

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 16 July 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	25 - 26 Albemarle Street, London, W1S 4HX,		
<b>Proposal</b>	Dual / alternative use of the second floor as either office accommodation (B1) or a private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels.		
<b>Agent</b>	Daniel Rinsler and Co.		
<b>On behalf of</b>	Aldwych Properties Ltd & Winter Restaurants Ltd		
<b>Registered Number</b>	19/03570/FULL	<b>Date amended/ completed</b>	10 May 2019
<b>Date Application Received</b>	10 May 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional planning permission.

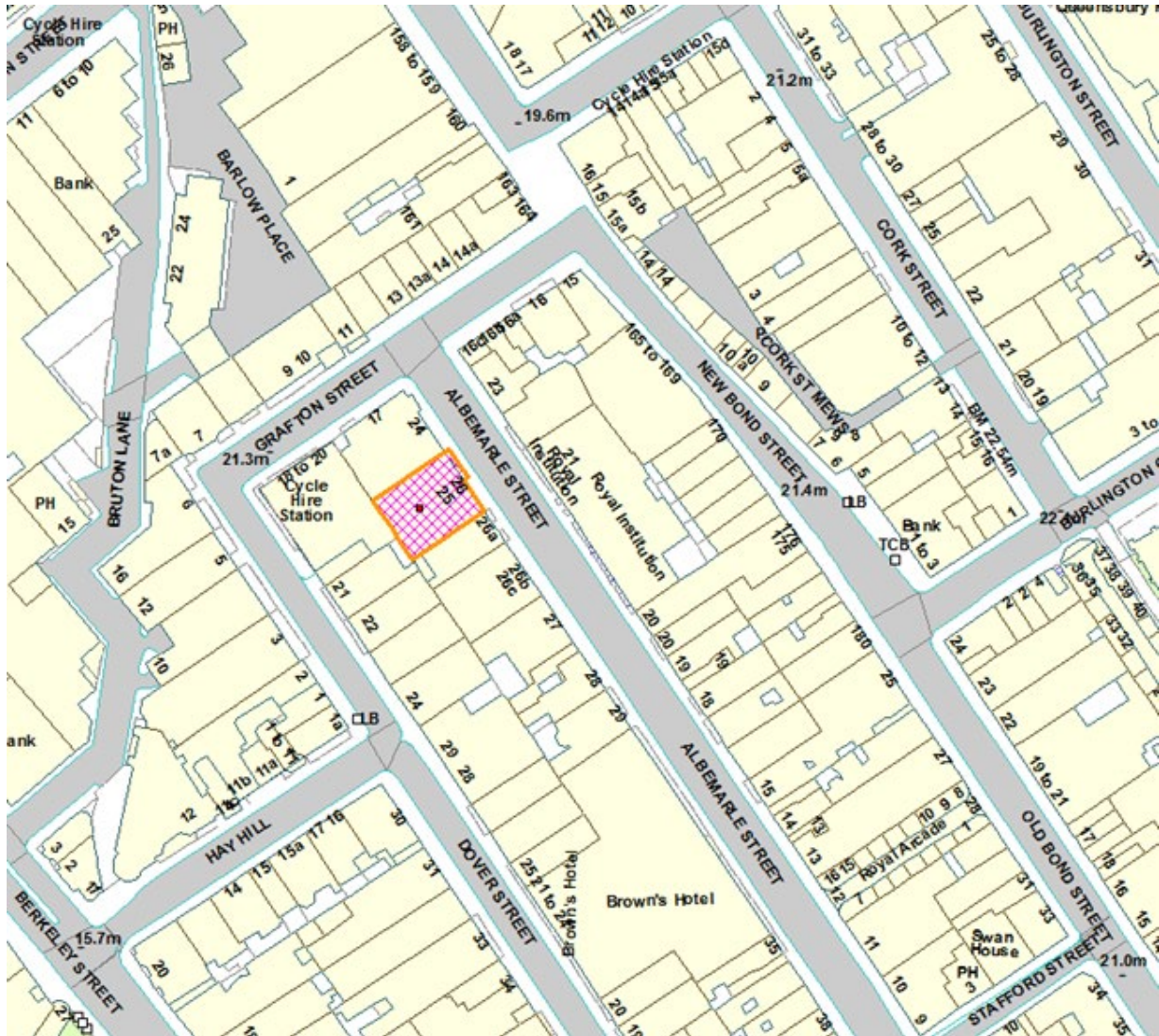
## 2. SUMMARY

25-26 Albemarle Street comprises basement, ground and four upper floors located in the Mayfair Conservation Area and the Core Central Activities Zone but outside of any designated stress areas. The basement, ground and first floors, including a rear first floor terrace area are in use as a private members club (sui generis) following a permission granted in October 2017. Permission is now sought for the dual / alternative use of the second floor as either continued office accommodation or as a private members club in association with the existing private members club on the lower floors.

The key issue is the extension of an existing large entertainment type use and the subsequent potential impact upon residential amenity.

The option to use the second floor in association with the private members club on the lower floors is considered acceptable in land use terms. A significant element of the club use would be dining. Subject to appropriate conditions including limits on the capacity and opening hours and requiring the club to operate in accordance with the Operational Management Plan the proposal is considered acceptable and recommended for approval.

### 3. LOCATION PLAN



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**4. PHOTOGRAPHS**



## 5. CONSULTATIONS

### RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

Any response to be reported verbally.

### MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

### HIGHWAYS

No objection subject to conditions.

### CLEANSING

No objection subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 47

Total No. of replies: 27 letters of support on the following grounds:

\*The premises is a well run establishment with no detrimental impact on neighbouring properties.

\*The club has invigorated the street and supported the establishment of neighbouring businesses.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

25-26 Albemarle Street is located on the western side of Albemarle Street at the northern end near the junction with Grafton Street. The building comprises basement, ground and four upper floors. The basement, ground and first floor levels are in use as a private members club (sui generis) with the second, third and fourth floor levels in use as office accommodation (B1).

The building is unlisted and located within the Mayfair Conservation Area and the Core Central Activities Zone. The property is located outside of the designated stress areas and the West End Special Retail Policy Area.

### 6.2 Recent Relevant History

Permission was granted on the 2<sup>nd</sup> August 2018 for the; 'Variation of Condition 10 of planning permission dated 24 October 2017 (RN: 17/06539) for, 'Dual/alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property'; NAMELY to change the opening hours to the

following so the club can be open for breakfast: 07:00 to midnight Monday to Thursday, 07:00 to 00:30 Friday, Saturday and Sundays before a Bank Holiday; and 12:00 to 23:00 on Sundays.'

Permission was granted on the 24<sup>th</sup> October 2017 for the; 'Dual / alternative use of the basement, ground and first floors as either a private members' club (sui generis) or a restaurant (A3) at basement and ground and offices (B1) at first floor level. Creation of a terrace on the rear first floor roof with associated visual screening and awning for use in association with the private members' club. Installation of plant at rear first floor level and roof level with associated screening and installation of a high level extract duct and gas flues on the rear elevation of the property.'

Permission was granted on the 17<sup>th</sup> January 2017 for the; 'Use of the ground and basement floors as a restaurant (Class A3), installation of plant at rear first floor level and roof level with a high level extract duct on the rear elevation. Installation of two high level gas flues on the rear elevation and a replacement rooflight at rear first floor level.'

**7. THE PROPOSAL**

Permission is sought for the dual / alternative use of the second floor of the property either for continued office accommodation or as part of the existing private members club at lower ground, ground and first floor levels currently operating as Oswald's. No additional plant is sought for the use as there is already existing lawful plant in place which serves the accommodation. The extended private members club would measure 822m<sup>2</sup> (GIA).

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Use (Office)	156	0	-156
Use (Private Members Club)	666	822	+156
Total	822	822	0

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

**Loss of office use**

The second floor of the property has lawful use as office accommodation. Within the Core CAZ the City Council has no current adopted policies which prevent offices being changed to another commercial use. The loss of offices is therefore considered acceptable in this instance. The third and fourth floors of the property would continue to operate as office floor space.

**Extension of private members club use**

The existing private members club operates at lower ground, ground and first floor levels and has a floorspace of 666m<sup>2</sup>. The inclusion of the second floor of the property would result in an extended floorspace of 822m<sup>2</sup>. The private members club opened in May

2018 over the lower ground and ground floors. In August 2018 the first floor was amalgamated with the use.

The private members club use is an 'entertainment use' and must therefore be considered against the relevant entertainment policies in the UDP and City Plan. Policy S24 of Westminster's City Plan states that 'new entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact residential amenity, health and safety, local environmental quality and the character and function of the area'. The policy also states that new large scale late night entertainment uses measuring in excess of 500m<sup>2</sup> (GEA), will not generally be appropriate within Westminster.

Policy TACE 10 of the UDP is also applicable and this states that entertainment uses over 500m<sup>2</sup> will only be permissible in exceptional circumstances'.

The site is located within the Core CAZ which is identified within Policy S6 of the City Plan as being an appropriate location for a range of commercial uses. The immediate vicinity is characterised mainly by commercial uses with most of the neighbouring buildings in use as office accommodation on the upper floors and retail / restaurants on the lower floors. The nearest residential accommodation are the five flats in the adjoining building to the south (No. 26A) as well as a single family dwelling within 21 Grafton Street to the west (rear) of the site.

The applicant argues that there are exceptional circumstances to permit the private members club, namely:

- the site lies within Core CAZ but not a designated stress area;
- the use will have a high degree of management;
- there are few residential properties in the area;
- the increase in capacity will only be 58;
- opening hours of the club will remain as existing.

An Operational Management Plan has been submitted with respect to the extended private members club. The key points in the OMP's are:

- that there would be a qualified doorman present at all times the premises are open,
- customers will be encouraged to leave the premises quickly and quietly and to ensure no vehicles are left idling in the street or parked inappropriately,
- staff will also seek to ensure taxis are booked prior to customers leaving the premises.

The existing private members club has a condition attached controlling the capacity of the unit to 180, the extension of the use into the second floor would facilitate an increase in this capacity to 238.

The proposed hours of operation of the extended use would remain the same as the existing use which are conditioned from 07:00 till 00:00 Monday to Thursday, 07:00 till 00:30 Friday, Saturday (and Sundays before a Bank Holiday) and 12:00 till 23:00 on Sundays.

The same conditions are proposed as previously imposed to ensure the unit does not operate a takeaway or home service delivery service which might result in increased vehicular movements.

Whilst it is acknowledged that the existing private members club constitutes a large entertainment premises. The increased number of covers proposed are relatively modest, and the hours of use accord with the City Council 'core hours' and are no greater than the previous consent. It is also noted that no objections have been received to the application from neighbouring occupiers indicating that the existing use is operating without causing any issues, indeed, letters of support have been received to the application from both local residents and businesses. Subject to the same conditions as previously imposed, including that any music being played in the premises is not audible externally or within adjacent premises and a condition requiring the use to be carried out in accordance with the OMP, it is considered the proposal would not have a detrimental impact on the character and function of the area or on residential amenity.

A high level extract duct has been installed and is conditioned to be retained. The applicant has confirmed that no extraction is required for the kitchen area at second floor level which would be for food preparation only. Any cooking would take place in the basement kitchen which is linked to the existing high level extract duct.

## **8.2 Townscape and Design**

No external alterations are proposed.

## **8.3 Residential Amenity**

The rear windows of the second floor level are to be etched glass to ensure there is no potential for overlooking of neighbouring residential occupiers, specifically the single family dwelling to the rear at 21 Grafton Street and a condition is imposed to retain this, and for the windows to be fixed shut.

## **8.4 Transportation/Parking**

Whilst the extended club use might result in some additional servicing, the club is already serviced from the street and this does not appear to be causing any adverse issues. The existing office use currently has servicing requirements and therefore the result of the application is likely to be neutral with regard to servicing vehicle movements. An Operational Management Plan (OMP) has been provided for the extended club use which sets out how servicing trips would be managed. The Highways Planning Manager considers this to be acceptable and is to be secured by condition.

## **8.5 Economic Considerations**

Any economic benefits generated by the proposal are welcomed.

## **8.6 Access**

The second floor is linked to the lower floors by a lift and an internal staircase.

## 8.7 Other UDP/Westminster Policy Considerations

### Refuse /Recycling

The second floor plan clearly indicates the provision of waste and recycling storage facilities and this is considered acceptable by the Waste Project Officer subject to a condition to ensure its provision and retention as shown on the approved drawing.

### Other

A number of letters of support have been received stating that the club has had a positive impact on increased vitality in the street and the benefits to surrounding businesses. These comments are noted and it is accepted a 'destination' use is likely to result in improved viability for other businesses in the vicinity which are more reliant on passing footfall for their trade.

## 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, the draft plan has been revised and formal consultation is now being carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

## 8.9 Neighbourhood Plans

The examiner's report on the Mayfair Neighbourhood Plan was published on 11 June 2019 with recommendations. The City Council intends to accept all these recommendations and proceed to a local referendum. The publication of the examiner's report means that the Mayfair Neighbourhood Plan is now a material consideration for making planning decisions in the area. However, it will not have full development plan weight until the referendum process has been properly completed.

## 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 considered to be 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**

Not relevant to a scheme of this scale.

**8.14 Other Issues**

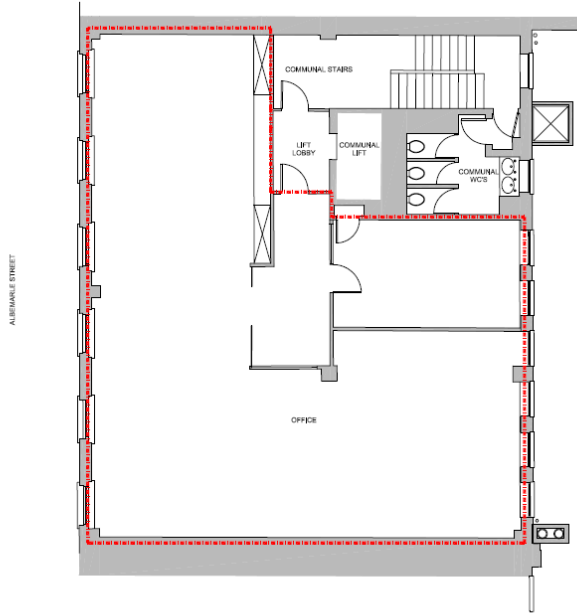
Not applicable.

(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: JO PALMER BY EMAIL AT [jpalme@westminster.gov.uk](mailto:jpalme@westminster.gov.uk)

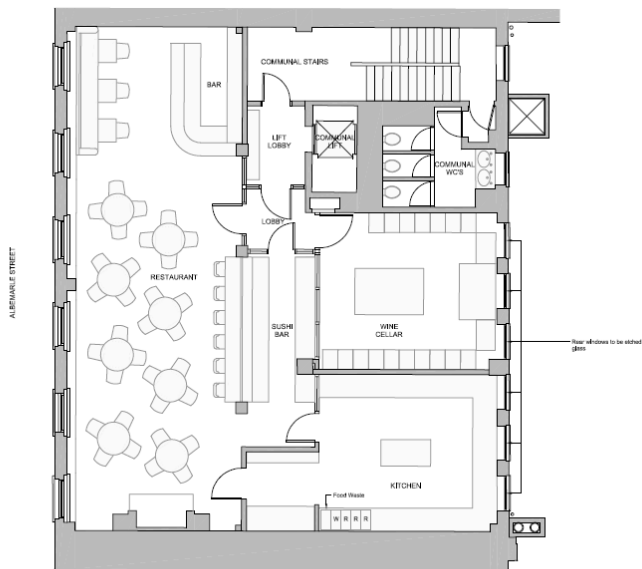
**9. KEY DRAWINGS**

Existing Second Floor Plan:



① Existing Second Floor GA Plan  
Scale: 1/8"=1'-0"

Proposed Second Floor Plan:



① Proposed Second Floor GA Plan  
Scale: 1/8"=1'-0"

**DRAFT DECISION LETTER**

**Address:** Second Floor, 25 - 26 Albemarle Street, London, W1S 4HX,

**Proposal:** Dual / Alternative use of the second floor as either office accommodation (B1) c private members' club use (sui generis) in connection with the existing private members' club on basement, ground and first floor levels.

**Reference:** 19/03570/FULL

**Plan Nos:** Operational Management Plan (Oswald's Private Members' Club) Drawing: 152 20-3-0120 RevP5.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

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

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

Reason:

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

- 2 You must not sell any take-away food on the premises, even as an ancillary part of the primary Class A3 or private members' club use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 3 You must not play live or recorded music within the private members' club that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 4 You must not carry out any primary cooking, including the cooking of raw or fresh food, at second floor level.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 5 You must not open the private members' club to customers, and you must not allow customers on the premises, outside the hours: 07.00 to midnight Monday to Thursday, 07.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday; and, 12.00 to 23.00 on Sundays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 The extended private members club use must be operated in accordance with the Operational Management Plan; 'Oswald's Private Members' Club' dated June 2019.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 7 You must not allow more than 238 customers into the whole of the extended private members club at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 The glass in the second floor windows of the rear elevation must not be clear glass and these windows must be kept closed at all times. You must make the appropriate changes to the rear second floor windows before you can occupy the second floor as the extended private members club and you must not change the glass without our permission.

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)

- 9 Before anyone moves into the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1522- P-20-3-0120 Rev P5. You must clearly mark them and make them available at all times to everyone using the premises. (C14FB)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

**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 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the second floor of the property can change between the B1 and sui generis use we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

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.