

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 February 2019	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved West End	
Subject of Report	St Mark's Church, North Audley Street, London, W1K 6DP		
Proposal	Use of the property for mixed use ('sui generis') purposes, comprising a mix of retail, and food market with retail and food and drink facilities and use of part of the basement as community space, with associated internal and external alterations throughout, including installation of balustrades at first floor level, internal lift, plant, ducting, pizza oven, and non-illuminated signage to the front facade.		
Agent	Gerald Eve LLP		
On behalf of	MM Mayfair Ltd		
Registered Number	18/10222/FULL 18/10223/LBC	Date amended/ completed	1 December 2018
Date Application Received	1 December 2018		
Historic Building Grade	Grade I		
Conservation Area	Mayfair		

1. RECOMMENDATION

<p>1. Grant conditional permission subject to a legal agreement to secure the following:</p> <p>i) setting up of a committee to manage the community space and guarantee its long-term running costs on behalf of local groups/residents at nil cost;</p> <p>ii) Monitoring costs of £500 for the above clause.</p> <p>2. If the S106 legal agreement has not been completed within six weeks, then:</p> <p>a) The Executive Director Growth Planning and Housing shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Director of Planning is authorised to determine and issue such a decision under Delegated Powers; however, if not</p> <p>b) The Executive Director Growth Planning and Housing shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Executive Director Growth Planning and Housing is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.</p>

3. Grant conditional listed building consent.

4. Agree the reasons for granting listed building consent as set out in Informatives 1 of the draft decision letter.

2. SUMMARY

This is an important Grade I listed building that has had a long planning history since it was formally made redundant by the Church of England (Diocese of London) and closed for public worship in 1974. The most relevant recent planning and listed building consents date from 2016, when approval was granted for a mix of restaurant and retail uses, with part of the basement retained for community use. That scheme has been partially implemented, in that the building has been fully restored, which is very welcome. It was envisaged that the premises would be used for a 'high-end' restaurant at first floor level and retail at ground floor level. The current proposals now would be far more accessible for the general public, creating a food market with a number of different stalls selling a wider variety of food and beverages that people can browse, purchase or stay and eat, as well as some dedicated retail stalls.

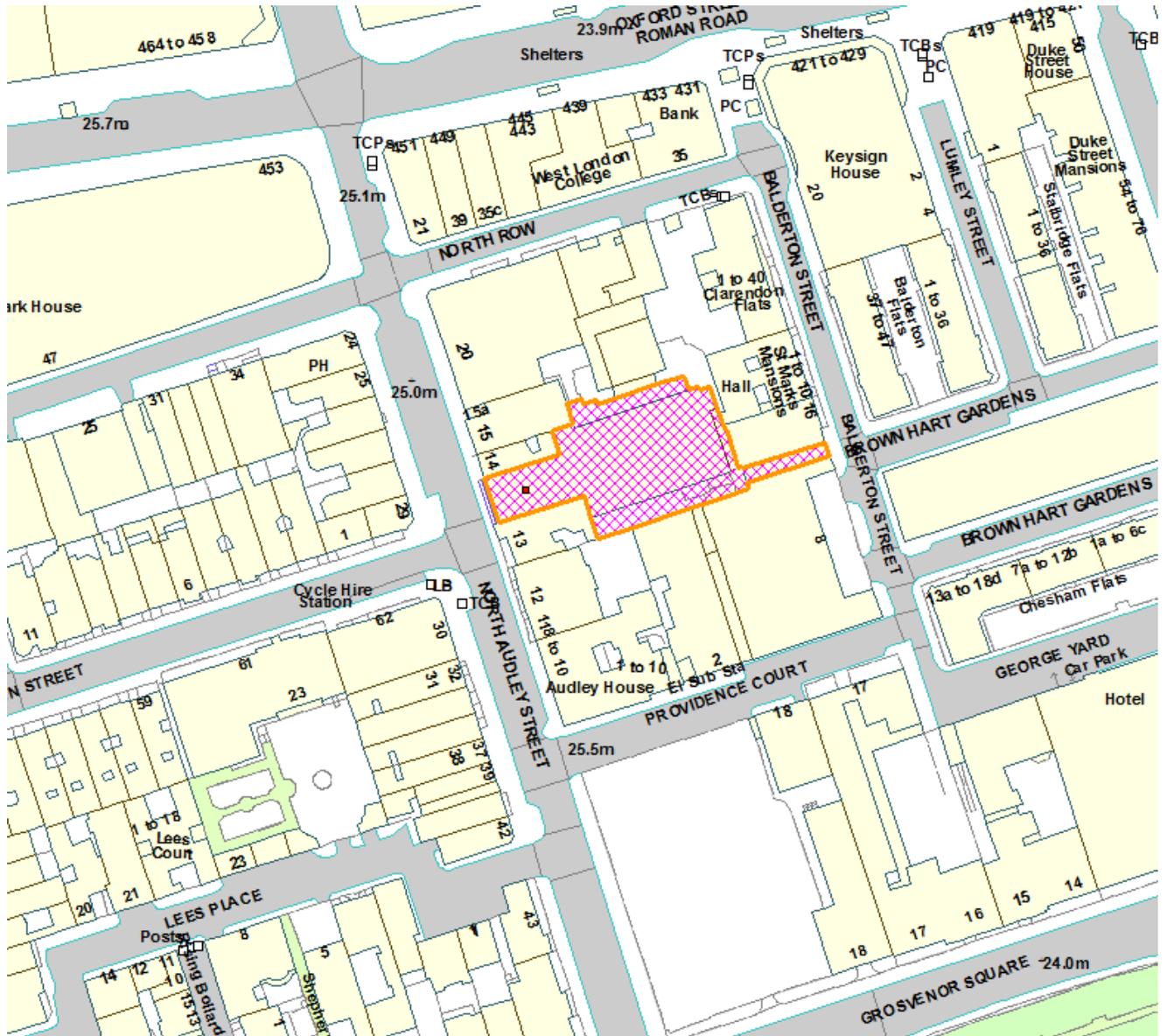
The key issues are considered to be:

- The potential impact of the use on the amenity of the area and on neighbouring residents;
- The acceptability of the works in the context of this Grade I listed building.

There have been no objections from local residents but concerns have been raised by Historic England and The Victorian Society about some of the proposed works.

For the reasons set out in the main report, it is considered that exceptional circumstances apply in the context of Council policies in support of the proposals, given that the proposed food market use would deliver a community function within a listed building that was previously on the Heritage at Risk Register and allow the building to be publically accessible for the wider community.

3. LOCATION PLAN



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4. PHOTOGRAPHS

St Mark's – North Audley Street



St Mark's – Balderton Street entrance



St Mark's – interior



5. CONSULTATIONS

HISTORIC ENGLAND

- Note that the originally approved staircase in the nave will be omitted from this proposal – this removes one harmful element of the permitted scheme;
- The visual impact of the new food stall units will marginally detract from the appreciation of parts of the building but the removal of the stair is likely to balance this additional harm, so there is no objection aesthetic grounds to the stalls;
- But do have concerns about the potential impact of cooking on the building fabric and the strengthening works for the pizza oven - would like more information on this;
- Recommend retention of three pews that would be removed and stored;
- Concerned about potential harm to the building fabric caused by the high level signage on the front façade.

Following submission of additional information:

- Acknowledge that the strengthening works caused a degree of harm but that this is relatively limited and is partly reversible;
- Welcome the retention of the pews in the building and the removal of the lighting element to the proposed portico entablature signage – no longer raise any concerns about these elements of the proposals;
- Remain concerned about the intensity of the proposed use and the implications of the internal cooking and request additional safeguarding conditions to mitigate any potential harmful effects.

THE VICTORIAN SOCIETY

- Do not object in principle to the proposed new use but are concerned about the intensity of the use, kiosks and other furnishings and the potential harm to the building's fabric;
- Question whether the intensity of the use is necessary to make the operation financially viable and that this needs to be weighed against the conservation of the building and the requirements of the National Planning Policy Framework (NPPF);
- Share the concerns of Historic England about the possible effects of cooking on the important interior – not only from cooking fumes but food spillages and that further information should be sought;
- Share Historic England's concerns about the structural strengthening requirements of the pizza oven, but also effects on the building fabric and finishes from the oven heat;
- Reiterate concern [expressed in the 2016 scheme] about the treatment of the visible edge of the levelled gallery floor, visible from within the nave;
- Comment that the glass balustrade to the balcony should be as clear as possible, to allow appreciation of the building's interior.

THE GEORGIAN GROUP

Any response to be reported verbally.

COUNCIL FOR BRITISH ARCHAEOLOGY (LONDON AND MIDDLESEX ARCHAEOLOGICAL SOCIETY)

Any response to be reported verbally.

SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS

Any response to be reported verbally.

TWENTIETH CENTURY SOCIETY

Any response to be reported verbally.

ANCIENT MONUMENTS SOCIETY

Any response to be reported verbally.

CROSSRAIL

Do not wish to make any comment.

DESIGNING OUT CRIME

Any response to be reported verbally.

GROSVENOR-MAYFAIR RESIDENTS ASSOCIATION

Initial objections/concerns about transport, the community space, basement acoustics, waste and recycling collections and potential noise from plant subsequently withdrawn.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally.

ENVIRONMENTAL SCIENCES

No objection

WASTE PROJECT OFFICER

Initial objection withdrawn following submission of additional information about waste and recycling.

HIGHWAYS PLANNING MANAGER

- Generally consider the proposal to be acceptable;
- Has requested the submission of a revised Service Management Plan (SMP) to include details about the proposed off-site consolidation hub that will be used to coordinate and manage deliveries to the site, which should help reduce the number of service trips;
- Also request that no food delivery service should operate from the premises (to help minimise congestion on the highway).

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 305; Total No. of replies: 1; No. of objections: 0; No. in support: 1 –

One letter in support from a local resident but with a query about potential disruption from third party delivery services and whether this can be controlled by condition.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

Grosvenor Estate also carried out its own public consultations. A public exhibition on the proposals was held at the premises on Wednesday 17th and 18th October 2018. Prior to the event, invitations were sent out to local residents and businesses, including:

- The Residents Society of Mayfair and St James;
- Peabody Residents;
- Mayfair Neighbourhood Forum;
- Mayfair Residents Forum;
- New West End Company;
- Ward Councillors; and
- Over 500 invitations for local residents and stakeholders.

The applicant advises that feedback received following the event was positive and suggested that local residents would welcome a community focussed project, which would provide dedicated community space for use by local groups in an inclusive food market environment.

6. BACKGROUND INFORMATION

6.1 The Application Site

St Mark's Church is a Grade I listed building, located within the Mayfair Conservation Area and the Core Central Activities Zone (CAZ). Built between 1825 and 1828 by JP Gandy-Deering and re-modelled by Sir Arthur Blomfield in 1878, it is located on the east side of North Audley Street, with only its front (west-facing elevation) presenting a street-facing elevation. The building extends back from the street nearly the entire block and there is a separate access to the basement/crypt level from Balderton Street via a tunnel passage. As well as the basement crypt, there is the main ground floor, a galleried first floor and roof space. The total floorspace is 1,945 sqm (GIA). The lawful use is Class D1 non-residential institutional use but a permission in 2016 for alternative uses has been partially implemented (see below).

The church was formally made redundant by the Church of England (Diocese of London) and closed for public worship in June 1974. The legal effects of consecration were finally removed in November 1994. The building was vacant for this 20 year period and fell into a state of some disrepair. The building was on English Heritage's Buildings at Risk Register from 1988 but following some limited repairs it was eventually taken off the List.

From 1994 until 2008 it was leased to the Commonwealth Christian Fellowship, a free Evangelical Church. Originally lessees of the building, they had been unable to do the significant repair and restoration works the building requires and for several years the Diocese allowed them to remain in a caretaker capacity. Their occupation continued on an occasional basis after a long lease was sold to Hammer Holdings, who used the building as a venue, conference and exhibition centre with some community use and worship, all within Class D1. This use partly continued after the Grosvenor Estate bought the long lease in 2014, when the Commonwealth Christian Fellowship moved to 1 Marylebone Road in 2014.

The site is located within the northern part of Mayfair, towards the northern end of North Audley Street, just south of Oxford Street. The surrounding area is varied in character, with a mix of uses, including commercial, retail and residential. This is not a Stress Area.

6.2 Relevant Planning History

There is a long planning history for this property, which provides important context for the current proposals.

Older history (none implemented unless otherwise stated)

April 1979 - Planning permission and listed building consent refused for alterations and use as a shopping arcade on grounds of adverse impact on the special architectural and historic interest of the building.

October 1984 - Permission refused for use as a restaurant and local residents meeting room on grounds of traffic and parking, residential amenity and absence of off-street servicing facilities.

August 1986 - Permission granted for retail art gallery.

August 1986 - The Planning Applications Sub-Committee also considered applications for planning permission and listed building consent for use as a restaurant, retention of sound studios in vaults and various alterations. It was determined that had appeals not been lodged, the proposals would have been refused on grounds of parking and traffic, residential amenity, lack of off-street servicing and lack of details with regard to the proposed works. In February 1987 the appeal was dismissed however, only on the grounds that the listed building consent was insufficiently detailed. The Inspector considered that restaurant use was acceptable in principle, that the impact on residential amenity could be controlled by conditions, and that parking and servicing would not be seriously problematic.

March 1988 - Permission and listed building consent granted for alterations and use as an art auction house and gallery and venue for related educational activities.

June 1988 - Determination made that use as a museum does not constitute development.

October 1990 - Permission and listed building consent refused for extensions and use as offices. Refusal was on design, office policy and residential policy grounds (the scheme would have resulted in the loss of residential accommodation at an adjacent property included as part of the proposals).

October 1993 – Applications considered for planning permission and listed building consent for use as a restaurant, installation of a fire escape and ventilation duct and other internal and external alterations. The Sub-Committee decided that, had appeals not been made, listed building consent would have been refused on the grounds of an adverse impact on the special architectural and historic interest of the building and planning permission would have been refused on additional grounds of an adverse impact on residential amenity. The appeals were withdrawn.

November 2000 - The Planning Applications Sub-Committee considered applications for internal and external alterations including new escape stairs, new roof plant and signage and mixed use of premises as (Class B1) offices and for the provision of community facilities including concerts, exhibitions and public worship. The Committee deferred the

applications requesting further information on the level and type of community use and the applicant's business plans for the proposal and for officers to investigate an alternative scheme being advocated by local amenity societies. The applications were eventually withdrawn a year later.

September 2003 - The Council published an adopted Planning Brief for the site. At this time the building was owned by the Diocese of London and the purpose of the brief was to secure the future long-term use and restoration of the building. It states that any new use must also deliver -

1. Repair of the church
2. Conservation of the architectural and historical importance of the existing fabric
3. Provision of a new and sustainable use which would adhere to the Central Activities Zone policy requirements
4. Minimal impact on surrounding residential amenity
5. Provision of some form of public access.

The Brief is still a material consideration, though obviously the situation has changed to the extent that there is now a new long leaseholder and there have been subsequent planning permissions since it was published that must also be taken into account.

April 2006 – An Application for a Certificate of Lawfulness issued in respect of the proposed use of the building as a complementary medical health centre ("wellness health and therapy centre") being primarily (but not exclusively) therapeutic thermal treatments in the basement and adjoining outside area, and holistic/alternative medical treatments (including health counselling, stress management, homeopathy, etc.) on ground and first floor/balcony levels, with ancillary maintenance, laundry and changing areas, cafe and kitchen and dispensing and retail areas.

April 2008 – An Application for a Certificate of Lawfulness issued in respect of the proposed use of the premises as a venue and conference centre including use for worship, religious purposes and community use, all within Class D1.

December 2008 – Planning permission and listed building consent refused on land use and historic building grounds for 'Change of use from Class D1 church use to a composite use of Class D1 Non-residential Institutional Use (specifically complementary medical health centre use) and Class D2 Assembly and Leisure Use (specifically recreational use), including ancillary retail area, with internal and external alterations including staircase extension, structures within garden area, railings and gates on North Audley Street frontage and internal sub-division.'

December 2009 – following a Public Inquiry, the appeals against the December 2008 refusals were dismissed.

June 2009 – planning permission and listed building consent granted for the installation of new entrance gates in the front portico and handrails on the steps.

August 2010 – planning permission and listed building consent granted for internal and external alterations and works of repair/conservation/decoration to facilitate use as a venue, conference and exhibition centre with some community use and worship within

Class D1, including a kitchen infill extension, kitchen extract duct/plant and decking and railings on roof of main entrance (next to tower) to create roof terrace. This was partially implemented, but not all the restoration works were carried out.

Recent history

Planning permission and listed building consent were granted to the Grosvenor Estate ('Grosvenor') in November 2016 for use of the property for sui generis purposes, comprising a mix of retail (Class A1) on the ground floor, first floor/balcony as restaurant (Class A3, including external roof terrace at front first/balcony level), part of basement for ancillary back of house functions for both the retail and restaurant uses, and part use of basement as community space (Class D1) with access from Balderton Street; single storey extension to north west part of building, extension to south east corner and corridor and duct void extension to the rear; installation of various items of mechanical plant including kitchen extract; internal alterations throughout.

The permission was subject to a legal agreement that secured the complete restoration and refurbishment of the building before any of the approved uses commence, and required the setting up of a committee to manage the community space and guarantee its long-term running costs on behalf of local groups/residents at nil cost.

These consents have been partially implemented, insofar as the physical works to restore the building have largely been carried out, but Grosvenor were looking for an appropriate operator to use the building.

7. THE PROPOSAL

Grosvenor as the landlord has chosen Mercato Metropolitano (MM) as its tenant to provide a mix of retail and a food 'market' in the building. In land use terms, this amends the 2016 balance of approved land uses. As a food market, the MM business would involve a mix of retail and 'restaurant' uses throughout the building, with 'market type stands' selling a range of food, drinks and produce. Seating is provided at all levels for those wishing to stay and eat on the premises, or alternatively people can buy produce from the shop and stands such as ice-creams, coffees, wines, cheese, bread, fresh fruit and vegetables etc. to take away.

Overall, there would be 305 sqm GIA of pure Class A1-type retail use (primarily at the entrance and front of the building), and 1,371 sqm GIA of Class A1/ A3-type mix food market, of which 387 sqm GIA would be back of house space storage space, toilets, etc.

The proposals would retain the quantum of Class D1 floorspace as approved in the 2016 permissions (231 sqm – though more accurate surveys indicate this is now 269 sqm GIA), and the community space at basement level would continue to be delivered, as previously approved. Grosvenor believe that MM will play a key role in the community, and allow the building at St Mark's to be open for the enjoyment of all. Emphasis has been placed on MM's embedded social, environmental and community values.

Now that an operator has been selected for the building, a number of physical amendments are required to the originally approved scheme, to assist in the fit out for the tenant's operation. The key changes are summarised as follows:

Basement Level

It is proposed to create a mix of retail stalls and seating throughout part of the basement, along with the proposed brewery area. The community space would be retained. A new glass partition is proposed within the crypt.

Ground Floor

The proposed works include the provision of island units for food preparation in the nave, with a number of tables and chairs for 'communal' eating. The cooking stations have self-contained filtration systems. The applicant has confirmed that for the gas and solid fuel cooking items to be extracted to the atmosphere, the previously approved and installed full height kitchen extraction system will be used.

The originally approved scheme consisted of a straight long staircase within the nave and a lift. Instead, it is now proposed to introduce a new DDA-compliant lift only to make the balcony accessible from ground floor level, and to reduce clutter in the nave. (Access from the ground floor to the first floor/balcony and the basement is still possible via existing stairs in other parts of the building.)

First Floor / Balcony Level

It is proposed to relocate the WCs on this level and to create a mix of retail units and seating, with glass balustrades along the perimeter. The west balcony stairs are proposed to be reconfigured, whilst the terrace will continue to be used as it was originally envisaged as part of the approved scheme, namely eating. A pizza oven is proposed in the west corner of the north balcony, with the extraction duct to travel across to the south gallery in a concealed position.

Externally, the main change is the proposed installation of new signage along the cornice and above the columns at the front entrance of the building which will state "Mercato Mayfair". It was initially proposed that this signage would be externally illuminated, but following concerns raised by Historic England, it has been revised and now would be non-illuminated.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Loss of Majority of the Class D1 social and community floorspace

Although the 2016 permission allowed a mix of retail and restaurant uses, these have not commenced and technically the lawful use of St. Mark's church remains Class D1 non-residential institutional use. Class D1 encompasses a wide range of non-residential institutions, and groups together buildings which are visited by the public for a wide range of purposes on a non-residential basis. It includes the provision of education, adult training centres, museums, art galleries, public halls and exhibition halls, conference centres as well as uses in connection with public worship or religious instruction. Such uses can be provided in both a public and private capacity.

Class D1 is a use that is defined by the City Council's adopted development plan policies as being a social and community use. Policy SOC1 in the Unitary Development

Plan (January 2007) (UDP) and Policy S34 in Westminster's City Plan: Strategic Policies November 2016 (City Plan) both seek to protect existing social and community uses.

However, in 2016 the Council accepted the principle of loss of the majority of the Class D1 use as the proposals then being promoted would secure the restoration of this important Grade I listed building (estimated at the time at about £4m). That permission has been partly implemented (by carrying out the physical works) and therefore the building could be used at any time for the approved mix of retail and restaurant activities. That permission was conditional upon a small area being retained for community purposes. The current proposals retrain that community space, which is welcomed.

The applicant has stressed their important community work, as evidenced by their existing food market and associated uses in Elephant and Castle. Whilst this is also welcomed, it is also important to ensure that this space is made accessible to the wider community, and is not subsumed as part of MM's main activities.

In their 2016 scheme, it was Grosvenor's intention to create a committee from local stakeholders which will be given a long lease to run and manage the community space in the crypt. The space was to be free for use for the local community for non-profit events but if an organization wished to hire the space for a commercial use, it was envisaged that any funds received would go into the charity funds for continued upkeep and maintenance. It was believed that the cost for utilities would amount to circa £5,000 per annum without any further funding; Grosvenor were prepared to set up a fund of £50,000 to make sure that the first 10 years of operation are fully covered. By that time, it is envisaged that the charity would have built up sufficient funds to keep the space self-funding for the future.

The applicant states that it will, in conjunction with Grosvenor, work closely with key stakeholders in Mayfair in order to create innovative programmes, including:

- i). Programmes of free cookery classes for local children and adults focused on healthy eating, improving skills and raising confidence in the kitchen;
- ii). Free meals and social activities for older, local residents to help address loneliness and social isolation;
- iii). Developing and hosting events that address inequality in the borough and encourage social cohesion;
- iv). Making the community space available for residents and stakeholder meetings, art, music and cultural classes, including book clubs and keep fit programmes;
- v). Working with local residents committees, schools, social enterprises, charities and businesses to create tailored programmes and events that add value to local residents and address the issues faced within the community.

The community space will be accessible from both the main entrance on North Audley Street, and the rear tunnel from Balderton Street, whereas previously, the Class D1 element was accessible only from Balderton Street. Grosvenor will remain involved and will oversee the community space committee, as previously agreed, and the community committee will oversee and approve the events and activities held in the community space. The applicant will manage the community space on behalf of the Committee. As before, it is important to secure the running and accessibility of the community space for the wider community through a legal agreement.

8.1.2 Retail and Restaurant Uses

Retail

The 2016 approved scheme allowed retail at ground floor level. The current proposal is a *sui generis* mixed use, comprising elements of retail and food and drink in the form of a food 'market hall' comprising independent traders, small-scale artisans and farmers, and local providers, where customers can either eat on the premises, or purchase a large variety of food products to take home or elsewhere.

As requested by Council officers, the proposals consist of a minimum amount 305 sqm GIA of Class A1-type retail only, to secured by condition. It is envisaged that this area would be used for the selling of fruits and vegetables, flowers, the bakery, coffee and cheeses. A minimum number of stands will be solely used for retail purposes, occupying all of the entrance areas (the portico and narthex) and seven stands in the nave.

The existing MM site located in Elephant and Castle (which has been in operation for two and a half years) comprises a mix of social eating and drinking, shopping and on-premises consumption. The applicant advises that in September 2018, sales purchased for consumption off-site were in excess of 25%, with the grocery store, ice cream, viennoiserie, butcher, smokehouse, champagne & cheese, fresh pasta and the mozzarella traders contributing to the bulk of the Class A1 sales. In Mayfair, MM expect to achieve a much larger share of A1 sales throughout the market, with the grocery store, butcher/fishmonger traders, patisserie, chocolatier and fresh pasta expected to reach at least 35% of their sales as retail sales.

The site is located within the Core Central Activities Zone, and is just south of Oxford Street and the West End Special Retail Policy Area. The protection and enhancement of retail shopping provision is supported under City Plan Policies S1, S6 and S21 and UDP Policy SS 4. North Audley Street has a mix of retail and restaurant activities at ground floor level and the provision in retail floorspace is considered to be acceptable in principle. Notwithstanding the prominence of the building itself, there will be minimal street presence for the proposed uses but the intention is that there would be retail stalls within the entrance portico. This should be sufficient to improve the interface and relationship of the building with the streetscape on North Audley Street.

Food and Drink

The food market hall contains elements of retail and restaurant-type activities, and although it is hard to differentiate between the two uses, it contains a significant element of on-site eating and drinking. As such it is considered appropriate to treat this as a large entertainment use.

City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses. The TACE policies are on a sliding scale in which developments where TACE 8 is applicable would be generally permissible and where TACE10 is applied (where the gross floorspace exceeds 500m²) only in exceptional circumstances. City Plan Policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of 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. The policy states that new large-scale late-

night entertainment uses of over 500 sqm will not generally be appropriate within Westminster. The Site is not located within a stress area.

The policies aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the City, while acknowledging that they provide services to people living in, working in and visiting Westminster and contribute to its role as an entertainment centre of national and international importance.

The main food market space comprises 1,371 sqm GIA. Policy TACE 10, which covers entertainment uses which will be permissible only in exceptional circumstances, is thus applicable. The policy states that where, in exceptional circumstances, the City Council decides to grant planning permission for large or very large entertainment uses, it will, where necessary and appropriate, impose conditions to control capacity, hours of use, etc. The 2016 permission for a restaurant was also assessed against policy TACE 10 and the committee agreed that there were exceptional circumstances, namely, restoring a Grade I listed building (that had been on the Heritage at Risk Register) to be brought back into active use, open to the general public and providing a community facility.

The approved restaurant at first floor level was limited to 140 covers, but there was no limit to the number of customers to the ground floor retail area. The current proposal increases the capacity of visitors: 320 seats/covers with a total maximum number of customers of 500. The applicant has justified this by arguing that the previous application related to a traditional restaurant concept, suitable to a high-end customer base trading at a much higher price point required to cover the overheads associated with trading from a prime location. Conversely, MM is an inclusive market concept, focusing on a much wider customer base using communal tables and predicated on the idea that everyone, regardless of their spending power, should be able to benefit from the proposal.

Whilst the number of seats suggests an intensification of the on-site consumption of food, the seating can be used for people just purchasing a coffee or an ice-cream in the same way many retail uses such as Pret a Manger, Starbucks etc. do. The seating is not just for those staying to eat a hot meal.

The applicant has requested the following opening hours:

08.00 – 23.00 hours, Sunday to Thursday;
08.00 – 00.00 hours (midnight), Friday to Saturday.

The 2016 permission restricted the opening hours of the restaurant to –

07.30 – 00.00 (midnight), Sundays to Thursday (including all bank holidays and public holidays);
07.30 – 01.00 hours the following morning on Fridays and Saturdays.

The current proposal would therefore be open to the public 30 minutes later in the morning and close an hour earlier every night, which is welcomed. With regard to the external roof terrace at the front of the property next to the tower, the same hours of use

are being sought, namely 09.00 – 23.00 hours on Mondays to Saturdays and 09.00-22.00 hours on Sundays (primarily to protect residents living in the adjoining properties).

An Operational Management Statement (OMP) has been submitted, which sets out further information relating to how the proposed use will be operated and managed. However, the document lacks certain details, such as how customers leaving the premises late at night will be dispersed, and a condition requires an updated OMP to be submitted. There has been no response from the Crime Prevention Design Officer, and although the applicant has advised that there will be security staff employed at the premises, the OMP needs to be updated to cover this issue.

Subject to appropriate conditions (including the submission of an updated operational management plan), it is not considered that the proposals would have an adverse impact on the character, function and amenity the local environment, bearing in mind the busy nature of the area and the existing restaurants in the immediate vicinity. Nor is it considered that there would be an adverse cumulative impact. Furthermore, the substantial building fabric should help contain any noise generated noise by customers.

Intensity of use and internal cooking

Although it does not object in principle to the new use, the Victorian Society has expressed concern about the intensity of the use, particularly from the density of stalls, cooking and eating spillages and the high number of visitors. It comments that the applicant has not provided any assessment to demonstrate that the intensity of the proposed use is necessary to make the operation financially viable. The Society considers that there is a risk of harm to the significance of this Grade I listed building and that the Council should give great weight to its conservation (in accordance with para. 193 of the NPPF) and satisfy itself that the intense use has been clearly and convincingly justified (in accordance with para. 194 of the NPPF).

Historic England has also expressed some concern about the intensity of the use and the potential harm caused by the cooking stations/kiosks.

It is not considered that the intensity of use is so great as to potentially cause harm to the building fabric. Originally built to house congregations of large groups of people, it is considered to be suitable for the amount of customers that are anticipated. Most importantly, the use should be welcomed as it will result in this important listed building being wholly accessible to the general public. The Victorian Society's implied suggestion that there should be an assessment to demonstrate that the intensity of the proposed use is necessary to make the operation financially viable is considered to be excessive.

With regard to the cooking stations, these semi-permanent units will be situated on a demountable plinth with a back wall which discreetly houses servicing such as water and electricity. The back wall will also be strong enough to support additional shelving, storage and its extraction canopy. Each kiosk ensures that any paintings or windows are not obstructed and remain clearly visible. Moreover, the kiosks are not attached to the building fabric in any way.

The proposed Reco-Air systems for the individual cooking kiosks are electrically operated and have an inbuilt recirculation ventilation system, engineered to remove grease, steam, smoke and odour from the immediate area. Environmental Sciences are

satisfied with these proposals. The re-circulation system includes a cut off system, which means that it will stop working if the maintenance regime is not carried out. Manufacturers' manuals have been submitted for these kiosks and a condition requires the units to be maintained in accordance with them.

However, following discussions with Historic England, it is proposed to attach additional safeguarding conditions that require the submission of regular condition reports of the stained glass windows and the building fabric adjoining the cooking stations, and requires details of any cleaning measures for the windows other than light dusting (conditions 6 and 7 of the draft listed building consent). With these measures in place it is considered that the concerns of Historic England and The Victorian Society have been addressed and that the proposals are in compliance with the NPPF.

8.2 Townscape and Design

The building is a former church and has been comprehensively refurbished and restored internally and externally. As part of the approved alterations, changes to the nave and galleries included installation of a lift and staircase in the nave and creation of level platforms in the galleries with glass balustrades. The staircase in the nave is now to be omitted and the lift is to be built nearer the west end of the nave. These revisions will greatly reduce the visual impact of the lift in the nave and allow much better views of the former chancel and pulpit. At the request of Historic England, three pews that date from when the building was in religious use that were to be removed and stored will now be retained and used as part of the ground floor use.

Units are to be provided in the form of self-contained kiosks including cooking facilities. Details of the extraction system and fire safety arrangements have been provided and demonstrate sufficient commitment to ensuring that the kiosks will not have a detrimental impact on the fabric of the building and its special architectural and historic interest. The appearance of the kiosks has been designed to ensure their materials and finished appearance are sensitive to their surroundings as far as possible. Concerns from Historic England and The Victorian Society about the potential harm caused by the cooking kiosks are addressed above. The proposed pizza oven will inevitably appear incongruous in a building clearly not designed for the purpose for which it will now be used. However, in the position proposed it is not particularly obvious and is therefore considered to be acceptable.

Historic England and The Victorian Society had requested more information about the strengthening works required to support the pizza oven at gallery level. The applicant provided more information on this matter, which entails bolting steel plates to the ends of two beams: Historic England comment that this shows that there will be no direct impact on the building masonry and is partly reversible and no longer have concerns about this element of the proposals. With regard to The Victorian Society's comments about the potential effects on the building fabric and finishes from the oven heat, the oven is connected to the high level kitchen extract system which will help dissipate much of the heat. The oven is built of brick which helps insulate it, and it is raised above the floor and not immediately adjacent to the building's fabric, so it is not considered that it will have any adverse impact on the building. Other concerns about the potential impact of cooking on the building are dealt with above.

The Victorian Society has reiterated concerns [expressed in the 2016 scheme] about the treatment of the visible edge of the levelled gallery floor, visible from within the nave; it comments that the glass balustrade to the balcony should be as clear as possible, to allow appreciation of the building's interior. However, this is considered to be impractical given it would allow unobstructed views up from the ground floor and would still not render the glass invisible. The use of obscured glass is, in this case, appropriate and acceptable in heritage asset terms. It will be face-fixed to the new gallery floor and scribed around the columns. On this basis, the objection from The Victorian Society is not considered to be sustainable.

Further retail and dining areas are to be provided in the basement, along with a micro-brewery and the previously approved community spaces, WCs etc. In the narthex, a grocery/deli style space would operate from free standing furniture and it is envisaged that this use would 'spill out' in to the portico.

Externally, pin-mounted lettering is to be applied to the portico fascia. Initially this was to be externally illuminated but following concerns from Historic England, the applicant has revised it to be non-illuminated, thereby ensuring that it is not obtrusive. On that basis, the external advertising is acceptable in design and heritage asset terms.

8.3 Residential Amenity

Policy S29 of the City Plan and policy ENV 13 of the UDP seek to protect and improve the residential environment and resist proposals which would result in a material loss of amenity. The 2016 permission included a number of external alterations, including some small extensions. The current proposals do not include any external extensions. However, like the previous permission, this scheme does propose a roof terrace at attic level on the external flat roof next to the tower fronting North Audley Street. Given that there is residential accommodation on North Audley Street including either side of the application site, it is again considered appropriate to condition the hours this terrace is used to 09.00 to 23.00 hours Mondays to Saturdays and 9.00 to 22.00 on Sundays.

Most of the mechanical plant was approved as part of the 2016 permission and would be acceptable subject to standard conditions. This includes a high level kitchen extract duct that has been installed and is required for the gas and solid fuel cooking items to be extracted to the atmosphere, such as the pizza oven.. As explained in the land use section above, most of the cooking stations are electrically operated and have an inbuilt recirculation ventilation system (Reco-Air). The re-circulation system includes a cut off system, which means that it will stop working if the maintenance regime is not carried out. Manufacturers' manuals have been submitted for these kiosks and a condition requires the units to be maintained in accordance with them. Environmental Sciences has previously confirmed that this system is an acceptable alternative to a full height discharging system when food equipment is to operate by electricity only and they have no objections to the current proposals.

It is noted that the Grosvenor-Mayfair Residents Association did have initial concerns about transport issues, the community space, basement acoustics, waste and recycling collections and potential noise from plant, but these concerns have subsequently been withdrawn.

8.4 Transportation and Servicing (including Waste)

The site is very well located, with the highest possible Public Transport Accessibility Level (PTAL) rating of 6b (assessed by Transport for London). It is located five minutes' walk from Marble Arch underground station (Central line) and Bond Street underground station (Central line and Jubilee line) and fifteen minutes' walk from Oxford Circus underground station (Victoria, Central and Bakerloo lines) and Green Park underground station (Victoria, Jubilee and Piccadilly lines). Bond Street station will also have a Crossrail station, currently scheduled to open late 2019. There are also numerous bus routes running along Oxford Street to the north, Piccadilly to the south, Park Lane to the west and Regent Street to the east of the Site.

A key aim of Council transport policy is to seek traffic reduction and saved Policy TRANS15 outlines that it will encourage development which promotes the use of public transport, cycling or walking. Policy TRANS 20 states that the City Council will require convenient access to all premises for servicing vehicles and will, in most cases, require that servicing needs are adequately accommodated, preferably off-street. Policy S42 of the City Plan seeks to ensure that developments are managed in a way that minimises adverse impacts, which may include the provision of off-site consolidation centres and shared delivery arrangements. Policy S44 requires major new developments to provide on-site recycling and waste management facilities.

No car parking spaces are proposed. The site is within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls. Residential Bays are restricted to residents 24 hours a day 7 days a week with Single Yellows, Pay and Shared Use bays restricted from 0830 to 1830 Monday to Saturday. Given the public transport in the area and the parking restrictions it is considered unlikely to have a significant impact on on-street car parking in the area.

The Transport Statement submitted as part of this application concludes that the predicted traffic impact of the development will be very minor, equivalent to less than 20 two-way vehicle movements generated per hour. It is likely that the majority of this vehicle activity will be taxi and private hire vehicle related. This additional movement will be well within the natural daily traffic flow variation and, as such, does not require any mitigation. The Highways Planning Manager considers that given the accessibility to public transport in the area and the on-street restrictions, no significant harm to highway safety or adverse pressure on highway infrastructure is likely to occur.

Policies S42 and TRANS20 require off-street servicing where possible. No off-street servicing is possible given the constraints of the site. The site is located within a Controlled Parking Zone, which means that locations single yellow lines in the vicinity allow loading and unloading to occur. The proposed servicing strategy is for incoming deliveries to be made from North Audley Street using the dedicated on-street facilities, which is the same as existing.

However, the building's basement will not be large enough to accommodate all of the stock and additional off-site storage is required. The applicant is therefore proposing to have an off-site storage location, which will enable a consolidated stock supply system to be introduced. This would help to reduce the number of service trips and the impact of the proposal on the public highway. This 'consolidation hub' has yet to be finalised and a

condition requires an updated service management plan to be submitted to include these details.

The London Plan Policy 6.9 would require a minimum of 1 cycle parking space per 175m² of A1 and A3 class retail use, with a minimum of 2 spaces. Cycle parking for staff will encourage sustainable transport use. Based on 1,676m², a minimum of 10 spaces is required. 16 cycle parking spaces are indicated on the submitted drawing which is welcome and will be secured by condition.

To minimise the impact of the use on the road network, the Highways Planning Manager no delivery service should operate from this location. Delivery vehicles parking when not in use can reduce the availability of parking for other uses.

Waste storage is required by policies S41 and TRANS3. The refuse and waste collection takes place from Balderton Street and bins are stored by the entrance to the basement tunnel. The bins will be moved close to the Balderton Street entrance ahead of collection. The proposed arrangements are the same as what was approved in 2016. The hours of refuse collection will be restricted to protect the amenity of residents living in Balderton Street and Brown Hart Gardens.

8.5 Economic Considerations

The proposal provides an economically viable use that enables the re-use of this important listed building. It also provides employment opportunities: the applicant advises that a total of 40 full-time and 15 part-time staff will be employed. On this basis the economic benefits are welcomed.

8.6 Access

The configuration and historical importance of the front portico precludes the installation of a permanent ramp or other alteration for wheelchair access. Permission has previously been granted for new gates to the portico, including a pair of handrails to help access up the steps, and these have been installed. In this case the applicant proposes to have a removable ramp that will be managed by a member of staff when required. Although not ideal, it is considered to be the most suitable solution given the constraints of this listed building. Once within the building, the proposed lift will provide wheelchair access to all floors of the building.

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 Neighbourhood Plans

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.

8.9 London Plan

This application raises no strategic issues and is not referable to the Greater London Authority.

8.10 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.

No pre-commencement conditions are proposed in this case.

8.11 Planning Obligations

On 06 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the following three tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

Policy S33 of the City Plan relates to planning obligations. It states that the Council will require mitigation of the directly related impacts of the development; ensure the development complies with policy requirements within the development plan; and if appropriate, seek contributions for supporting infrastructure. Planning obligations and any Community Infrastructure Levy contributions will be sought at a level that ensures that the overall delivery of appropriate development is not compromised.

From April 2015, the Community Infrastructure Levy Regulations 2010 (as amended) imposed restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding

or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account. The City Council introduced its own Community Infrastructure Levy on 1 May 2016.

For reasons outlined elsewhere in this report, a S106 legal agreement will be required to secure the setting up of a committee to manage the community space and guarantee its long-term running costs on behalf of local groups/residents at nil cost, and £500 to cover the cost of monitoring this clause. These are in accordance with the City Council's adopted City Plan and London Plan policies and they do not conflict with the Community Infrastructure Levy Regulations 2010 (as amended).

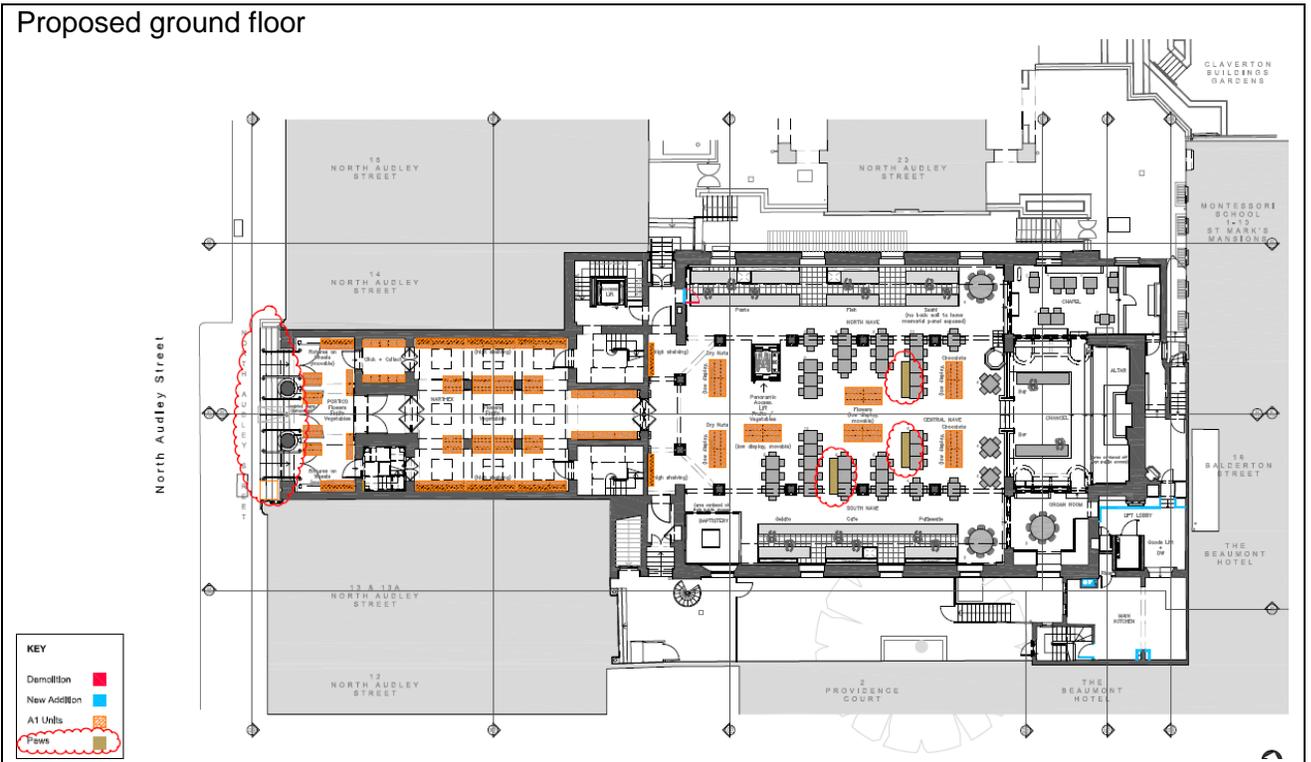
The proposals are not subject to a CIL payment.

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

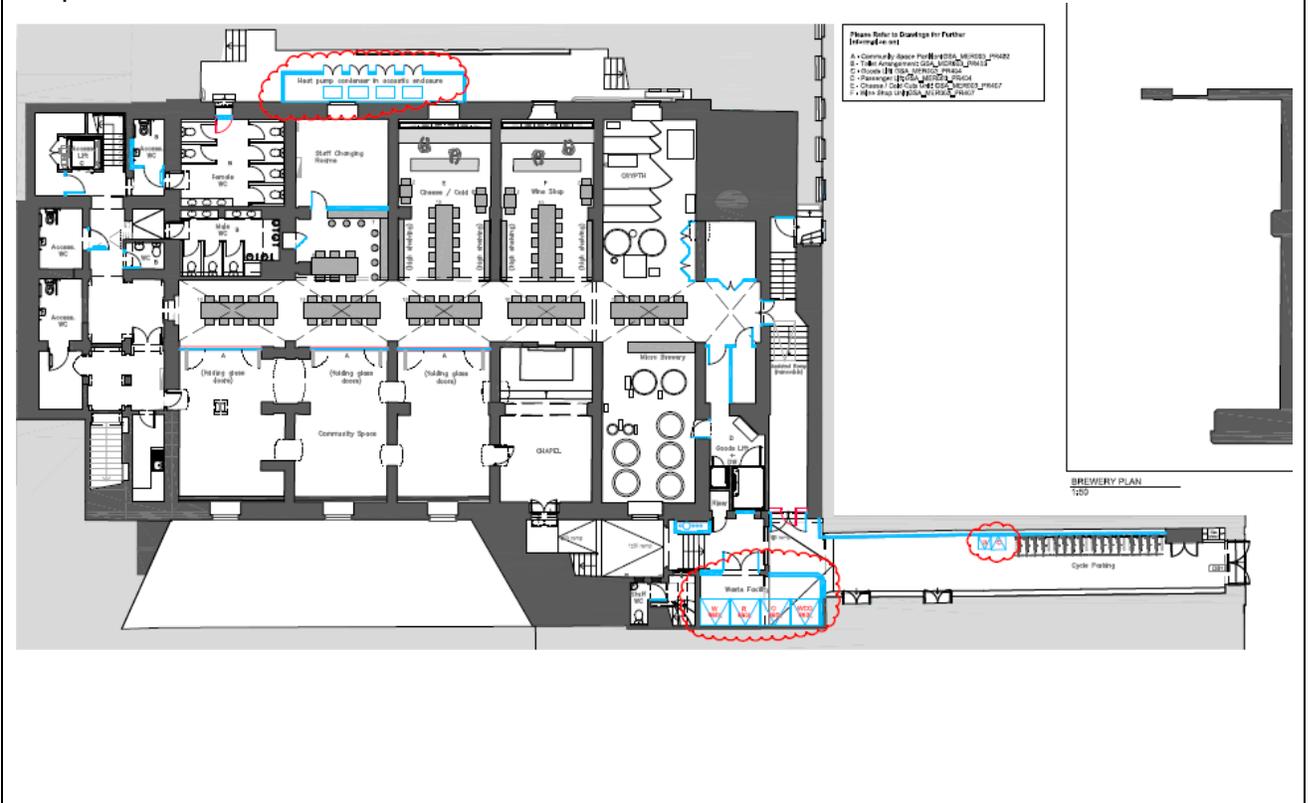
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

9. KEY DRAWINGS

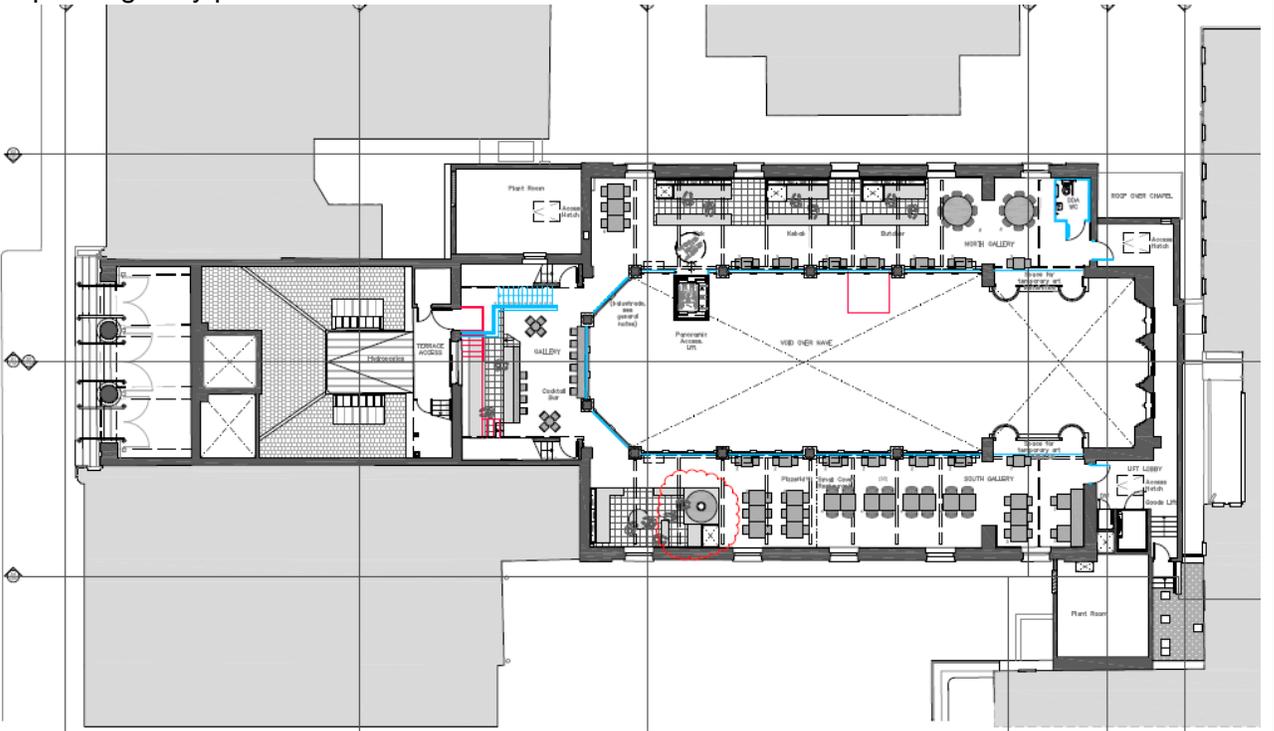
Proposed ground floor



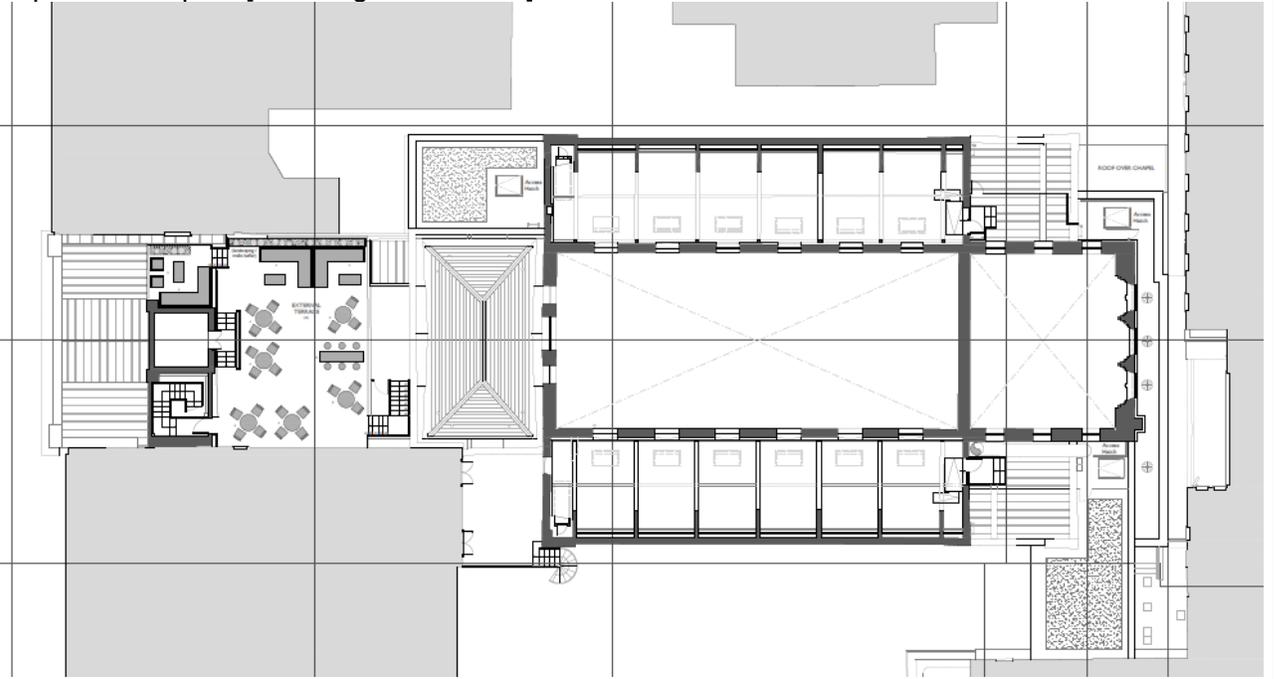
Proposed basement



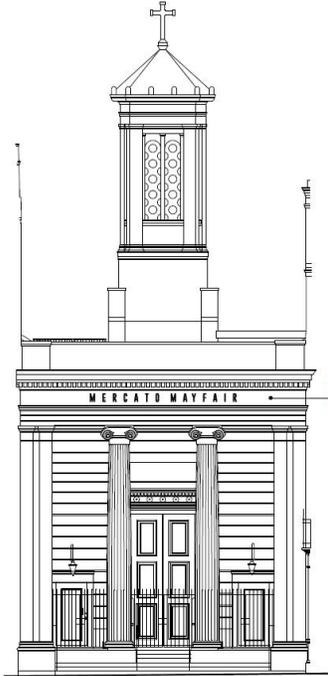
Proposed gallery plan



Proposed attic plan [including roof terrace]



Proposed front elevation [with non-illuminated signage]

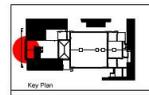


Elevation E1 North Audley Street
1:50

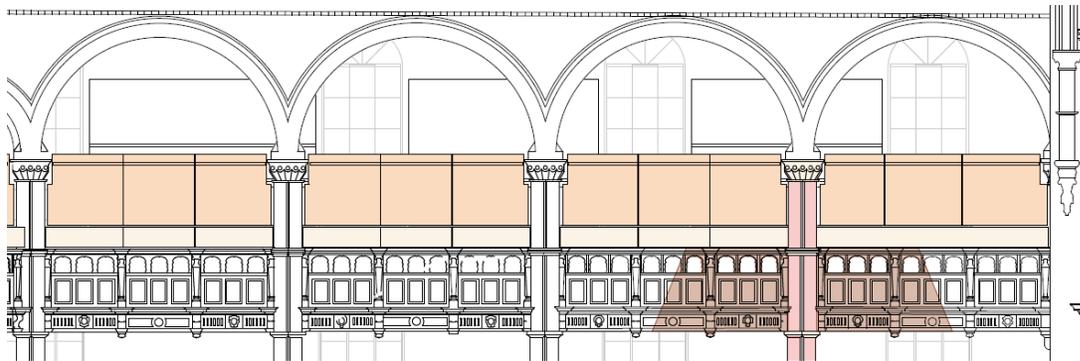
MERCATO SIGNAGE
GIBOLD font
Metal lettering secret pin mounted
to Portico entablature.



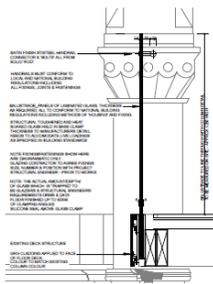
Examples of pin mounted signage to
entablatures



Gallery balustrade details



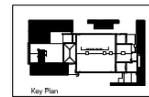
Elevation Gallery level - edge balustrading
1:25



Balustrade detail
1:10



Gallery balustrade image



DRAFT DECISION LETTER (PLANNING PERMISSION)

Address: St Mark's Church , North Audley Street, London, W1K 6DP

Proposal: Use of the property for mixed use ('sui generis') purposes, comprising a mix of retail, and food market with retail and food and drink facilities and use of part of the basement as community space, with associated internal and external alterations throughout, including installation of balustrades at first floor level, internal lift, plant, ducting, pizza oven, and external light fittings for the front facade. (Linked to 18/10223/LBC)

Reference: 18/10222/FULL

Plan Nos: GSA_MER003_PR100 Rev A, GSA_MER003_PR101 Rev A, MER003_PR_A102 Rev A, GSA_MER003_PR103, GSA_MER003_PR104, GSA_MER003_PR101-1, , GSA_MER003_PR300 Rev A, GSA_MER003_PR303, GSA_MER003_PR304, GSA_MER003_PR305, GSA_MER003_PR306, MER003 - PR306-1, , GSA_MER003_PR400, GSA_MER003_PR401 Rev A, GSA_MER003_PR403, GSA_MER003_PR402, GSA_MER003_PR404, GSA_MER003_PR405, GSA_MER003_PR406, GSA_MER003_PR409, GSA_MER003_PR411 Rev A, MER003_PR408, GSA_MER003_PR411 Rev A; , Design and Access Statement dated November 2018; , 'Waste and Recycling Policy at Mercato Mayfair' document submitted by email from Gerald Eve on 1 February 2019; Reco-Air 'Installation, Operating and Maintenance Instruction Manuel' for Unit Type RA 0.5 and RA 0.8.

Case Officer: Paul Quayle

Direct Tel. No. 020 7641 2547

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 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.

Noisy work must not take place outside these hours. (C11AA)

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

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 4 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 5 Customers shall not be permitted within the premises before 08.00 hours or after 23.00 hours on Sundays to Thursdays (including all bank holidays and public holidays), and not before 08.00 hours or after 00.00 hours (midnight) on Fridays and Saturdays. You must not open the premises to customers and you must not allow customers on the premises outside of these hours.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 6 You must not allow more than 500 customers into the premises at any one time (including customers using the external roof terrace), with a maximum number of 320 covers/seats.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 7 The external roof terrace (at the front part of the property next to the tower) shall only be open to customers during the following times: 09.00 - 23.00 hours on Mondays to Saturdays and 09.00 - 22.00 hours on Sundays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 You must apply to us for approval of an updated operational management plan/statement, that includes details of how you will prevent customers who are leaving the premises from causing nuisance for people who live in nearby buildings, especially at night time, a strategy for customers wishing to smoke and security arrangements. This must address the basement community use as well as the main retail and food market hall uses. You must not start the approved uses until we have approved what you have sent us. You must then carry out the measures included in the management plan/statement at all times that the building is in use. In the event that alternative users subsequently occupy the premises, a new operational management plan must be submitted, and approved by the Council, prior to their occupation of the building.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 The full height kitchen extract duct and associated plant equipment and duct work that was approved on 15 November 2016 (reference 15/10458/FULL) and which has been installed must be retained for as long as there is gas and solid fuel cooking on the premises, including the pizza oven.

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)

- 10 You must not provide a food delivery service from the premises, including no deliveries by any independent/third party delivery operators.

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 You must carry out the installation, operation and maintenance of the recirculation ventilation equipment for the cooking stations/kiosks in accordance with the Reco-Air 'Installation, Operating and Maintenance Instruction Manual' for Unit Types RA 0.5 and RA 0.8.

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)

- 12 (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)

- 13 All of the plant/machinery hereby permitted shall not be operated except between 07.30 hours or after 23.30 hours on Sundays to Thursdays (including all bank holidays and public holidays), and between 07.30 hours or after 00.30 hours of the following morning on Fridays and Saturdays, except where plant is specifically required for refrigeration purposes.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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. (R46CB)

- 14 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)

- 15 There will be no live nor recorded music played or transmitted to the external roof terrace at the front part of the property next to the tower.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 16 You must apply to us for approval of details of a supplementary acoustic report demonstrating that all the plant will comply with the Council's noise criteria as set out in Condition 12 of this permission, including details of any additional acoustic mitigation measures that are required. You must not commence any of the uses hereby approved until we have approved what you have sent us.

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. (R51AB)

- 17 Apart from the external terrace at attic level adjacent to the tower at the front of the property, no parts of the roof of the building nor the external courtyards at basement level on the north and south sides of the building shall be used for sitting out or for any other purpose, by staff or customers. You can however use these areas to escape in an emergency.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

- 18 The areas annotated as "A1 - 305 sqm" on 'Ground Floor Plan, GIA Calculation /', Drawing No. GSA_MER003_PR101-1, shall only be used for the retail sale of goods (which may include groceries and other cold food stuffs, and Click and Collect) and shall not be used for the sale of any hot foods nor hot drinks.

Reason:

To make sure that you carry out the development according to the terms of the planning permission and any details we have approved. (R02AA)

- 19 You must submit an updated servicing management plan to us for approval prior to any of the uses commencing. This plan must identify the delivery process, storage locations, scheduling of deliveries and staffing, etc. In particular it must include details of the proposed consolidation hub and how this will be used to consolidate servicing of the site. The uses must then be carried out in accordance with the approved plan.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

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

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

- 21 No goods shall be left on the highway during service deliveries.

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)

- 22 All servicing (excluding the collection of rubbish and recycled material) must take place at the front of the property, on the North Audley Street frontage, between 06.00 hours and 22.00 hours on Mondays to Saturdays and between 08.00 hours and 21.00 hours on Sundays. Servicing includes loading and unloading goods from vehicles.

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. (R22CC)

- 23 The access at the rear of the site on Balderton Street may be used for the collection of rubbish and recycled materials (but no other servicing), only between 08.00 hours and 21.00 hours on Mondays to Saturdays and between 08.00 hours and 20.00 hours on Sundays. The Balderton Street access shall not be used by customers to the premises except those visitors specifically using the community use in the basement and in cases of emergency.

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. (R22CC)

- 24 You must provide the waste stores, cardboard baler and glass crusher shown on drawing GSA_MER003_PR100 Rev A before any of the users commence. You must clearly mark them and make them available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. Waste and recycling shall then be managed in accordance with the 'Waste and Recycling Policy at Mercato Mayfair' document submitted by email from Gerald Eve on 1 February 2019.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling 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. (R14CC)

- 25 You must provide the access arrangements for people with disabilities as outlined in Section 7 of the Design and Access Statement dated November 2018 before you use the building. The removable access ramp must be permanently stored in the portico or narthex and a member of staff must be available to provide assistance for customers wishing to use the ramp at all times that the building is open to the public.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 26 No goods shall be displayed on the entrance steps on the North Audley Street frontage, which shall be kept permanently clear except for the removable access ramp.

Reason:

In the interests of public safety and to avoid blocking the pavement, 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.

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, neighbourhood plan (where relevant), 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 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:, i) setting up of a committee to manage the community space and guarantee its long-term running costs on behalf of local groups/residents at nil cost; , ii) Monitoring costs of £500 for the above clause.
- 3 It is a legal requirement to ensure that every enclosed workplace is ventilated by a sufficient quantity of fresh or purified air. Where this ventilation is provided by mechanical means the regulations require those mechanical ventilation systems to be maintained (including appropriate cleaning) in efficient working order. , B&ES Guide to Good Practice - TR19 Internal Cleanliness of Ventilation systems is a guidance document which can be used for new build, upgrade and maintenance of ventilation systems. Particular attention should be given to; , Section 2 - New ductwork system cleanliness , Section 3 - Design and access to the internal surfaces of the ventilation system , Section 7 - Specific considerations for kitchen extract systems. (This section deals specifically with access to the internal surfaces to the kitchen extract system, cleaning methods and frequency of cleaning). , Where access hatches or panels are required in order to meet the above requirements, these must be incorporated into the design of the ducting and any associated screening or cladding.

DRAFT DECISION LETTER (LISTED BUILDING CONSENT)

- Address:** St Mark's Church , North Audley Street, London, W1K 6DP
- Proposal:** Internal and external alterations throughout, including installation of balustrades at first floor level, internal lift, plant, ducting, pizza oven, and pin mounted metal lettering to the portico entablature.
- Reference:** 18/10223/LBC
- Plan Nos:** GSA_MER003_PR100 Rev A, GSA_MER003_PR101 Rev A, MER003_PR_A102 Rev A, GSA_MER003_PR103, GSA_MER003_PR104, GSA_MER003_PR101-1, , GSA_MER003_PR300 Rev A, GSA_MER003_PR303, GSA_MER003_PR304, GSA_MER003_PR305, GSA_MER003_PR306, MER003 - PR306-1, , GSA_MER003_PR400, GSA_MER003_PR401 Rev A, GSA_MER003_PR403, GSA_MER003_PR402, GSA_MER003_PR404, GSA_MER003_PR405, GSA_MER003_PR406, GSA_MER003_PR409, GSA_MER003_PR411 Rev A, MER003_PR408, GSA_MER003_PR411 Rev A; , Design and Access Statement dated November 2018; , 'Waste and Recycling Policy at Mercato Mayfair' document submitted by email from Gerald Eve on 1 February 2019; Reco-Air 'Installation, Operating and Maintenance Instruction Manuel' for Unit Type RA 0.5 and RA 0.8.

Case Officer: Paul Quayle

Direct Tel. No. 020 7641 2547

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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 3 The new joinery work must exactly match the existing original work unless differences are shown on the drawings we have approved. (C27EA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.3/2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BC)

- 4 The works approved are only those shown on the drawings listed on this decision letter. (C27NA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 5 You must not disturb any existing ornamental features including stained glass, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

- 6 Prior to commencing the use hereby approved you must apply to the City Council, in consultation with Historic England, for approval of a condition survey of all the stained/coloured glass windows and the building fabric which will adjoin the food stations/kiosks (cooking and non-cooking), carried out by a suitably qualified expert. Then, annually thereafter on or before 1st June each year, for so long as the use involving food preparation and/or cooking continues, you must carry out a condition survey of the stained/coloured glass windows, and the building fabric adjoining the food stations/kiosks (cooking and non-cooking), which is to be undertaken by a suitably qualified expert and submit it to the City Council for approval, in consultation with Historic England, along with details of any cleaning, repairs, or mitigation methods to rectify any deterioration or damage caused by the use. The cleaning, repairs, or mitigation methods shall be then be carried out in accordance with the approved details within three months of the details being approved.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary

Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

- 7 No cleaning of any stained/coloured glass other than gentle surface dusting is authorised by this consent. Before any future cleaning work is carried out, you must apply to the City Council, in consultation with Historic England, for approval of the cleaning technique(s) and method statement(s) which must be prepared by a suitably qualified expert. The cleaning must then only be carried out in accordance with the technique(s) and method statement(s) we have approved.

Reason:

To protect the special architectural or historic interest of this listed building. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings. (R27BD)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building., , In reaching this decision the following were of particular relevance:, S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:, , * any extra work which is necessary after further assessments of the building's condition;, * stripping out or structural investigations; and, * any work needed to meet the building regulations or other forms of statutory control., , Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents., , It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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.