

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 8 January 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved St James's	
Subject of Report	80-86 Shaftesbury Avenue And 5 Macclesfield Street, London, W1D 6AY,		
Proposal	Use of the first and second floor of 80 Shaftesbury Avenue as Class C3 (residential) to provide 2x1 bedroom units. Reconfiguration of 4 residential units at 82-88 Shaftesbury Avenue. Reconfiguration of the restaurant unit at 5 Macclesfield Street and the retail unit at 80 Shaftesbury Avenue at ground floor level. Infill of light-well and installation of a new shopfront at 80 Shaftesbury Avenue and minor external alterations. (Site includes 80, 82-88 Shaftesbury Avenue and 5 Macclesfield Street)		
Agent	Rolfe Judd Planning		
On behalf of	Shaftesbury Chinatown Plc		
Registered Number	18/04902/FULL	Date amended/ completed	12 June 2018
Date Application Received	12 June 2018		
Historic Building Grade	Unlisted		
Conservation Area	Chinatown		

1. RECOMMENDATION

For Committee's consideration:

Does the Committee consider that the circumstances of this case are sufficient to justify the loss of office accommodation as an exception to adopted City Plan policy?

2. SUMMARY

The application site comprises three buildings; 80 Shaftesbury Avenue; 82-88 Shaftesbury Avenue and 5 Macclesfield Street, these properties are located on the southern side of Shaftesbury Avenue within the Chinatown Conservation Area and Core Central Activities Zone.

The buildings all comprise basement, ground and three upper floors with internal connections between the properties at various levels. The basement and ground floors of 82-88 Shaftesbury Avenue are in use as a restaurant (Class A3) and are not included within the scope of the application. The first floor of this property has lawful use as either office, non-residential institution

(D1) or residential accommodation and is currently in use as a flat, the second and third floors are also used as flats.

5 Macclesfield Street is used as a restaurant at basement and ground with residential flats on the upper floors. 80 Shaftesbury Avenue is currently used as a restaurant at basement (associated with 5 Macclesfield Street), retail at ground floor and the upper floors have various approved or long-standing uses for residential, office, retail or financial / professional services. Currently the first and second floors are used for office purposes, with a residential flat at third floor level.

The proposals include minor works to the properties including the infilling of a small internal lightwell, replacement of the shopfront at 80 Shaftesbury Avenue, alterations to the ground floor frontage of 5 Macclesfield Street on the Dansey Place elevation, and installation of new windows at all levels. It is also proposed to re-configure the ground floor restaurant and retail uses and to change the use of the first and second floors of 80 Shaftesbury Avenue to provide two residential flats.

The key issue for consideration is:

- The loss of office floor space within the Core Central Activities Zone.

The proposal would result in the loss of office accommodation on the first and second floors of 80 Shaftesbury Avenue within the Core Central Activities Zone where the conversion of office floorspace to residential accommodation is resisted. Committee's views are sought as to whether sufficient justification has been demonstrated to allow an exception to policy in this instance.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Shaftesbury Avenue
frontage



Corner of
Shaftesbury Avenue
And Macclesfield
Street



5. CONSULTATIONS

SOHO SOCIETY

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

HIGHWAYS PLANNING

Objection – lack of available on-street parking.

WASTE PROJECT OFFICER

No objection subject to conditions.

CROSSRAIL 2

Do not wish to comment.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 27

Total No. of replies: 1

No. of objections: 0

No. in support: 1

Letter of support on the following grounds:

Refurbishment of the property is welcomed and should improve the security of the building.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located on the corner of Shaftesbury Avenue and Macclesfield Street on the southern side of Shaftesbury Avenue and includes 80-86 Shaftesbury Avenue and 5 Macclesfield Street. The buildings are unlisted and located within the Chinatown Conservation Area, Core Central Activities Zone (Core CAZ) and the West End Stress Area.

6.2 Recent Relevant History

80 Shaftesbury Avenue

Planning permission was granted in July 2014 for the alternative use of the rear first floor for retail (Class A1), financial and professional services (Class A2) and office (Class B1) purposes and the dual/alternative use of the rear second floor for either retail (Class A1) or office (Class B1) use. It appears that the office use was implemented for both the rear first floor and rear second floor.

Planning permission was granted in December 2005 for the alternative use of first floor rear for (Class A1) retail, (Class A2) financial and professional services or continued (Class B1) office purposes.

82 Shaftesbury Avenue

Planning permission was granted in August 2015 for the triple/alternative use of the front first floor for use as either office (Class B1), medical (Class D1) or as a residential studio (Class C3).

The officers report for this decision sets out that in 2015, the first floor was part in office (B1) use, part residential (C3) use with the second and third floors in residential (C3) use. Residential use of the rear first floor was considered to have been long-standing since 1991.

7. THE PROPOSAL

At ground floor level, the existing property comprises three existing units, being one restaurant premises to Macclesfield Street, a retail unit to Dansey Place and a retail unit to Shaftesbury Avenue. The proposal would result in a reconfigured extended restaurant unit fronting Macclesfield Street and Dansey Place with an extended retail unit to Shaftesbury Avenue. The existing entrance to the upper floors of 80 Shaftesbury Avenue will be removed and all access to the upper floors of the buildings is to be provided through the existing entrance and core of 82-88 Shaftesbury Avenue. A new shopfront is proposed to the retail unit on Shaftesbury Avenue and new timber sash windows are proposed to the upper floors of the building.

The lawful use of the upper floors of 82-88 Shaftesbury Avenue is as six residential flats.

The upper floors of 80 Shaftesbury Avenue comprise, first, second and third floor levels. The third floor appears to have established use as a residential flat (being registered for Council Tax since 1993) whilst the first and second floors have been split into 'front' and 'rear' rooms. The permission that was granted in July 2014 permitted the triple / alternative use of the rear first floor for either retail (Class A1), financial / professional services (Class A2) or, office (Class B1), and the rear second floor for either retail (Class A1) or office (Class B1). The front element of the first and second floors would appear to have lawful use as office accommodation and both front and rear of the first and second floors in the property are rated for Business Ratings purposes as office accommodation. It is important to note that under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the rear first and rear second floors can change use between the permitted uses listed above until July 2024.

Permission is sought for the change the use of the commercial floorspace at first and second floor levels within 80 Shaftesbury Avenue to provide two-one bedroom, residential flats. The access to the new flats will be via the existing access/stair core in 82-88 Shaftesbury Avenue. However, as a result of the reconfiguration of the stair core, there would be a small loss residential floorspace to three of the existing residential flats, but this would be confined to the entrance hallway of each of the flats.

1. Land use table.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Restaurant (A3)	204	220	+16
Retail (A1)	40	41	+1
Office (front first and second floors)	52	0	-52
Office/retail/financial and professional services (rear first floor)	24	0	-24
Office/retail (rear second floor)	24	0	-24
Residential (80 Shaftesbury Avenue)	49	169	120
Total	344	430	+86

The increase in floorspace within 80 Shaftesbury Avenue is provided by the infilling of the small internal lightwell and the removal of the existing staircore.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of office floorspace

As set out above, there is 52sqm of lawful office floorspace over the front first and front second floor levels, with flexible office floorspace at rear first and rear second floor level comprising 48sqm. Therefore the proposals could result in the loss of 52sqm and the potential loss of a further 48sqm (total 100sqm) of office floorspace within the Core Central Activities Zone.

Policy S20 of the City Plan states that; 'inside the Core Central Activities Zone, Opportunity Areas and the Named Streets, changes of use from office to residential or replacement of office floorspace with residential floorspace will only be acceptable where the council considers that the benefits of the proposal outweigh the contribution made by the office floorspace.' The policy further states that when considering proposals for change of use from office to residential consideration will be given to the degree to which housing and employment targets are being achieved; the extent to which the office floorspace contributes to meeting Westminster's business and employment needs; and the extent to which the type, size and tenure of housing proposed meets or exceeds Westminster's needs. Consideration could also be given to significant benefits to a heritage asset or townscape but this should be considered in the context of the priority to retain office floorspace.

The reasoned justification for this is that the City Council is seeking to reverse a significant reduction in office floorspace that resulted from planning consents to convert to residential between 2010 and 2015. The applicant is not seeking to argue that the proposal is acceptable due to the City Council meeting office floorspace targets, indeed the policy justification states that; 'After employment capacity has recovered in line with

the employment targets and an appropriate balance of uses is re-established, commercial floorspace will still be the priority in the Core CAZ, Named Streets and Opportunity Areas, and loss of offices to housing will only be acceptable where the benefits outweigh the dis-benefits, as assessed in the wider context of the prioritisation of the core commercial areas for commercial uses and activities.'

The applicant argues that the existing office floorspace has a negligible contribution to Westminster's office stock, by virtue of its size and layout, which, in their view does not 'suit traditional office uses'. It is also noted the office accommodation is provided in small rooms of approximately 20sqm and the applicant states small office accommodation of this type is increasingly difficult to let, although no marketing information has been submitted to support this claim. The applicant has stated that they have struggled to secure a long term user of the office floorspace and this has resulted in short term letting of the office floorspace. They have stated that the knock-on impact of the short term letting is a lack of 'ownership' of the common parts.

The applicant has also stated that rough sleepers have been using the existing recessed entrance, and have been able to enter the hallway, attracted by the poorly controlled access from street level. They have also stated that the existing staircase is narrow, which hampers deliveries to the office occupiers.

The issue with regard 'ownership' and maintenance of the common areas in the property is considered a management issue and should be for the freeholder to maintain the common parts as opposed to people who have leased a certain part of the building. Also, this issue will also arise with the proposed residential use of the building as the freeholder will still be liable for maintenance of the common parts.

With regard rough sleepers in the doorway, they are unlikely to be attracted by the commercial uses in the building and more likely the recessed entrance providing a form of shelter. This could be easily addressed by removing the recessed entrance (which is part of these proposals) without the need to change the use of the building.

The applicant has stated that residential use is a better use for the upper floors, which will also result in an increase in size of the existing flat at third floor level and argue that this outweighs the loss of the office floorspace. Committee's views are sought on whether the loss of office accommodation is justified in these circumstances.

Residential floorspace

The provision of new residential floorspace is welcomed in principle and complies with Policies H3 of the UDP and S14 of the City Plan, which seek to maximise the amount of land or buildings in residential use. The proposal results in the creation of two-one bedroom units.

The two new residential units equate to 57sqm and 56sqm and are dual aspect with frontages to Shaftesbury Avenue to the north and Dansey Place to the south. These unit sizes accord with the minimum sizes as detailed in the London Plan without being excessively large and being dual aspect will ensure a good level of internal light and the ability to naturally ventilate the units.

An acoustic report has been submitted to ensure that the new residential units would comply with the internal noise standards set out in the UDP, as a result of internal and external noise sources. Information has been provided relating to the acoustic mitigation treatment between the existing (and extended restaurant) and the new residential at first floor level. Environmental Health have no objection to the mitigation treatment for the separating floor and consider this acceptable to meet the City Council criteria with regard internal noise levels. Details have also been provided of the acoustic mitigation required to ensure appropriate protection from external noise sources which are again considered acceptable with Environmental Health. Suitable conditions would be applied to any consent to ensure these measures were installed to the specification detailed and maintained in this manner.

As the windows of the units would have to be shut to meet the internal noise level criteria it is also proposed to install a mechanical ventilation system. Details of this have been provided including potential noise outbreak and relevant conditions to control noise level would have been attached to any approval.

Policy H5 of the UDP requires that in new developments, 33% of the residential units should be family sized (three bedrooms or more), whilst Policy S15 of the City Plan also requires that 'residential developments will provide an appropriate mix of units in terms of size, type and affordable housing provision to contribute towards meeting Westminster's housing needs, and creating mixed communities'. There are two new units proposed in this development, neither of which is family sized, however, as the site is in a very busy, central location with no external space and the proposal only creates two new residential units the application is considered acceptable in this regard.

As the increase in residential floor space does not exceed 1000sqm or 10 additional residential units, there is no policy requirement to provide affordable housing provision, as set out in Policy S16 of the City Plan.

Restaurant floorspace

The existing restaurant over the basement and ground floor levels of 5 Macclesfield Street is proposed to extend into the rear unit on Dansey Place, which will create additional 16sqm of restaurant floorspace, resulting in a total of 220sqm. The extended 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 TACE9 of the UDP states that permission for restaurant uses 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.

The existing restaurant at 5 Macclesfield Street is not controlled by planning conditions, but is licensed to be open between the hours of 11:00 and 00:00 Monday to Saturday and 11:00 and 23:30. The applicant has confirmed that they would accept a condition restricting the extended restaurant opening hours to the same as the existing licence. These opening hours are in line with the UDP which states 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 existing restaurant has 200 covers and this is not proposed to change as a result of the increase in floorspace. The applicant has agreed to a condition limiting the number of covers. A condition would also have been proposed stating that no music can be played in the premises which is audible externally or within adjoining properties.

There is an existing high level extract duct and this is will be retained for the extended restaurant use.

The increase in restaurant floorspace is modest, but this extension in floorspace allows the City Council to bring the restaurant under planning control. The principle of the extended restaurant premises is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24.

Retail / Financial and Professional Services

The proposal will result in an increase in retail accommodation at ground floor level. It will also allow the increase in the retail frontage along Shaftesbury Avenue resulting from the removal of the entrance to the upper floors of 80 Shaftesbury Avenue. The provision of new retail floorspace accords with the stipulations of Policies S6, S7 and S21 of the City Plan and SS4 of the UDP which seek to encourage retail growth within the Core CAZ and to enhance the offer and status of the West End Special Retail Policy Area.

The 2014 consent allowed for the rear first floor and the rear second floor to be potentially used for retail purposes (48sqm). The potential loss of retail floorspace on the upper floors, which is not associated with the retail unit on the ground floor and which shares a stair core with other commercial and residential uses is considered acceptable in land use terms. The rear first floor room could also potentially be utilised as financial and professional services floorspace which means a potential loss of 24sqm, this is also acceptable as the accommodation shares a stair core with multiple other uses and is unaffiliated with any ground floor use.

8.2 Townscape and Design

80 Shaftesbury Avenue and 82-88 Shaftesbury Avenue form part of what is known as Cooper House, an Edwardian building of red brick, with traditional details, including columns, cornices and sash windows. The shopfront at 82-88 Shaftesbury Avenue is of a traditional form while that at 80 Shaftesbury Avenue is a fully openable modern design.

5 Macclesfield Street is a much simpler design, comprises entirely of red brick and white six-pane sash windows. It also incorporates a two storey arch that forms the entrance to Dansey Place. None of the buildings are listed but all of them are considered to make a

positive contribution to the character and appearance of the Chinatown Conservation Area.

The three properties are all inter-connected internally, with multiple cores and lightwells.

The existing shopfront to 80 Shaftesbury Avenue is harmful to the host building and both the Chinatown and Soho Conservation Areas (the boundary of which is along Shaftesbury Avenue). The proposed replacement shopfront is an improvements in terms of its effect on the character of the conservation area.

The replacement windows are of matching appearance to the existing and are acceptable. Drawings have been provided showing sill and glazing bars in detail. The double glazed units are very thick (29.6mm) but are considered to be acceptable on this occasion because they are at first floor and above, they match throughout the building and the double glazed units are individually puttied into glazing bars.

The altered ground floor treatment to the Dansey Place elevation of 5 Macclesfield Street involves the blocking up of two doors and the insertion of one new door, adjacent to the retained shop window. These doors make a neutral contribution to the character and appearance of the conservation area. Retaining the form of the blocked doorways would help to prevent the creation of an overly blank frontage within Dansey Place. This requirement could be dealt with by condition on any approval.

The infill of the small lightwell between 80 Shaftesbury Avenue and 82-88 Shaftesbury Avenue will not impact on the conservation area.

The proposed works are considered to be acceptable in design and conservation terms.

8.3 Transportation/Parking

The City Council would normally expect where appropriate and practical the provision of off-street parking to accompany residential development proposals. However, it is recognised that in this situation this would not be practical. Policy TRANS23 stipulates that the City Council will normally consider there to be a serious deficiency where additional demand would result in 80% or more of potential parking spaces being occupied. City Council survey data shows that occupancy of on-street residential parking spaces is 78% in the day and 92.7% in the night-time. Even including metered parking bays and single yellow lines (on which residents can park over-night) the occupancy remains over the threshold level of 80% and therefore the Highways Planning Manager objects to the proposal. Given the close proximity of this site to excellent public transport facilities and that the proposal only creates two new residential units it is considered that the lack of parking in this instance is likely to be acceptable.

The applicant has indicated that any cycle storage would need to be within the residential units due to a lack of communal facilities within the building. This argument is accepted as the residential core only contains the communal stair and there is no potential for cycle storage. The Highways Planning Manager has requested cycle storage be conditioned within the residential units, however this is not considered necessary for cycle storage within flats and the condition is not considered appropriate.

Economic Considerations

Any economic benefits generated are welcomed.

8.4 Access

There is existing level access to the restaurant unit at 5 Macclesfield Street and this will be retained as part of the proposal. On 80 Shaftesbury Avenue there is only stepped access into the retail unit as the entire block is on a slanting plinth due to the topography of the street. The applicant contends that they are unable to provide level access to the retail unit due to the existing concrete plinth.

The residential units are currently accessed via an internal stair and this arrangement would not change.

8.5 Other UDP/Westminster Policy Considerations

The proposed waste / recycling storage facilities are acceptable and had the application been recommended for approval a condition would have been recommended to secure this provision in perpetuity.

8.6 London Plan

This application raises no strategic issues.

8.7 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

8.8 Planning Obligations

Planning obligations are not relevant in the determination of this application.

8.9 Other Issues

A letter of support has been received to the application from the occupier of the third floor flat in 80 Shaftesbury Avenue. They state that the change of use of the commercial floorspace to residential will improve the security of their flat as fewer people will be able to access the block. These comments are noted but the existing arrangement of mixed uses on the upper floors of a property is not uncommon in Central London. The occupier has also commented on the removal of the existing recessed entrance which will discourage people from sleeping in the entrance. These comments of support are noted.

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(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

