

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 29 January 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved St James's	
Subject of Report	20 Upper St Martin's Lane, London, WC2H 9JZ		
Proposal	Use of basement, ground and first floors of Sussex House (The Sussex PH) from Class A4 (Drinking establishment) to Class A1 (Retail).		
Agent	Rolfe Judd		
On behalf of	Longmartin Properties Ltd		
Registered Number	18/08482/FULL	Date amended/ completed	4 October 2018
Date Application Received	4 October 2018		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Refuse permission - loss of public house would have detrimental impact on the character and function of CAZ and night time economy.

2. SUMMARY

Sussex House, 20 Upper St Martin's Lane is a 6-storey building located on a prominent corner site at the junction of Upper St Martin's Lane and Long Acre. This application relates to the basement, ground and first floors, which were formerly occupied by The Sussex Public House (Class A4). The site has been vacant since June 2017 whilst works to refurbish and extend the building are undertaken.

This application seeks a change of use of the lawful Class A4 (drinking establishment) use at basement, ground, and first floor to provide a new Class A1 (retail) unit.

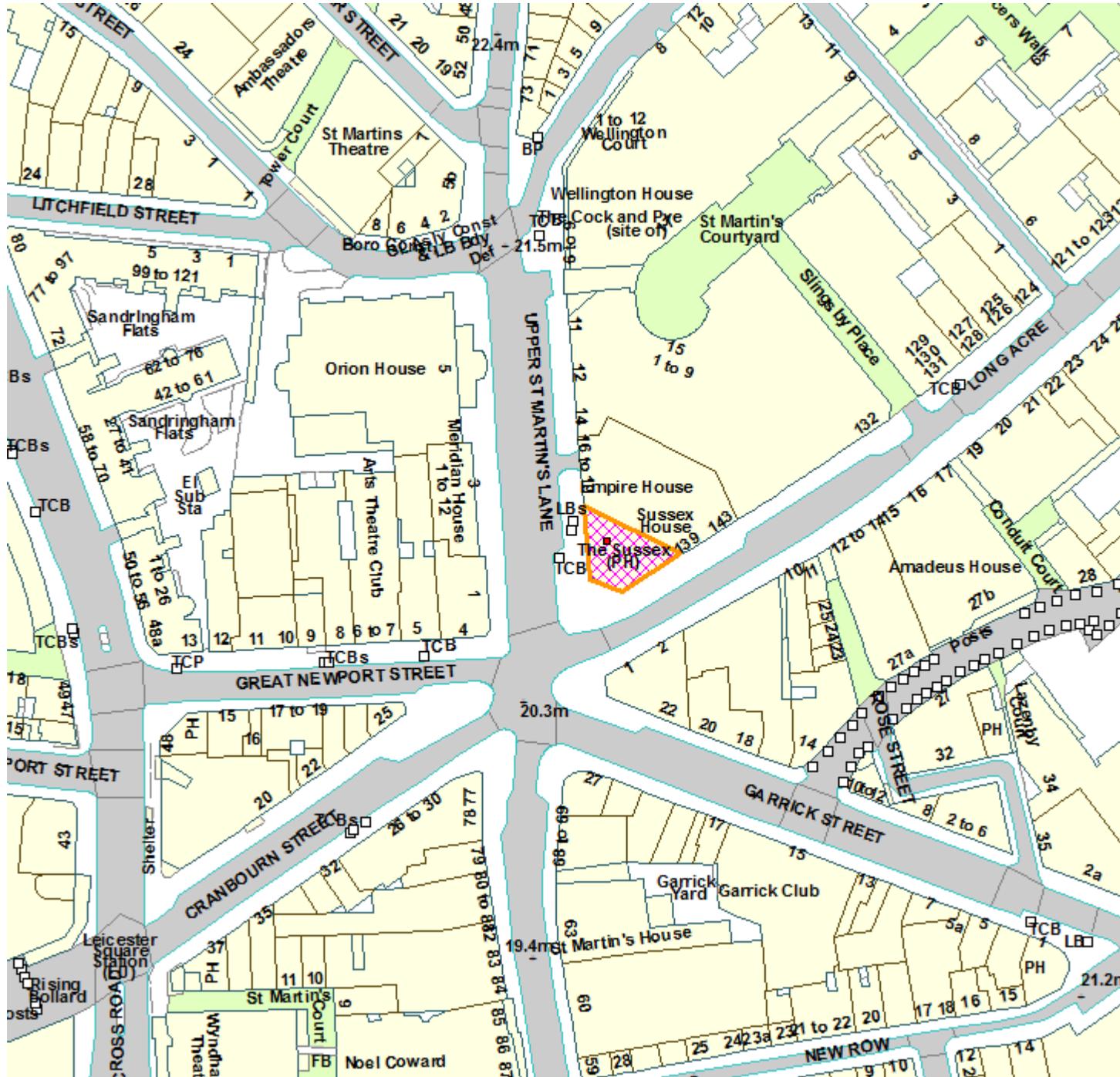
The key issue in this case is:

- The loss of the existing lawful public house use.

Public houses add to the character and function of a locality and their loss will only be acceptable if they have been vacant and marketed for at least eighteen months without success. The London Plan recognises the important role that London's public houses can play in the social fabric of communities, meeting local needs, and supporting the night time economy in the CAZ. The NPPF also recognises the important role of public houses within the community.

The loss of this public house use would be harmful to the character and function of the CAZ and would have a detrimental impact on the night time economy. This would be contrary to the National Planning Policy Framework, policies 3.1 and 4.8 of The London Plan (2016), HC6 and HC 7 of the New Draft London Plan, S1 of Westminster's City Plan (November 2016), and the guidance set out in the Mayor's 'Town Centres: Supplementary Planning Guidance' (adopted July 2014) and draft 'Culture and the Night Time Economy': Supplementary Planning Guidance (April 2017).

3. LOCATION PLAN



4. PHOTOGRAPHS



20 Upper St Martin's Lane



20 Upper St Martin's Lane (prior to refurbishment works)

5. CONSULTATIONS

COVENT GARDEN COMMUNITY ASSOCIATION:

No objection. Seems a good opportunity for a 'flagship' retail shop at entry to Long Acre, encouraging footfall towards other shops to the likely benefit of the area's economy.

Request conditions are attached to mitigate any adverse impact on amenity e.g. hours of use (limited to 8am -10pm Monday to Saturday), servicing (limited to 8am - 8pm Monday to Friday), door not to be left open and light pollution.

HIGHWAYS PLANNING MANAGER:

No objection. A Class A1 retail use is unlikely to require more servicing than the existing pub use unless it were to be used as a supermarket. Would prefer to see more cycle parking for the new retail use.

WASTE PROJECTS OFFICER:

Suitable waste and recycling storage should be provided.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 71

No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

20 Upper St Martin's Lane is a 6-storey building located on a prominent corner site at the junction of Upper St Martin's Lane and Long Acre. This application relates to the basement, ground and first floors, which were formerly occupied by The Sussex Public House (Class A4). The site has been vacant since June 2017 whilst works to refurbish the building are undertaken (application reference 17/01208/FULL).

The site is located within an area of mixed use, comprising of predominantly retail (A1), restaurant (A3) and office (B1). The application building is situated at the entrance to Long Acre, a shopping street with a variety of high street retail uses. Adjoining the site to the east is a retail unit with offices above and immediately adjacent to the north is Stringfellows Nightclub.

The sites lies within the Central Activities Zone and the West End Stress Area. The site is not located within a Conservation Area and the building is not listed.

6.2 Recent Relevant History

17/01208/FULL

On 13 April 2017 planning permission was granted for the 'Refurbishment of Sussex House, including facade replacement on Upper St Martin's Lane and Long Acre

frontages; infill of rear lightwell; sixth floor level roof terrace with canopy and plant equipment, all in association with the continued use of the basement, ground and first floor levels as a drinking establishment (Class A4) and the second to sixth floor levels as offices (Class B1).

The approved scheme also includes an additional storey and alterations to the façade to provide a double height glazed ground floor and bronze artwork to the front façade. The entrance to the ground/first floor unit will remain on the corner of Long Acre/Upper St Martins Lane with a double height entrance framed in bronze. Works are taking place on site in connection with this permission.

09/04485/CLOPUD

On 4th August 2009, a Lawful Development Certificate was issued for 'Use of the first floor level as a drinking establishment (Class A4) in connection with the existing Public House at basement and ground floor level.'

7. THE PROPOSAL

The current application seeks permission for a change of use of the lawful Class A4 (drinking establishment) use at basement, ground, and first floor to provide a Class A1 (retail) unit.

No external changes to the elevations are proposed as part of this application.

The existing and proposed floorspace figures are set out in the table below:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
A4 (drinking establishment)	372	0	0
A1 (Retail)	0	372	0

8. DETAILED CONSIDERATIONS

8.1 Land Use

The lawful use of the basement, ground and first floors of is as an A4 drinking establishment with office accommodation on the upper floors. The Sussex PH has ceased trading whilst the refurbishment works are carried out, and the site has been vacant since June 2017.

Class A1 retail

Policy S6 (Core Central Activities Zone) of Westminster's City Plan (2016) states that the Core CAZ is an appropriate location for a range of commercial and cultural uses and retail floorspace is encouraged throughout the area.

Policy S7 (West End Special Policy Area) of the City Plan states the City Council will maintain and enhance the unique status and offer of the West End Special Retail Policy Area with the following priorities; improved retail space and appropriate retail growth

throughout the area. Policy S7 also seeks to improve the pedestrian environment and linkages to and from surrounding retail areas.

The applicant considers the site suitable for Class A1 retail use, with the opportunity to create a 'Flagship' style retail store on this prominent corner leading into Long Acre. The applicant believes that the location of a high quality flagship style retail store at the junction of Long Acre and Upper St Martin's Lane would mark an 'entrance point' to the strong and important retail character of Long Acre and the wider Covent Garden area beyond.

The applicant also considers that following the recent approval to alter the shopfront to provide a double height glazed frontage, the site would now be more appropriate for a Class A1 (Retail) occupier rather than a Class A4 (Drinking establishment) occupier.

Loss of Class A4 use

NPPF

The NPPF recognises the important role of public houses within the community. Paragraph 92 of the NPPF states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should

- a) plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

The London Plan (2016)

The London Plan recognises the important role that London's public houses can play in the social fabric of communities, meeting local needs, and supporting the night-time economy in the CAZ (London Plan Policies 3.1B, 4.8, draft emerging policies HC6 and HC7, and Major's Town Centres SPG).

London Plan Policy 3.1 states that development proposals should protect facilities and services that meets the needs of particular groups and communities and proposals involving the loss of these facilities without adequate justification should be resisted.

London Plan Policy 4.8 seeks to prevent the loss of retail and related facilities that provide essential convenience shopping or valued local community assets, including public houses, justified by robust evidence. This is based on the Mayor of London's "recognition of the important role that London's public houses can play in the social fabric of communities and recent research highlights the rapid rate of closures over the past decade and the factors behind these. To address these concerns, where there is sufficient evidence of need, community asset value and viability in pub use, boroughs are encouraged to bring forward policies to retain, manage and enhance public houses" (paragraph 4.48A).

Draft New London Plan

The current 2016 London Plan is still the adopted Development Plan, but the Draft New London Plan is a material consideration in planning decisions. The significance given to it is a matter for the decision maker, but it gains more weight as it moves through the

process to adoption. The Draft New London Plan has undergone initial public consultation and is expected to soon undergo an Examination in Public.

Emerging London Plan Policy HC6 (Supporting the night-time economy) states that boroughs should:

HC6 B6. Protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas and music and other arts venues.

The policy justification states the night-time economy is becoming increasingly important to London's economy. The Mayor is keen to promote London as a 24-hour global city, taking advantage of London's competitive edge and attractiveness for businesses and people looking to expand beyond the usual daytime economy into night-time economic opportunities. The evening and night time economy can make a significant contribution to town centre vitality and viability. It generates jobs and improves incomes from leisure and tourism activities, contributing not just to the vitality of the town centre but also making it safer by increasing activity and providing 'passive-surveillance'.

Emerging London Plan Policy HC7 (Protecting Public Houses) states that:

HC7 A1. Boroughs should protect public houses where; they have a heritage, economic, social or cultural value to local communities, or where they contribute to wider policy objectives for town centres, night time economy areas, cultural quarters and Creative Enterprise Zones.

HC7 B. Applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.

Mayor's SPGs

The Mayor of London's "Town Centres: Supplementary Planning Guidance" (adopted July 2014) advises that policies to protect public houses should include consideration of the viability of the public house, history of vacancy, the prospect for achieving re-use at prevailing market values and whether it has been marketed effectively for re-use.

The Mayor of London's draft 'Culture and the Night Time Economy': Supplementary Planning Guidance (April 2017) advises that pubs are unique to British culture and as such, they play an important role in the social and cultural fabric of many communities across London. Boroughs are advised that planning policies and decisions should guard against the unnecessary loss of valued social, recreational and cultural facilities and services.

Westminster's City Plan (2016)

Policy S1 (Mixed Use in the Central Activities Zone) states that within the CAZ, a mix of uses consistent with supporting its vitality, function and character will be promoted.

The justification for Policy S1 states mixed use means offices, shopping, entertainment, cultural, social and community and residential uses sharing buildings, streets and

localities. The unique and varied use character across the CAZ is fundamental in ensuring the vitality, attraction and continued economic success of Central London.

Whilst the applicant has made a case to justify a proposed new A1 retail unit in this location, it is not considered that the creation of a new A1 retail unit would outweigh the harm caused by the loss of the existing Class A4 use. Public houses add to the character and function of a locality and their loss will only be acceptable if they have been vacant and marketed for at least eighteen months without success. No marketing information has been provided by the applicant to support the application for a change of use.

Accordingly, the loss of this public house would be unnecessary and harmful to the character and function of the CAZ and to the detriment of the night time economy. This would be contrary to the National Planning Policy Framework, policies 3.1 and 4.8 of The London Plan (2016), HC6 and HC 7 of the New Draft London Plan, S1 of Westminster's City Plan (November 2016), and the guidance set out the Mayor's 'Town Centres: Supplementary Planning Guidance' (adopted July 2014) and draft 'Culture and the Night Time Economy': Supplementary Planning Guidance (April 2017).

8.2 Townscape and Design

No external changes to the elevations are proposed as part of this application.

8.3 Residential Amenity

There are no records of any complaints relating to noise nuisance from the public house. There have been a few recorded incidents where commercial waste from the pub and deliveries have blocked the public footway. The proposed retail use is unlikely to raise any significant amenity issues unless it were to be used as a supermarket, which could raise servicing, issues (see section 8.4). The CGCA's comments regarding potential nuisance to residents due to extended retail hours of opening, ancillary activities within retail shops and potential light pollution are noted.

8.4 Transportation/Parking

The site has excellent access to public transport. The site is located within a short walk of Leicester Square underground station.

Servicing

Compared to the lawful Class A4 (drinking establishment) use, a Class A1 (Retail) unit is unlikely to require more servicing unless it were to be used as a supermarket. Had the proposals been considered acceptable, a condition would have been recommended requiring that the retail unit shall only be used for non-food retail purposes.

Waste and recycling storage

Although no details have been provided, storage for waste and recycling could be accommodated within the basement and presented on street for collection as is the existing situation.

8.5 Economic Considerations

The loss of the existing public house would have a detrimental impact on London's night time economy (as outlined in section 8.1 above).

8.6 Accessibility

Access to the premises will remain via a main entrance at grade on the corner junction of Long Acre/ Upper St Martins Lane.

The recently approved refurbishment scheme provides for step free access throughout the building with two lifts in addition to stair access.

8.7 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and closed on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

8.8 London Plan

The proposal is contrary to policies 3.1 and 4.8 of The London Plan (2016), HC6 and HC 7 of the New Draft London Plan, S1 of Westminster's City Plan (November 2016), and the guidance set out in the Mayor's 'Town Centres: Supplementary Planning Guidance' (adopted July 2014) draft 'Culture and the Night Time Economy': Supplementary Planning Guidance (April 2017) as detailed in section 8.1 of this report.

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.

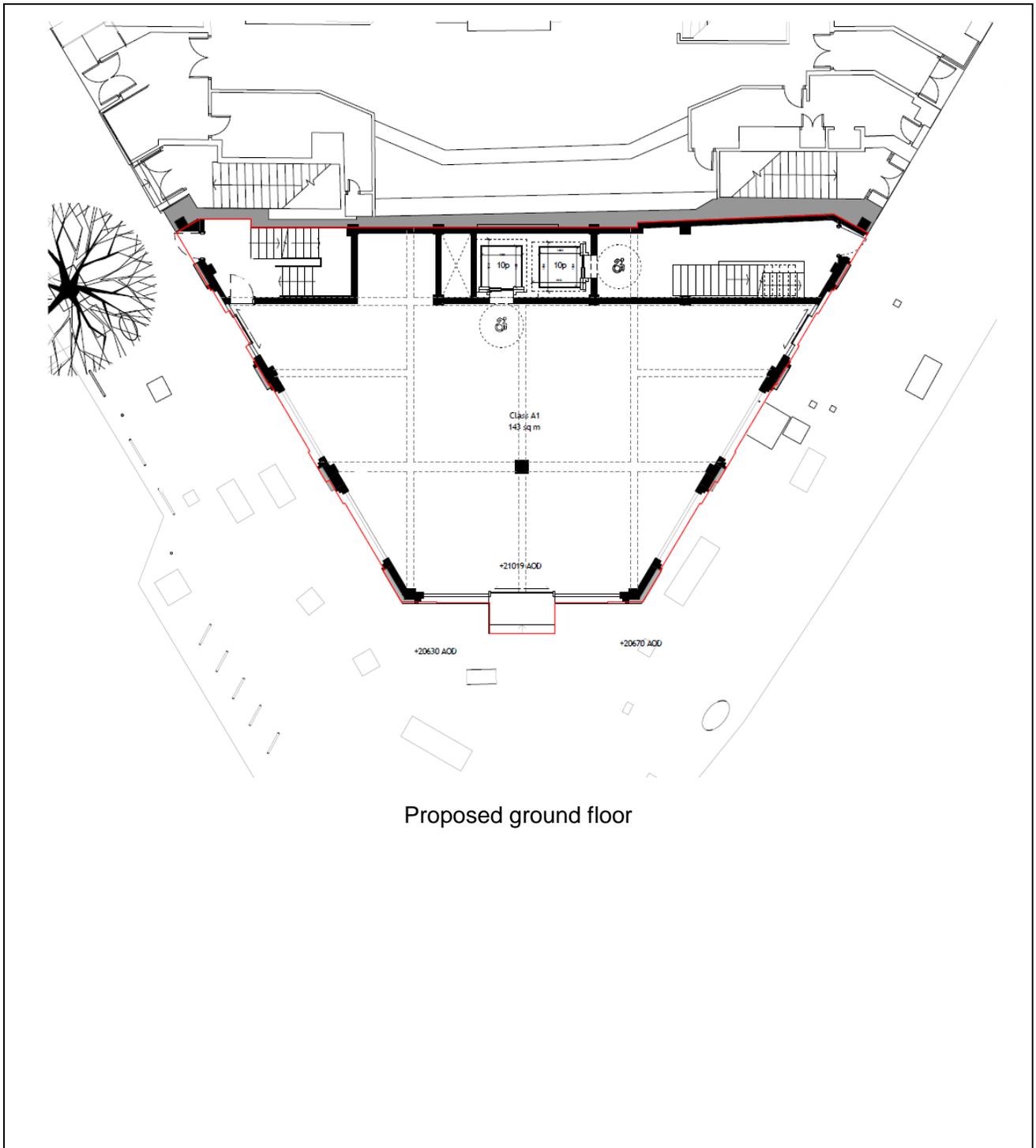
8.10 Planning Obligations

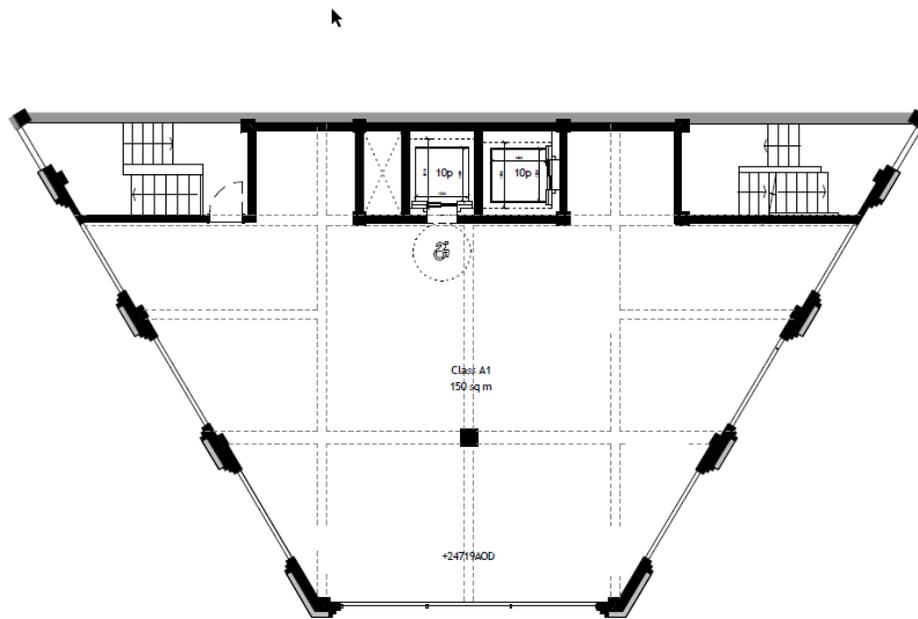
Planning obligations are not relevant in the determination of this application.

(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: AMANDA JACKSON BY EMAIL AT ajackson@westminster.gov.uk

9. KEY DRAWINGS





Proposed first floor

DRAFT DECISION LETTER

Address: 20 Upper St Martin's Lane, London, City Of Westminster, WC2H 9JZ

Proposal: Use of basement, ground and first floors of Sussex House from Class A4 (Drinking establishment) to Class A1 (Retail).

Reference: 18/08482/FULL

Plan Nos: IRAL-08-10B1 C, IRAL-08-1000 POC, IRAL-08-1001 PB, IRAL-08-10B1 PA, IRAL-08-1000 POB, IRAL-08-1001 PA, Rolfe Judd Letter dated 3 October 2018.

Case Officer: David Dorward

Direct Tel. No. 020 7641 2408

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

The proposed change of use would result in the loss of a public house to the detriment of the character and function of the CAZ and night time economy. This would be contrary to the National Planning Policy Framework, policies 3.1 and 4.8 of The London Plan (2016), HC6 and HC7 of the New Draft London Plan, S1 of Westminster's City Plan (November 2016), and the guidance set out the Mayor's 'Town Centres: Supplementary Planning Guidance' (adopted July 2014) and draft 'Culture and the Night Time Economy: Supplementary Planning Guidance' (April 2017).

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 so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, neighbourhood plan (where relevant), supplementary planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

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.