithstanding the provisions of Class A1 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) the retail accommodation hereby approved shall not be used as a supermarket/convenience store (or similar) unless otherwise agreed in writing by the City Council as local planning authority.
- 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 The restaurant use of the second and third floors hereby permitted shall only be operated in association with the restaurant use at basement, ground and first floor levels. Should the restaurant use at basement, ground and first floor levels cease to operate the restaurant use at second and third floor levels must also cease operation.
- Reason:
We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)
- 14 (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)

- 15 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration. (R48AA)

- 16 You must install the acoustic mitigation measures as shown on the approved drawings and to the specification detailed in the acoustic report. These must be maintained in situ for as long as the plant remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, 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. (R13AC)

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 District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk. If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteq.org.uk. It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 4 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 5 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold

levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

- 6 Thames Water recommend the installation of properly maintained fat traps on all catering establishments and in line with best practice for the disposal of fats, oils and grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses.
- 7 Conditions 14 and 15 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

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.

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