

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 14 January 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	30-31 Peter Street, London, W1F 0AP		
Proposal	Installation of openable windows to shopfront.		
Agent	Firstplan		
On behalf of	Bone Daddies		
Registered Number	19/06813/FULL	Date amended/ completed	30 August 2019
Date Application Received	30 August 2019		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The site is within Soho, the basement and ground floors of the premises are in use as a restaurant (Class A3), the first floor is offices (Class B1) with self-contained flats (Class C3) on the second to fourth floors.

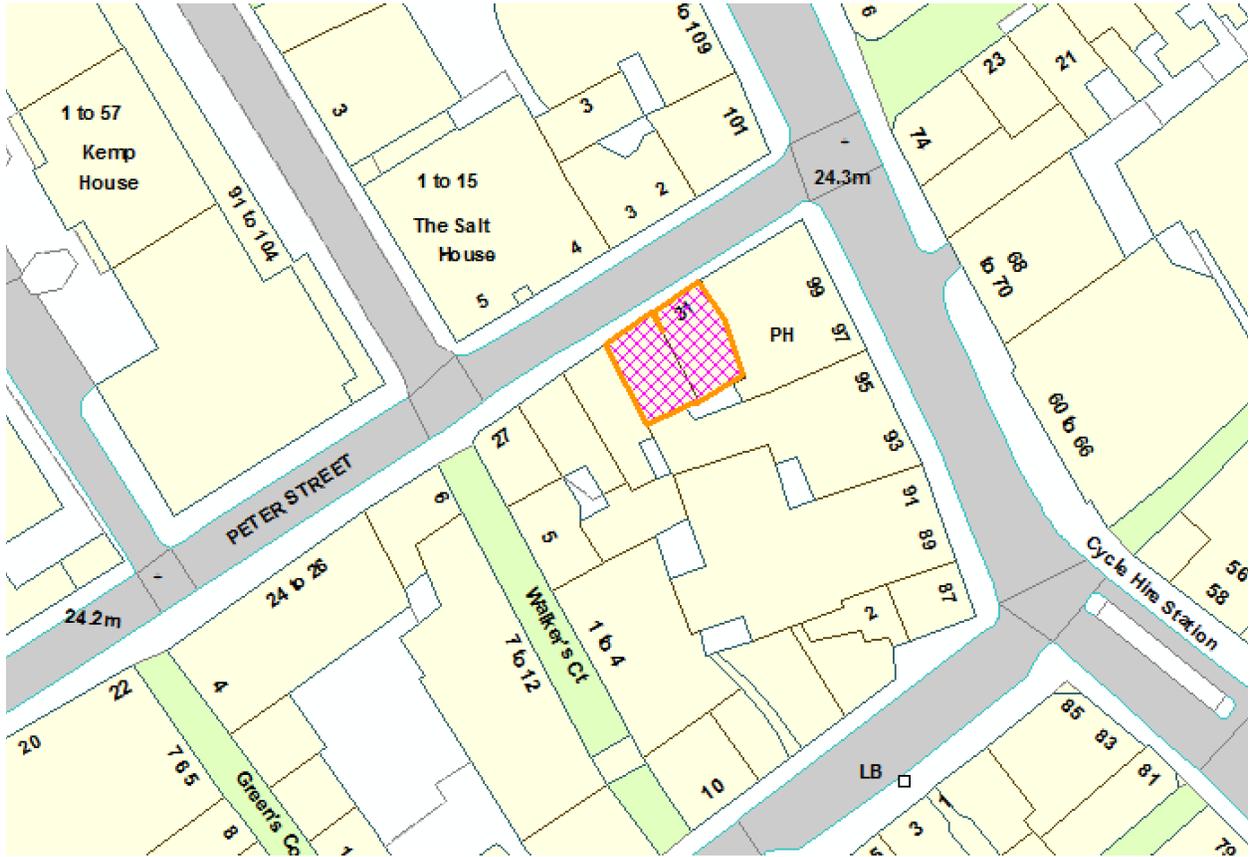
Retrospective permission is sought for the installation of openable windows to the shopfront of the restaurant.

The key issues for consideration are:

- The impact of the proposal upon the amenities of neighbouring residential properties and local environmental quality.

The openable windows were installed in August 2018. The application seeks permission to retain the windows and enable them to be opened between 9am and 9.30pm daily. An acoustic report detailing background noise levels with the windows open and closed has been submitted in support of the application. The Soho Society and 3 individual residents have objected that openable windows result in noise nuisance. Environmental Health have no objection to the application. Subject to conditions, the proposal is considered to comply with relevant Unitary Development Plan and City Plan policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

SOHO SOCIETY

Objection: noise disturbance to residents; reference is made to a history of noise nuisance relating to this site.

ENVIRONMENTAL HEALTH:

No objection

Adjoining owners/occupiers:

No. Consulted: 22

No of replies 3

3 objections on some or all of the following grounds:

Amenity:

Noise nuisance; comment that even with the windows closed the venue is loud, objection to the windows being open.

Site/Press Notice: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application premises is a basement and ground floor restaurant (Class A3) within an unlisted building located on the south side of Peter Street. The site is within the Soho Conservation Area and the West End Stress Area.

The first floor of the building is in office use and the second to fourth floors are occupied as self-contained residential flats. There is also a flat on the first floor at 29 Peter Street and a number of flats opposite at Salt House 5 Peter Street.

The restaurant opening hours are 11:30 to 22:00 on Mondays, 11:30 to 23:00 on Tuesdays and Wednesdays, 11:30 to 23:30 Thursday to Saturday and 11:30 and 21:30 on Sundays and Bank Holidays.

This part of Soho has an eclectic mix of uses. Peter Street is characterised by a mix of retail and restaurant uses at ground floor with residential and office uses on the upper floors.

6.2 Recent Relevant History

January 1987: Permission granted for the use of the ground and basement level as a restaurant, the use of the first floor as offices and the use of the second to third floor as three self contained flats. (86/01171/FULL).

28 December 2011: Permission refused for the installation of a new fully openable shopfront (11/10958/FULL) – noise disturbance to neighbouring residents.

3 July 2012: Permission refused for the installation of a partially openable shopfront to the restaurant (3 x lower windows 12/03899/FULL) – noise disturbance to local residents.

7. THE PROPOSAL

Permission is sought for the retention of three openable windows in the centre of a shopfront. The works were completed in August 2018. The application has been submitted in response to the Council's enforcement investigations further to a complaint from a resident on the upper floors that the alterations to the shopfront resulted in noise disturbance.

8. DETAILED CONSIDERATIONS

8.1 Land Use

As detailed above, the premises is a longstanding restaurant (Class A3), pursuant to a 1987 planning permission, and have been occupied by the current tenant (Bone Daddies) since September 2012.

The application does not raise any land use issues.

8.2 Townscape and Design

The Soho Conservation Area Audit identifies the building as an unlisted building of merit. The timber shopfront, as installed, has substantial mullions and transoms above a tiled stall riser. It is considered appropriate for a building of this type.

The middle section of the shopfront windows, between the two transoms, has been adapted to create sash-type openable windows. This arrangement is not unknown in historic shopfronts, particularly in produce shops of the late nineteenth and early twentieth century. The proportion of openable shopfront is not so great that the void created causes harm to the appearance of the building. The method of window opening is acceptable.

It is noted that a small shelf has been installed projecting from the face of the building. This is an uncharacteristic feature which is unacceptable in design terms. This does not however form part of the application. Enforcement investigations are ongoing to secure the removal of the shelf, and will continue should permission be granted for the openable windows.

8.3 Residential Amenity

Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development. Similarly, Policy S32 of the Westminster City Plan and policies ENV 6 and ENV 7 of the UDP seek to control noise disturbance from development. Of particular relevance, is the supporting text to policy ENV 7 (paragraph 9.108) which states that 'The City Council will discourage the provision of openable shop fronts that would enable

noise from inside the premises to be heard outside' on the basis that this would result in a potential loss of amenity to neighbouring occupiers.

The closest residential properties to the application premises are on the 2nd to 4th floors of the application property, the first floor of No 29 Peter Street and the upper floors of The Salt House 5 Peter Street both located to the west of the site.

As stated only the central sash window panes are openable. The extent of opening is similar to that refused in 2012 but does not extend along the entire shopfront width. In addition, the applicants propose that these windows would only be openable between 09.00 and 21.30 hours each day. The principal difference between the current application and the 2012 scheme is that the applicants have now submitted an acoustic report which details background noise levels with the windows open and closed.

The Soho Society has objected to the application on the grounds that there would be increased noise disturbance. They have also referred to a history of noise disturbance from the restaurant. However, other than the May 2019 enforcement complaint, there is no record of any other complaints being received regarding the restaurant operation.

Three objections have also been received from neighbouring residents. All three objections raise concerns regarding noise from the venue both when the shopfront windows are open and closed.

The submitted acoustic report details noise surveys undertaken on two evenings earlier this summer (on Friday 2 August, when the restaurant was at full capacity, and on Tuesday 6 August). The readings were taken both within the restaurant and at a 1st floor office window. The acoustic report details windows both open and closed.

The report concludes that this is a busy central location with high ambient noise levels caused by traffic, noise from other premises and general street level activity. The report details that there is only a 1db increase in noise levels when windows are open. On assessment of this acoustic report Environmental Health raise no objection to the application. Advising that given the limited opening there would be no loss of amenity to surrounding residents.

The policy presumption is not to allow opening shopfronts. Given that objections have been made that the restaurant use has resulted in noise disturbance in addition to limiting the hours that the windows can be opened it is recommended that permission is limited to 1 year only in the first instance to enable the position to be monitored.

8.4 Transportation/Parking

It is not considered that the proposals would generate any highways issues although it is recognised that the shopfront shelf, which does not form part of the application, has the potential to result in an obstruction should customers congregate outside the premises.

8.5 Economic Considerations

Any economic benefits generated by the proposal are welcomed.

8.6 Access

Access to the property would be unchanged.

8.7 Other UDP/Westminster Policy Considerations

Not relevant

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was 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 and subject to 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 London Plan

This application raises no strategic issues.

8.10 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of these applications are considered to be consistent with the NPPF unless stated otherwise.

8.11 Planning Obligations

The application does not trigger any planning obligations.

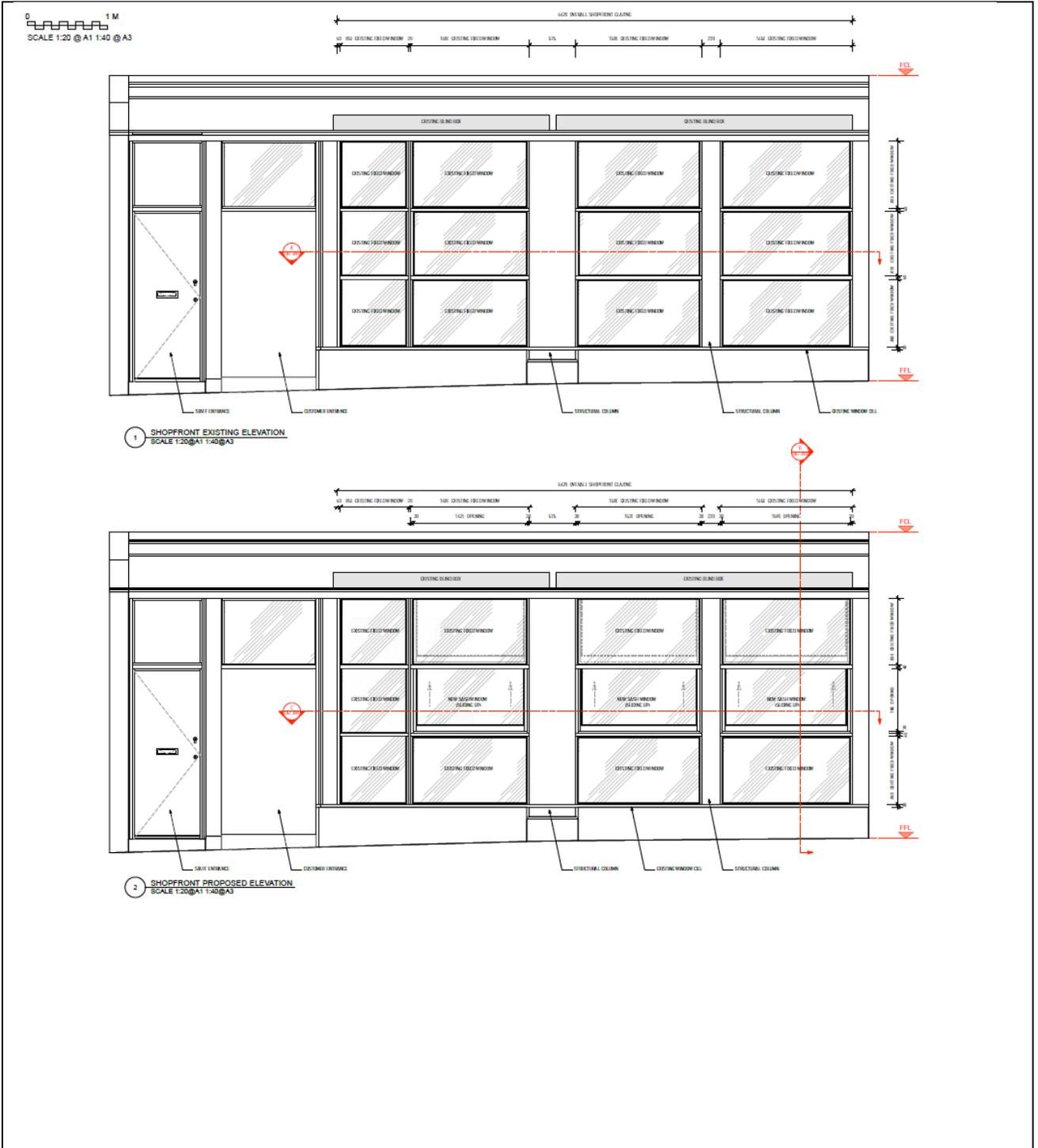
8.12 Other Issues

None

(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: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

9. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 30-31 , Peter Street, London, W1F 0AP
Proposal: Installation of openable windows to shopfront.
Reference: 19/06813/FULL
Plan Nos: 073.EL/200, 073.DE/300

Case Officer: Shaun Retzback

Direct Tel. No. 020 7641 6027

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 The openable windows hereby approved can remain for a limited period of 1 year from the date of this permission. After which time the windows shall be permanently fixed shut

Reason:

So that we can assess the effect of the development and make sure it meets policies ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 and policy S29 of Westminster's City Plan (November 2016)

- 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 make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must close the windows within the shopfronts hereby approved between 21:30 and 09.00 the following morning, each day.

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)

- 5 At times when the shopfront hereby permitted is open, (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant, 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 when the windows within the shopfront are open, 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest., (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within restaurant, 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 when the windows within the shopfront are open, 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest., (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved when the windows within the shopfront are open. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) The location of most affected noise sensitive receptor location and the most affected window of it; (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (d) The lowest existing LA90, 15 mins measurement recorded under (c) above; (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition; (f) The proposed maximum noise level to be emitted by the activity.

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 (UDP), 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.

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.

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.