

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 14 May 2019	<b>Classification</b> For General Release	
<b>Report of</b> Executive Director Growth Planning and Housing		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>3 Norris Street, London, SW1Y 4RJ,</b>		
<b>Proposal</b>	Use of basement, ground and mezzanine floors of 3 Norris Street as restaurant /public house (sui generis).		
<b>Agent</b>	Miss Suzanne Robson (Gerald Eve LLP)		
<b>On behalf of</b>	The Crown Estate		
<b>Registered Number</b>	19/00867/FULL	<b>Date amended/ completed</b>	5 February 2019
<b>Date Application Received</b>	5 February 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Haymarket		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

3 Norris Street is an unlisted building within the Haymarket Conservation Area. The building was built recently as part of the St James's Market redevelopment. The site is also within the Core Central Activities Zone and the West End Stress Area.

Permission is sought for the change of use of the basement, ground and mezzanine levels from restaurant (Class A3) to a composite use of public house with a restaurant element (sui generis).

The neighbouring properties are in use as offices or eating/drinking establishments. Norris Street is fully pedestrianised.

No objections have been received following public consultation.

Although the proposed use is considered a more intense entertainment use than currently exists on site, it is considered acceptable in land use, amenity and highways terms and would accord with policies within the National Planning Policy Framework (2019), the London Plan, Westminster's City Plan (2016) and Unitary Development Plan (2007). As such it is recommended that conditional planning permission is granted.

### 3. LOCATION PLAN



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### 4. PHOTOGRAPHS



3 Norris Street



3 Norris Street – ground floor level

5. CONSULTATIONS

**ST JAMES'S CONSERVATION TRUST**

Any response to be reported verbally.

**WESTMINSTER SOCIETY**

Any response to be reported verbally.

**HIGHWAYS PLANNING**

Undesirable but could be made acceptable.

**WASTE PROJECT OFFICER**

Applicant needs to provide a waste store and confirm the bin capacities for the storage of general waste, food waste and recyclable materials for the unit.

**ENVIRONMENTAL HEALTH**

No objection.

**ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED**

No. Consulted: 40

Total No. of replies: 0. Any replies to be reported verbally.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

**6. BACKGROUND INFORMATION****6.1 The Application Site**

The application site is 3 Norris Street which is an unlisted building located in the Haymarket Conservation Area, the Core CAZ and the West End Stress Area. It forms part of the redevelopment site of St James's Market which was developed pursuant to a planning permission in 2013 for two new buildings linked at basement level to provide retail and office uses, and associated public realm improvements.

The use at the basement ground and mezzanine levels of No. 3 Norris Street is an A3 use, operating as a restaurant at present.

There are no residential properties in the street block between Jermyn Street, Regent Street, Charles II Street, and Haymarket, the Council's records show that the closest residential property is located around 70m away in Panton Street. The properties that surround the application site are primarily in commercial use with restaurants and retail units at ground floor level.

**6.2 Recent Relevant History**

On 15 May 2013, permission was granted for the "Demolition and redevelopment of 53-54 Haymarket, 56 Haymarket and 1-3 Norris Street, 4-7 Norris Street, 14 St Alban's Street and 1-3 St James's Market and erection of an eight storey building plus basement and roof top plant area, comprising retail (A1 and A3) on part basement and part ground floor with offices (Class B1) above; associated public realm works and basement tunnel link to Regent Street block. Demolition behind retained 14-22 Regent Street, Carlton

Street, part St Alban's Street and part Jermyn Street facades and erection of an eight storey building plus basement and roof top plant area comprising retail (A1 and A3) on part basement, part ground and part mezzanine floors with offices (B1); above: associated public realm enhancements and highway works including pedestrianisation of Norris Street, part of St Alban's Street and creation of new public square at the junction of St Alban's Street, Norris Street and Carlton Street.”.

The scheme has been built out and is largely occupied.

## 7. THE PROPOSAL

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Restaurant use	288.1 sqm	0	-288.1 sqm
Restaurant/public house use	0 sqm	288.1 sqm	+288.1 sqm
Total	288.1 sqm	288 sqm	0 sqm

Permission is sought for a composite public house/restaurant use (sui generis). The floorspace remains the same at 288.1 sqm and no external alterations are proposed.

It is proposed that the pub/restaurant premises will have a capacity for 150 customers in total and will be operated between 0800 to 2300 Monday to Thursday, 0800 to midnight Friday and Saturday and 0800 to 2230 on Sundays and Bank Holidays. The back of house facilities will be located at basement level and it is proposed to use the ground floor level as a public house and the mezzanine for the restaurant element.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The London Plan (2016) encourages a supportive approach to planning diverse night time activities in appropriate locations. the Draft New London Plan is also a material consideration. Policy HCB6 B states that boroughs should promote the night-time economy where appropriate and address their impacts. Policy HC7 A (Protecting Public Houses) states that boroughs should support proposal for new public houses to stimulate town centre regeneration, cultural quarters, the night-time economy and mixed-use development where appropriate.

Both the existing and proposed use are considered entertainment uses, but the pub/vertical drinking element is arguably a more intensive entertainment use than the existing restaurant. The change of use must be assessed against City Plan policy S24 and saved UDP policy TACE 10 (given the site's location within the West End Stress Area and floorspace of over 150sqm). TACE10 has a very restrictive approach to new entertainment uses within the Stress Areas, stating they will only be granted in exceptional circumstances.

The UDP includes a schedule of what exceptional circumstances *may* constitute (though this is not exhaustive) as follows:

- a) a general reduction in adverse effects on residential amenity and local environmental quality when compared with the existing activity on the site;
- b) the retention of a use which has a long-standing association with the area, or makes a major contribution to its character or function;
- c) the retention of a valued Central London activity which is of national or international importance;
- d) proposals which are shown to be necessary to improve health and safety standards, or access for disabled people;
- e) the provision of restaurants and cafés on the second floor and above in Oxford Street, Regent Street and Piccadilly;
- f) in the Paddington and the North West Westminster Special Policy Area, the achievement of regeneration benefits.

The proposal is not considered to meet any of those criteria. However, it should be noted that although TACE10 still holds weight as a saved policy, the NPPF (2018) and its presumption of sustainable development also applies which requires the planning authority to identify the specific harm caused by the proposals which would make the application contrary to sustainable development objectives. The main consideration therefore is whether there is any demonstrable harm caused by the addition of a bar element in the proposed use.

The floorspace will remain the same at 288.1 sqm however incorporating a drinking establishment would be considered a more intensive use and likely to have a greater impact on amenity than a restaurant. This is a result of generally larger patron capacities and the nature of vertical drinking.

The approved opening hours for the unit are limited to 0800 to 0100 Monday to Saturday and 0900 to 2300 on Sundays and Bank Holidays and the operational management statement approved on 26.10.16 states a maximum capacity of 108 customers on the premises.

The applicant states that their proposed operating hours are from 0800 to 2300 Monday to Thursday, 0800 to midnight Friday and Saturday and 0800 to 2230 on Sundays and Bank Holidays. These proposed opening hours terminate slightly earlier than the existing licence. They are considered acceptable in this commercial area. It is proposed that the premises will have a capacity of 150 customers internally. With the external area (subject to a separate application for outdoor seating 19/01794/TCH) the customers capacity will potentially increase to 209. An Operational Management Plan has been submitted and it deals with, among other things, customers who wish to smoke, taxis, management of the outdoor seating/drinking and servicing arrangements.

No objection has been received from the adjoining properties and the Council's Environmental Health officer has reviewed the proposal and has raised no objection.

Given the relatively small floorspace, the largely commercial location and distance from any residential units, and the proposed conditions restricting operating hours, capacity and securing the operational management plan, any harm can effectively be mitigated.

The proposed entertainment use (sui generis) at this location for the reasons set out above is considered appropriate and in keeping with the character and function of the area.

Accordingly the proposals are considered to be in accordance with the NPPF, the London Plan, the Draft New London Plan, the City Plan and the UDP.

## 8.2 Townscape and Design

No external alterations are proposed.

## 8.3 Residential Amenity

There are no residential properties within the in the street block between Jermyn Street, Regent Street, Charles II Street, and Haymarket.

Noise and disturbance is addressed in section 8.1 of this report. Subject to conditions the proposal is considered to be in line with policies S29 of the City Plan and ENV13 of the UDP.

## 8.4 Transportation/Parking

The servicing of the unit will be in similar fashion to the existing use, it will take place from the loading bay in No. 1 St James's Market which was designed as a consolidated servicing area for the entire development site. There is service route access through the basement to the application site. This will be secured by conditions that servicing shall be undertaken from the dedicated servicing areas to ensure that it does not cause harm to the local environment.

The Highways Planning Manager points out the lack of cycle parking and suitable waste store, also mentioned by the Council's Waste project officer.

No cycle parking has been shown on the submitted drawings. However, on 21.03.16 details of cycle parking for all the A Class units have been approved (RN: 15/07174/ADFULL) and their retention is secured by condition 6 of the planning permission dated 15.05.2013 for the whole redevelopment. The cycle parking spaces at basement were seen during site visit therefore it is not considered no further condition is required in this instance.

Policies ENV12 of our UDP and S44 of the Westminster City Plan aim to provide the environment and provide suitable storage for waste.

The drawings submitted show a waste area and the details and waste management strategy have been secured by condition 20 of the 2013 permission. Those details have been approved on 22.12.2015 (RN: 15/09951/ADFULL). It is therefore accepted that waste will be stored and collected from within the site and not the highway. Therefore, it is not considered reasonable to request further information in this instance.

The Highways Planning Manager also requests that no delivery service should operate from this location. The premises is an existing restaurant use and there are no current restrictions on delivery. It would therefore be unreasonable to attach such a condition. Notwithstanding this the operation of the unit would be in accordance with the operational



management statement submitted, which will be secured via condition, and there is no mention of a delivery service in the document.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size.

### **8.6 Access**

### **8.7 Other UDP/Westminster Policy Considerations**

Ventilation

The unit benefits from an existing ventilation ducting which vents at roof level. The proposed sui generis will use the existing ventilation system. The Environmental Health officer did not raise any concerns. No additional plant is required.

### **8.8 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 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, any representations received are being 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.

### **8.9 Neighbourhood Plans**

Not applicable

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are consistent with the NPPF unless stated otherwise.

### **8.12 Planning Obligations**

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

### **8.13 Environmental Impact Assessment**

The scheme is of insufficient scale to trigger the requirement of an EIA.

#### **8.14 Other Issues**

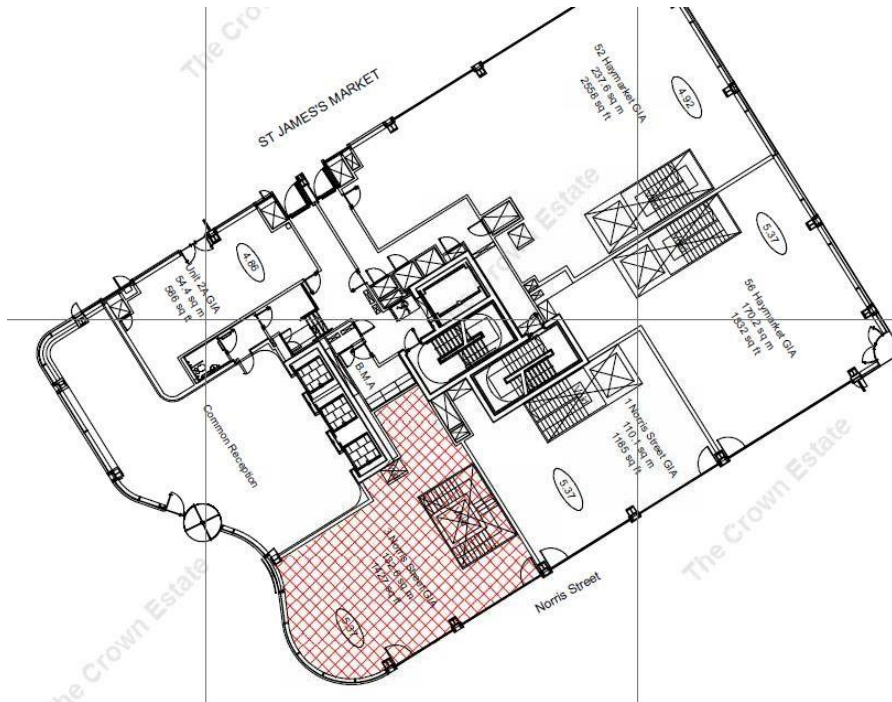
Not applicable

(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: LOUISE FRANCIS BY EMAIL AT [lfrancis@westminster.gov.uk](mailto:lfrancis@westminster.gov.uk)

**9. KEY DRAWINGS**





Existing Ground floor



Proposed Ground floor



Existing Mezzanine

Proposed Mezzanine

**DRAFT DECISION LETTER**

**Address:** 3 Norris Street, London, SW1Y 4RJ,

**Proposal:** Use of basement, ground and mezzanine floors of 3 Norris Street as restaurant /public house (sui generis).

**Reference:** 19/00867/FULL

**Plan Nos:** GIS\_2018\_1705\_3\_V2; GIS\_2018\_1705\_2\_V2; GIS\_2018\_1705\_1\_V2; GIS\_2018\_1474\_1\_V 1; GIS\_2018\_1706\_3\_V 2; GIS\_2018\_1706\_2\_V 2; GIS\_2018\_1706\_1\_V 2; GIS\_2018\_1474\_2\_V 1; A1-0310; A1-0300; A2-0304; Operational Management Statement. For information only: Planning statement dated 31 January 2018 (Gerald Eve)

**Case Officer:** Aurore Manceau

**Direct Tel. No.** 020 7641 7013

### Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

- between 08.00 and 18.00 Monday to Friday;
- between 08.00 and 13.00 on Saturday; and
- not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- between 08.00 and 18.00 Monday to Friday; and
- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

- 3 Customers shall not be permitted within the bar/restaurant premises before 08:00 hours or after 23:30 hours Monday to Thursday, before 08:00 hours or after 00:00 hours Friday to Saturday and before 08:00 hours or after 22:30 hours on a Sunday and Bank Holidays.

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 TACE10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 You must carry out the measures included in your Operational Management Statement at all times that the drinking establishment and restaurant is in use, unless a revised Operational Management Plan is submitted for approval by the City Council. The approved Operational Management Statement must thereafter be followed by the occupants for the life of the development.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 5 You must not allow more than 150 customers into the property at any one time. (C05HA)

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 All servicing must take place from the existing loading bay in No. 1 St James's Market and through dedicated back of house routes at basement level.

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)

- 7 No waste to be left on the highway. The waste and recycling storage area shown in drawing A1-0300 must be maintained for the life of the bar/restaurant (sui generis) use.

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007.

**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 One or more of the uses we have approved are referred to as being 'sui generis'. This means that the use or uses are not in any particular class. Any future plans to materially (significantly) change the use that we have approved will need planning permission. (I78AA)
  
- 3 Your proposed use will use the existing ventilation and associated plant, you are advised that noise from the approved machinery is controlled by conditions 3, 4 and 5 of planning permission dated 15 May 2013 (RN: 12/08886/FULL). It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.