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CITY OF WESTMINSTER		
PLANNING APPLICATIONS SUB COMMITTEE	Date 21 January 2020	Classification For General Release
Report of Director of Place Shaping and Town Planning	Ward(s) involved West End	
Subject of Report	55 Regent Street, London, W1B 4DY	
Proposal	Use of part ground floor, part mezzanine and part basement level as a food court (Sui Generis).	
Agent	Gerald Eve LLP	
On behalf of	The Crown Estate	
Registered Number	19/08511/FULL	Date amended/completed 1 November 2019
Date Application Received	1 November 2019	
Historic Building Grade	Grade II	
Conservation Area	Regent Street	

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

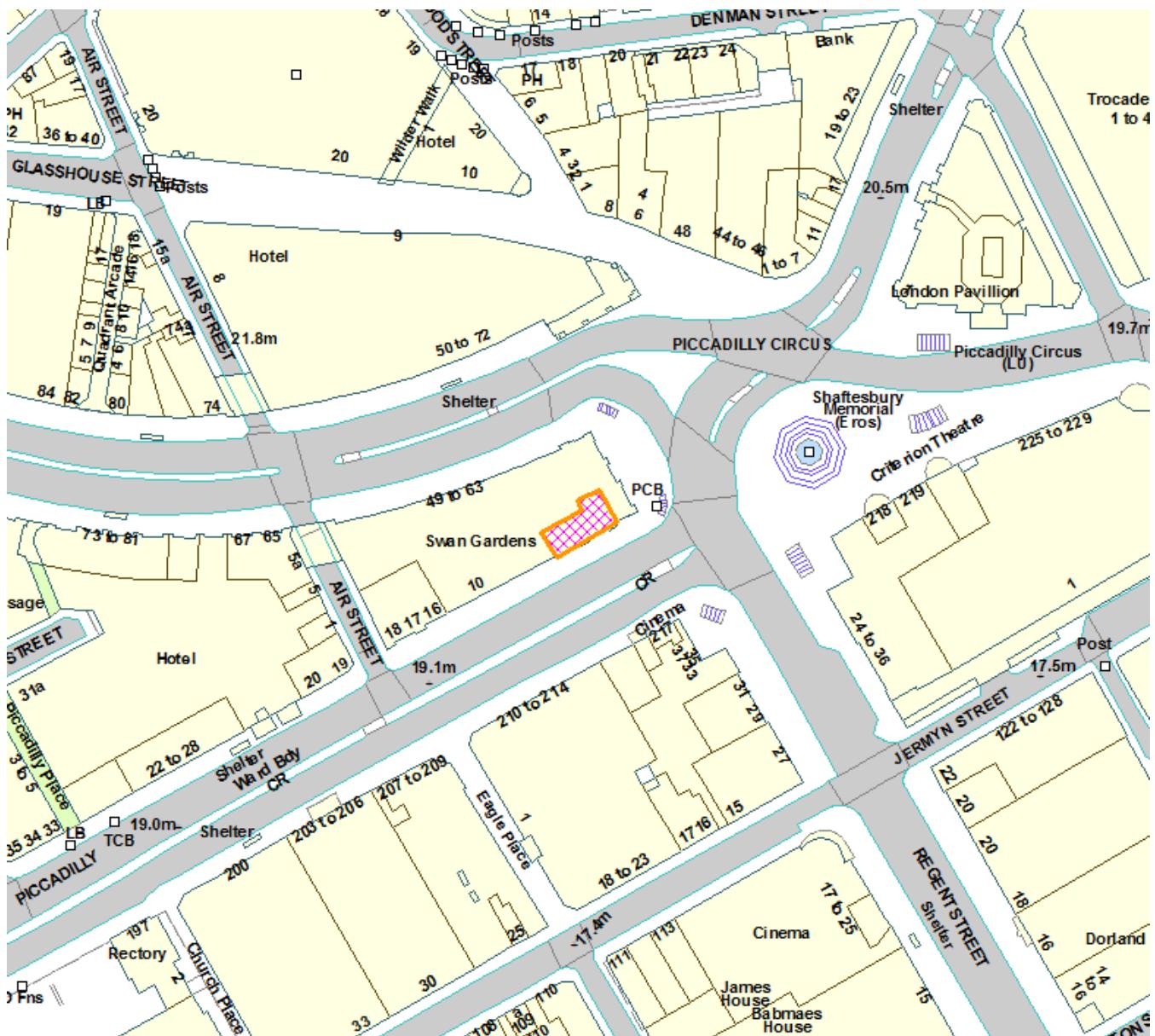
The application relates to what was part of a large retail unit (historically the Virgin Megastore). The applicant has argued that there is little demand for such large units and that the retail sector is facing a number of challenges. Planning permission has previously been granted to sub-divide the unit into two smaller shops, one of which (occupying ground and mezzanine floors) has now been let. However, despite lengthy marketing campaigns, the applicant states that interest in the basement has largely been confined to food-related activities. This proposal is for an Asian-themed food court that is seen as complementing the retail activity in the broader area. There are no external alterations and permission has previously been granted for an internal kitchen extract duct.

The key issues are:

1. loss of retail floorspace on a Primary Shopping Frontage and within the West End Special Retail Policy Area; and
2. the introduction of a large entertainment use within the West End Stress Area.

The challenges faced by the retail sector are acknowledged and subject to a number of safeguarding conditions, the proposal is considered to be acceptable, for the reasons set out in the background report.

3. LOCATION PLAN



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4. PHOTOGRAPHS

55 Regent Street – Piccadilly frontage



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5. CONSULTATIONS

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

Any response to be reported verbally

ENVIRONMENTAL HEALTH

No objection

HIGHWAYS PLANNING TEAM

No objection

WASTE PROJECT OFFICER

No objection, subject to a condition requiring the provision of storage for waste and recyclable materials as shown on the submitted plans.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 15; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is located at the southern end of Regent Street, and the building has frontages on to Regent Street, Piccadilly and Piccadilly Circus. Most of the basement, ground and mezzanine levels were historically used as a large, single retail unit: there are no planning decisions specifically about the use but it appears to have been in long-standing Class A1 retail use. Currently vacant, it was last used as part of a large single unit (including the rest of the ground floor and mezzanine level) by The Sting, a Dutch fashion retailer. In the past it was also used as a Virgin Megastore. The upper floors are in separate office use, with their entrance on Piccadilly. There is a service access for the building in Air Street.

Permission was granted in 2019 to sub-divide the original larger retail unit into two smaller units, and it is understood that this permission is being implemented with the fit-out of the unit occupying most of the ground floor and mezzanine. This application relates to a unit that occupies most of the basement and part of the ground floors only, with a small area at mezzanine level for advertising/display purposes.

The building is listed Grade II and is within the Regent Street Conservation Area. The site is within the Core Central Activities Zone; it is on a Primary Shopping Frontage (the Regent Street frontage) and is within the International Shopping Centre and the West End Special Retail Policy Area. It is also just within the boundary for the West End Stress Area and the Mayfair Neighbourhood Plan area.

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6.2 Recent Relevant History

October 2018 – planning permission and listed building consent granted for ‘Internal strip out works at basement and ground floors to remove existing retail unit fit out; installation of internal partitions to create five separate Class A1 retail units; installation of shopfront, new internal stairs / escalators and new service route from mezzanine floor to Air Street’.

May 2019 – planning permission and listed building consent granted for ‘Replacement shopfronts and alterations to facilitate subdivision of part basement, part ground floor and mezzanine floors into two Class A1 retail units, including alterations to ground floor Piccadilly frontage, new substation at basement level, new internal riser duct from basement to roof level, and associated works’.

7. THE PROPOSAL

This planning application is for the conversion of part of the ground floor (on the Piccadilly frontage) and basement unit at 55 Regent Street from retail (Class A1) use to a food court (Sui Generis) use. A small area would also be used at mezzanine level for display/advertising purposes.

The proposed food court will be operated by Maximal Concepts: they do not currently have any operations within the UK and this would therefore be their first UK outlet. The concept is called Asia Collective and would provide a variety of all-day dining experiences, providing different styles of Asian cuisine, at different price points, aiming to appeal to a wide audience. It is reminiscent of the eateries and food halls found across Asia, providing a range of types and styles of food, from a typical Asian street food offer to a more refined restaurant brand offer.

At ground floor level, on Piccadilly, a "grab and go" type concept would operate. This would offer the opportunity to purchase breakfast items, coffee, patisserie and allow for a quick lunch, and would thus be partially retail in function. The main food court will be located at basement level. The proposals would provide a mix of dessert bars, juice bars, fine dining experiences, grill kitchens, mono-dish kiosks, casual dining areas, bars, market stalls, "Chef's table", "soup" kitchen and another small element of retail.

Due to the mix of uses proposed, it is considered that the use of the proposed facility would be Sui Generis, as opposed to falling within a traditional Class A3 restaurant/ cafe use. This is consistent with the City Council’s assessment of similar ‘food hall’ uses elsewhere, such as at St Mark’s Church, North Audley Street, Mayfair.

In use terms it can be summarised as follows:

	Existing (GIA sqm)	Proposed (GIA sqm)
	Class A1 retail	Food court (sui generis)
Basement	1,435	1,435
Ground	125	125
Mezzanine *	25	25
Total	1,585	1,585

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* The small area of floorspace at mezzanine level relates to the advertising space associated with the food court. There will be no useable floorspace at this level.

Key aspects of the proposal are as follows:

- Entrance to the food court will be via the main front entrance on Piccadilly. An entrance is also proposed at basement level via the Piccadilly Circus Tube station – this would reinstate an existing opening that has been closed for a number of years, and therefore does not require planning permission. This will help improve late night egress from the proposed food court.
- Daily capacity of the food court is expected to be between 1,200-1,600 guests; the number of covers at basement level would be approximately 326 and approximately seven at ground floor level.
- It is proposed that the main food court would be open between 11am and 12am (midnight) Sunday to Thursday and between 11am and 1am Friday and Saturday. The ground floor espresso bar/ grab and go is proposed to be open between 7am and 10pm daily.
- Extraction and ventilation will be provided through a centralised flue which would extract at roof level – this has already been assessed and approved as part of the planning and listed building consent applications approved in May 2019.
- Two security guards will be on site during opening hours.
- Deliveries for concessions will be coordinated by management, and delivered via the existing service access in Air Street.

At the moment the detailed design of the layout is still being worked through: listed building consent will be required for these alterations in due course. However, the inside of the unit has been heavily altered over time and none of the original historic features remain, and consent has previously been granted for numerous alterations to these parts of the building. The suggested layouts shown on the plans within the Operational Management Plan are indicative only at this stage.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Loss of class A1 retail use

The lawful use of the site is for Class A1 retail purposes. The original larger retail unit of which it formed part has three frontages, on Regent Street, Piccadilly Circus and Piccadilly: by virtue of being on the Regent Street frontage, the site is on a designated Primary Shopping Frontage. The site is also within the West End Special Retail Policy Area (WESRPA). The planning policy presumption, as set out in policy SS 3 of the City of Westminster Unitary Development Plan (2007) and S7 and S21 of the City Plan (2016), is to protect A1 uses in general, particularly in the WESRPA, and specifically at ground, basement and first floor levels for units on the Primary Shopping Frontages.

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Planning permission has previously been granted twice to subdivide the unit into smaller ones – initially five and then two. The latter application was specifically to accommodate a future tenant on the ground and mezzanine floors. However, the applicant has put forward arguments that because of the changing retail market, and a number of challenges it is facing, it has not been possible to find a retail tenant for the basement. The submission includes a letter from marketing agents which sets out the background of the marketing of the premises but indicates that the only interest shown in the basement has been from Class A3-type food-related operators.

Applicant's arguments and marketing background

The applicant has been marketing the basement, ground and mezzanine floor retail (Class A1) unit of 55 Regent Street since summer 2017 with limited interest from traditional retail occupiers. Prior to that, the Sting (the previous occupiers of the whole unit) were themselves exploring options to re-let the unit from 2015. The potential for other Class A1 operators for the unit, in various potential configurations, has therefore been explored in detail over at least three years.

Planning permission (ref. 18/06964/FULL) and listed building consent (ref. 18/06965/LBC) were granted on 18 October 2018 for, amongst other works, the subdivision of the unit into five separate retail A1 units. It was considered that the subdivision of the unit into five would assist with the marketing of the space in response to low market demand for the existing large retail unit. It was noted that demand for large retail units has dropped in the last 15 years due to changing consumer patterns including the rise of internet sales and increased operational costs.

However, whilst the planning and listed building consent applications were being determined, the applicant continued marketing of the premises for retail (Class A1) purposes and found an occupier for the majority of the ground floor and all of the mezzanine level space equating to 1,628sqm (GIA) of the unit. Accordingly, planning permission (ref.19/01689/FULL) and listed building consent (ref. 19/01690/LBC), which were granted on 22 May 2019, subdivided the unit into two separate units (rather than five) in line with the interest expressed from a retailer in the majority of the ground floor and mezzanine level.

The applicant advises that the basement floor of the unit has been the most challenging part of the unit to let to a retailer, due to its scale (1,435sqm GIA) and limited visibility and street presence (even when forming part of the larger unit). Generally, retailers apparently prefer to be located at ground floor level, or occasionally mezzanine/first floor level, with basement space being the least attractive. This has been the applicant's experience in respect of 55 Regent Street.

The applicant summarises the marketing background as follows:

- The traditional retail market is extremely challenging at present and is currently going through a period of unprecedented change;
- There is a significant amount of vacant retail space, or tenants looking to surrender their leases, within the area local to 55 Regent Street;

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- On behalf of the Sting (previous occupier) Harper Dennis Hobbs (HDH) started marketing the assignment of the residual leasehold interest (10 years) in January 2015;
- HDH marketed the lease for two years until early 2017, with no significant interest in the unit in its existing configuration despite offering two years reverse premium for the acquisition;
- The Crown Estate (TCE), already the freeholder, purchased the long leasehold interest in January 2017 with HDH continuing to market the Sting unit;
- TCE negotiated a surrender with the Sting which took effect in July 2018 and the unit has been vacant since;
- Since July 2017 TCE has been looking to attract brands to this site who could successfully trade and have a positive effect on Piccadilly Circus;
- TCE worked up proposals for a variety of split options for their letting agent, CBRE, to commence marketing the unit with flexibility encouraged;
- Retail interest was expressed but no formal offers received with retailers seeking turnover led deals (which are not commercially viable);
- A refreshed marketing campaign began in February 2018 with parties approached on a flexible basis in response to the changing retail landscape. Significant interest was received from food hall type operators;
- The preferred use of the space by TCE was retail and accordingly the space was continually marketed for retail until the end of 2018;
- A retailer was found for the majority of the ground floor and mezzanine level and Heads of Terms agreed in January 2019; the tenant is due to move in in 2020;
- Given the limited area of available retail space that now exists at ground floor (the small area fronting Piccadilly) no further interest was expressed by retailers. However, Class A3 occupiers continued to express strong interest.

The applicant considers that a typical restaurant (Class A3) type use is not sufficiently unique for this important location. TCE were approached by Maximal Concepts regarding the use of the part ground and basement unit for use as their first UK based food and drink concept. The proposals differ from a traditional restaurant as the concept brings together many different types of dining and drinking experiences, with associated retail, under one roof and is therefore more akin to a food court (*Sui Generis*).

The applicant argues that whilst the proposals are technically contrary to Policy S21 of Westminster's City Plan, which states that "*existing A1 retail will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let*", it believes that the marketing test in this case has been sufficiently satisfied and that there is significant merit in bringing this vacant unit back into use. TCE consider that the benefits of this scheme, in the context of a very challenging retail market climate, and limited interest in the part ground and basement unit, would help support the functioning of the West End Special Retail Policy Area (WESPRA). Although the marketing information has not been tested independently, Council officers acknowledge the validity of the applicant's arguments in this case.

The applicant's arguments refer to the extreme challenges that are facing the retail market at present and as acknowledged within the published draft WCC City Plan (although this has limited weight at the moment). It is noted that within the current draft of the Plan, the WESPRA would be expanded and renamed the West End Retail and

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Leisure Special Policy Area (WERLSPA), forming the next tier in the City's retail hierarchy after the International Centres of Knightsbridge and Oxford/Regent/Bond Street. At a strategic level, the draft City Plan will aim to diversify uses within the West End so that both retail, and other complementary leisure, entertainment, food and drink, cultural and employment offers are supported and provided.

In addition to the above, the applicant refers to the Oxford Street District Place Strategy and Delivery Plan (OSDPSDP), published by the Council in 2019. The Plan states that "*in an age of online shopping, high street retail is increasingly moving away from traditional commerce, towards an approach that includes leisure, entertainment and experience*". The OSDPSDP recognises the competition traditional retailers are experiencing from online retailers and the changing retail environment across the UK. In order to compete the Plan identifies that a unique mix of retail, workspace, homes, culture and leisure, delivering economic growth, is required to respond to the rapid evolution of retail and working life. The Plan advises that the mix of uses within the Plan area should provide "*destinations*" for people besides traditional retail stores. In doing so, it states that the City Council will "*encourage new clusters of cafe and restaurant uses to animate street activity one block back from Oxford Street*". Whilst the unit at 55 Regent Street falls outside the Plan area, the same challenges are facing Regent Street and retail in this location too.

Retail consideration

The proposal is contrary to existing policy in that it would involve the loss of a Class A1 retail floorspace in general and within the WESPRA and on a Primary Shopping Frontage in particular. However, it is acknowledged that the retail sector is experiencing challenges at the current time and officers are sympathetic towards alternative proposals that would arguably complement the retail sector in this area. Piccadilly Circus is an internationally renowned shopping centre and strategic location within the City of Westminster and it is considered that this location might be appropriate for the proposed food court (subject to consideration of other policies relating to entertainment uses – see below), which would add to the vibrancy and vitality of the area.

In this case the proposed food court is largely confined to basement level, with the entrance on the Piccadilly frontage, which is not technically on a Primary Shopping Frontage. Prime ground floor retail floorspace is arguably more important than basement space, which is generally used as retail back of house or storage, in many instances. The ground floor element of the unit to which this change of use relates is only 125sqm (GIA), with the majority of the floorspace being located at basement level (1,435sqm GIA). Under Policy S7 of Westminster's City Plan, there should be a provision of retail along the Primary Shopping Frontages, at least at basement, ground and first floor levels. Since the granting of the permission in 2019 subdividing the unit into two, the part ground floor and basement unit has been severed from its link with the Primary Shopping Frontage of Regent Street. The applicant argues that UDP Policy SS3 therefore does not apply to the unit that forms part of this planning application, as the Piccadilly frontage does not form part of the international centre: officers do not necessarily accept this argument, as this is an artificial construct that ignores the historical use of the retail use as a single unit on the Primary Shopping Frontage.

The entrance area would include some seating but would also operate a retail-type function, with items of food and drink for sale and consumption off the premises, akin to

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a sandwich shop. Most of the ground floor of the building will remain largely in retail use by another tenant, including the whole of the Primary Shopping Frontage along Regent Street, and Piccadilly Circus, with access on the Piccadilly frontage as well. Given this, together with the marketing information submitted with the application, there are considered to be exceptional circumstances in this case that warrant an exception being made to the normal policy presumption to resist the loss of retail floorspace.

The site just falls within the Mayfair Neighbourhood Plan (See paragraph 8.9). Policy MR1.1 'Retail Encourage and Direction', generally reflects the Council's policies, in that it seeks to protect retail uses except in specified circumstances, such as demonstration that the unit is no longer viable. Change of use to other uses such as restaurant-type uses may be acceptable if appropriate in terms of scale, character, location, impact on residential amenity, etc.

8.1.2 Introduction of entertainment use

The proposals involve use of the basement of the unit as a food court based on Asian cooking. The applicant advises that there would be a mix of uses, including food-based facilities, bars and a small element of retail, and for this reason suggest that the use would be *sui generis*, but whatever the mix it would constitute an entertainment use.

Relevant policies

UDP Policies TACE 8-10 are applicable to entertainment uses and 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, whilst acknowledging that they provide services to people living in, working in and visiting the City and contribute to its role as an entertainment centre of national and international importance. UDP entertainment policies are intended to represent a 'sliding scale' of permissibility from TACE 8 ('generally permissible') to TACE 10 ('permissible only in exceptional circumstances'), dependent upon the location, size and type of the entertainment use. Broadly speaking, the largest entertainment premises (those over 500m² of gross floor space) generate the largest attendances and thus have the greatest potential to generate noise and disturbance, to affect adversely the living conditions of residents and local environmental quality and to bring unacceptable changes to the character and function of areas. TACE 10 is applicable in this case.

Policy S24 of Westminster's City Plan: Strategic Policies applies to all entertainment uses and 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. Policy S24 states that new large scale late night entertainment uses of over 500m² will not generally be appropriate within Westminster.

In this case, Policy TACE 10 is applicable as the total size of the proposed use is 1,585 sqm. In applying Policy TACE 10, each case will be considered on its individual merits, having regard to all material considerations. The UDP goes on to state that exceptional circumstances may constitute:

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- 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 cafes on the second floor and above in Oxford Street, Regent Street and Piccadilly;
- f) In the Paddington and North West Westminster Special Policy Area.

Policy TACE 10 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*

1 the number of customers who may be present on the premises

2 the opening hours

3 the arrangements to be made to safeguard amenity and prevent smells, noise and vibration disturbance (including that from the use of ventilation and air conditioning plant) from the premises

4 servicing arrangements

5 arrangements for the storage, handling and disposal of waste, recyclable materials and customer litter

6 the positioning of tables and chairs in open areas within the curtilage of the premises

7 changes of use to other uses and activities within the same Use Class

8 other relevant aspects of the use of premises, in order to minimise adverse effects."

This policy is also relevant with regard to the site's location within the West End Stress Area. Stress Areas are areas where the City Council considers that the numbers of restaurants, cafés, takeaways, public houses, bars and other entertainment uses have reached a level of saturation. The Council considers that such uses are concentrated in these areas where harm is being caused because of loss to residential amenity, impacts on other commercial uses, adverse effects on the local environment and inappropriate change to their character and function. The supporting information for the entertainment policies states that in the Stress Areas, additional entertainment premises, some extensions to existing premises, and extensions of opening hours of larger premises until late in the night will be considered, in most instances, to add to the problems in those areas. Only proposals for small uses, those with less than 150 sqm of gross floorspace, will generally be permitted

Policy TACE 10 was adopted prior to the publication of the National Planning Policy Framework (NPPF) and therefore, whilst the policy still holds weight as a saved policy, the NPPF has impacted on the assessment of larger entertainment uses because it is no longer sufficient for the City Council to argue that a use would not satisfy any of these criteria. Also, as a result of a number of appeal decisions, in particular 34 Grosvenor Square, where the Inspector concluded that absence of harm qualified as an exceptional circumstance in respect of saved UDP Policy TACE 10, specific harm must be identified if the City Council is to refuse an application and an explanation provided as to why the proposed development is contrary to sustainable development objectives.

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With regard to the Mayfair Neighbourhood Plan, Policy MR1.4 states that proposals for change of use from Class A1 to Class A3, A4 or A5 uses must not cause, or intensify an existing over-concentration of A3 and entertainment uses within a street or area.

Entertainment use consideration

The proposed use seeks to contribute to a mix of uses within a location which largely consists of traditional retail (Class A1) uses. The proposed occupier has an international presence and the applicant believes this will act as a draw to this location. The food court concept offers a range of different dining options and experiences, at a number of different price points. Whilst it is noted that the site is not located far from Soho, where restaurant and cafe uses already exist, it is considered that some form of more convenient food offering, catering to a wide audience, in this location, would be of benefit to the area and the City as a whole.

The first element of saved UDP Policy TACE 10 states that entertainment uses of over 500sqm will only be granted in exceptional circumstances. The applicant has put forward the following exceptional circumstances for this case:

- The space was marketed for traditional retail use (Class A1) for almost four years and very little interest was received from retail tenants. As a result, the unit has been vacant since July 2018.
- The unit is located within the WESRPA which attracts visitors from around the world. A vacant unit contributes very little in terms of vitality and vibrancy in a key and iconic location within Central London. This arguably results in adverse effects on amenity and local environment quality which would be bettered as a result of the proposals (UDP Policy TACE 10 exceptional circumstances criteria).
- The unit is located close to the Primary Shopping Frontage on Regent Street but is physically severed from this.
- The unit offers the unique opportunity to provide an entertainment use that will support the functioning of the WESRPA and the Primary Shopping Frontage but without detracting from the policy objectives for these important retail locations.
- The proposed occupier is a high-quality tenant, with an international reputation, which will appeal to Londoners and an international audience. It will provide a very wide-ranging food and beverage offer that will cater to a range of demands, budgets and styles in an innovative and attractive format. It will therefore provide an additional, valuable, amenity offer, enhancing the City's attraction to workers and visitors.
- The proposal brings a vacant retail unit, within a listed building, back into a viable use.

Whilst the proposal does not specifically meet any of the 'exceptional circumstances' tests as suggested in the supporting text to saved UDP Policy TACE 10, it is considered in this case that the proposal will not result in any specific harm caused. The location is predominantly commercial, with no residential accommodation in the immediate vicinity. The nearest residents are to be in Denman Street to the north and Jermyn Street to the south. The area is well served in terms of catering to the tourist industry, with a number of hotels, theatres and other attractions, and it is considered that the proposed use will contribute to this character and function.

In order to ensure that the proposal does not impact on the amenity of the area, the proposal can be assessed against the relevant criteria of Policy TACE 10 as follows:

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1. It is anticipated that between 1,200-1,600 people will use the proposed facility over the course of a day. This is considered appropriate in the context of the Central London location and the fact that the area is predominantly commercial. The applicant suggests that many of the customers will also enter and exit the venue through the basement entrance (via Piccadilly underground station) which will not impact on the amenity of the area. It is proposed to condition the capacity of the food court in accordance with the information provided as part of the application (allowing for a little leeway), namely approximately 326 at basement level and approximately seven at ground floor level.
2. It is proposed that the main food court would be open between 11am and 11pm Sunday to Thursday and between 11am and 12am (midnight) Friday and Saturday. The ground floor espresso bar/ grab and go is proposed to be open between 7am and 10pm daily, although it would need to be open at the same hours as the basement as it is the main entrance. These times are considered appropriate considering the units Central London location.
3. In terms of smells, ventilation and extraction will be provided through a centralised flue which would extract at roof level and has already been approved as part of applications approved last year. As it discharges at high level, it is not anticipated that there will be any amenity issues associated with smells. However, it is proposed to condition details of the extraction system at basement level, to ensure that this is adequate for the numerous separate concessions that intend to link in with the single extract duct.

In respect of noise and vibration, the unit will predominantly be located at basement level and will therefore have little opportunity to cause harm to amenity in this regard. Staff will be present at all times and will stand adjacent to entry and exit points to ensure customers are reminded to be quiet when leaving the premises. Air conditioning plant for the basement has also been previously approved under the previous applications. It is not anticipated that the proposals will result in any vibration and the applicant would be willing to accept the City Council's standard condition in this regard.

4. Servicing and waste storage (discussed below) are acceptable and will be conditioned accordingly.
5. It is not proposed to place any tables and chairs on the public highway outside the premises, and all tables and chairs will be contained within the unit.
6. The proposal is for a Sui Generis use. It would therefore be necessary to apply for planning permission should anyone want to use the premises for anything other than the proposed food court.
7. It is not considered that the proposal will cause any significant problems of crime and security, especially being largely confined to basement level.

Accordingly, the proposed large entertainment use is considered to represent an exception that is acceptable in this case, subject to a number of safeguarding conditions. It is noted that there have been no objections to the proposal.

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8.2 Townscape and Design

There are no external impacts arising from the current application of the proposed change of use. Consent has already been granted for changes to the shopfront, but any further changes that may be required in respect of the new use would probably need a new application, along with consent for any advertisements.

Internally, the basement fabric and plan form makes only the most modest contribution to the significance of the listed building and it is not considered that the proposed food court use would be harmful to the special interest. Once the detailed design of the proposed layout has been finalised, the applicant will need to apply for listed building consent. This may include changes to the access from Piccadilly underground station (other than simple reopening of the existing access).

8.3 Residential Amenity

Other than the land use considerations discussed above, the proposal is not expected to have any other adverse amenity implications.

8.4 Highways and Servicing Considerations

Car Parking

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. The area has a good level of public transport accessibility. Residential Bays are restricted to residents 24 hours a day 7 days a week with Single Yellows, Pay and Shared Use bays restricted from 08:30 to 18:30 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.

Trip generation

The proposal is likely to generate more trips per day than the existing approved use of the site, however 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 considered likely.

Cycle Parking

The London Plan Policy 6.9 would require a minimum of 1 cycle parking space per 175 sqm of A1 and A3 class retail use, with a minimum of 2 spaces. Cycle parking for staff will encourage sustainable transport use. Based on 1,585 sqm, a minimum of 9 spaces is required. 10 cycle parking spaces are indicated on the submitted drawing and these will be secured by condition.

Waste

Waste stored on the public highway awaiting collection creates an obstruction to pedestrians and other highway users contrary to S41 and TRANS3. It would also have an adverse impact on the public realm. Storage and handling of waste is set out within the accompanying Delivery and Servicing Management Plan. The unit will have access to the service area at ground level on Air Street. The basement level will be linked to a service lift which provides direct access to Air Street. Goods in and waste removal will

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be via these routes. The Project Officer for Waste and Recycling has confirmed that he has no objection to this aspect of the proposals.

Servicing

Policies S42 and TRANS20 require off-street servicing. No off-street servicing is indicated for the development but there is an on-street service bay on Air Street adjacent to the application 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 proposal is likely to increase servicing associated with the site.

Deliveries and goods left on the highway create an obstruction to pedestrians and have an adverse impact on the any improvements to the public realm. The applicant has provided a Servicing Management Plan and addressed servicing within the submitted Transport Statement. The contents of the submitted SMP should help to minimise the impact of servicing of the proposal on the public highway. The applicant indicates that they would operate a collective procurement approach which should help to reduce the number of service trips and the impact of the proposal on the public highway. Scheduling outside of peak hours will also occur; it would also help to schedule regular deliveries to time slots to help reduce the likelihood of multiple vehicles arriving at the same time. This could be secured with a minor amendment to the SMP.

Delivery Service

To minimise the impact of the A3 use on the road network, no delivery service should operate from this location. Delivery vehicles parking when not in use can reduce the availability of parking for other uses.

8.5 Economic Considerations

Other than the occupation of an existing vacant unit at an important central location, there are not considered to be any specific economic considerations for a development of this size.

8.6 Access

There is level access into the ground floor unit.

8.7 Other UDP/Westminster Policy Considerations

The application is solely concerned with the principle of the change of use, with no external alterations nor extensions. Other than the matters discussed above, there are not considered to be any other relevant policy considerations.

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 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country

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Planning Act (Local Planning) (England) Regulations 2012, 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 site is just within the area covered by the Mayfair Neighbourhood Plan. This includes policies on a range of matters including character, heritage, community uses, retail, offices, housing, cultural uses, transport and the environment. It has been through independent examination and supported at referendum on 31 October 2019, and therefore now forms part of Westminster's statutory development plan. It will be used alongside the council's own planning documents and the Mayor's London Plan in determining planning applications in the Mayfair Neighbourhood Area. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed elsewhere in this report.

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.

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. However, there are no pre-commencement conditions in this case.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application and no CIL payment is triggered by a change of use.

8.13 Environmental Impact Assessment

Environmental Impact issues are not relevant in this case.

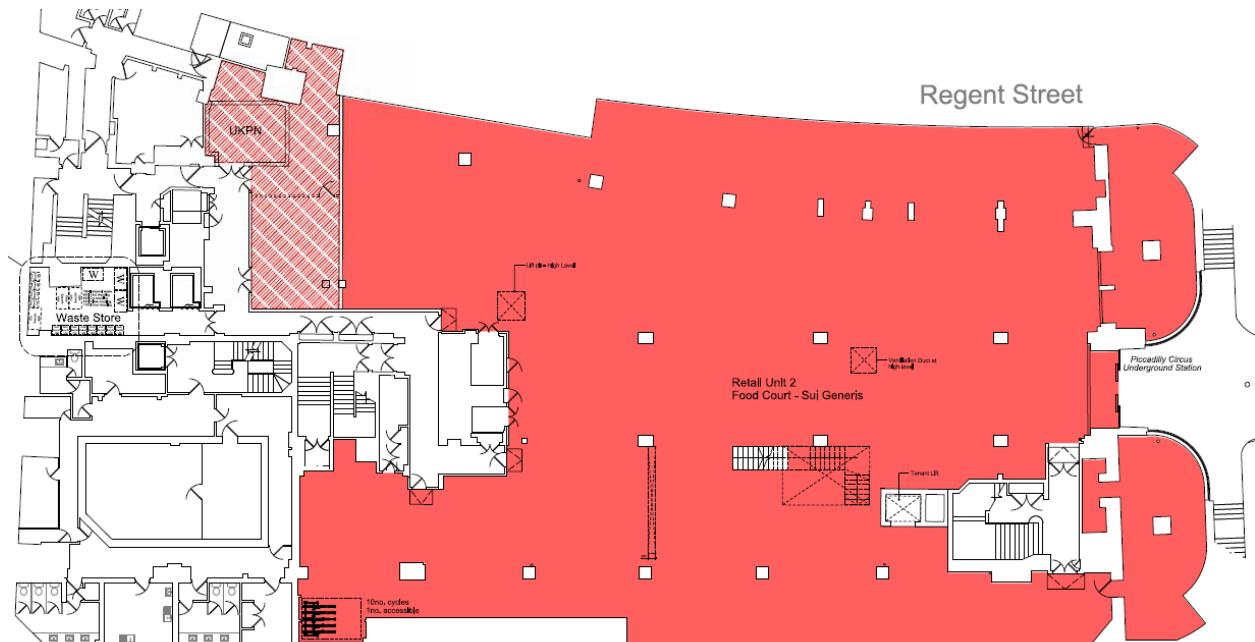
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk
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9. KEY DRAWINGS

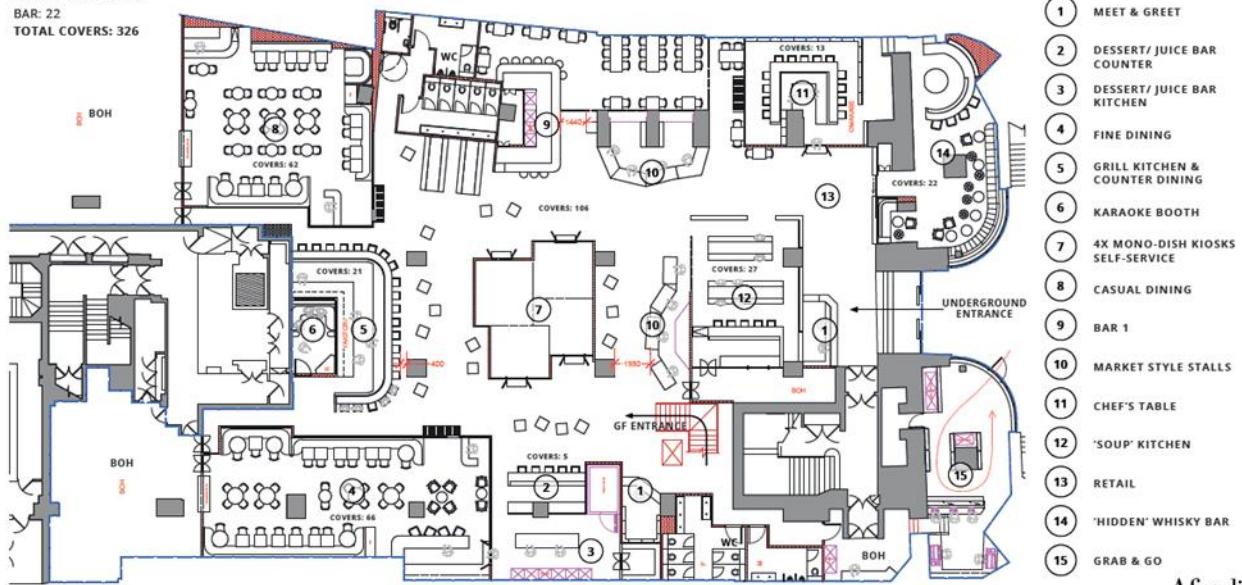
Proposed basement



Indicative basement layout

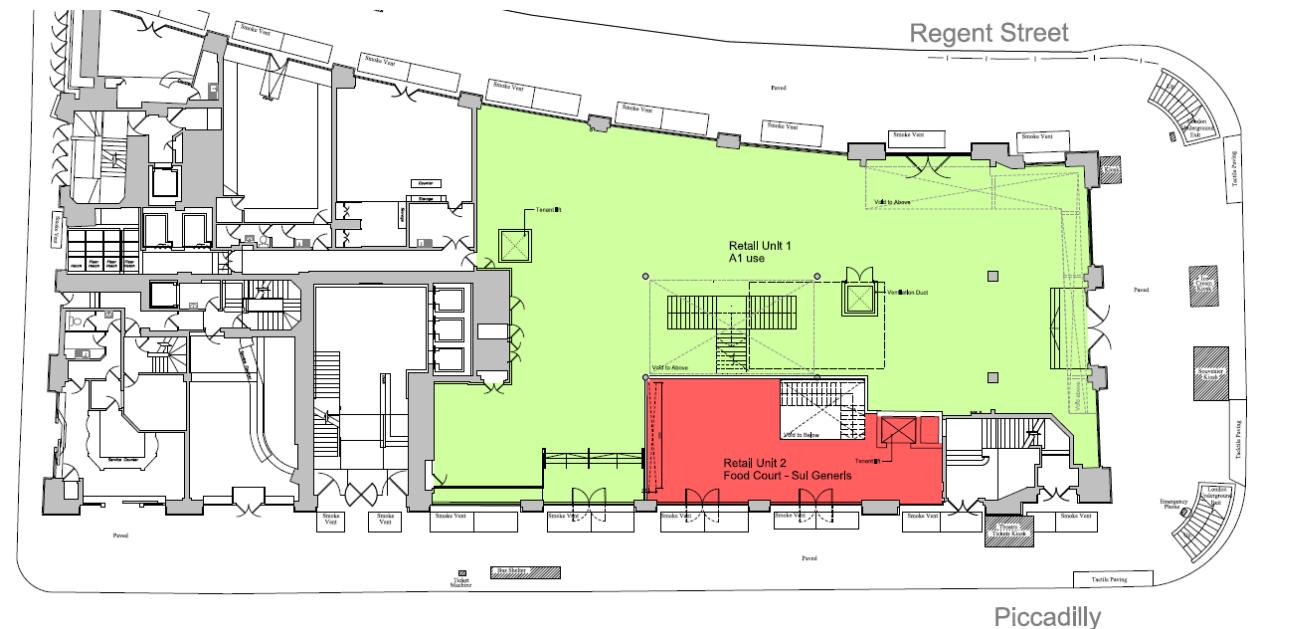
PROPOSED GA

FULL TABLE SERVICE: 141
CASUAL SERVICE: 163
BAR: 22
TOTAL COVERS: 326

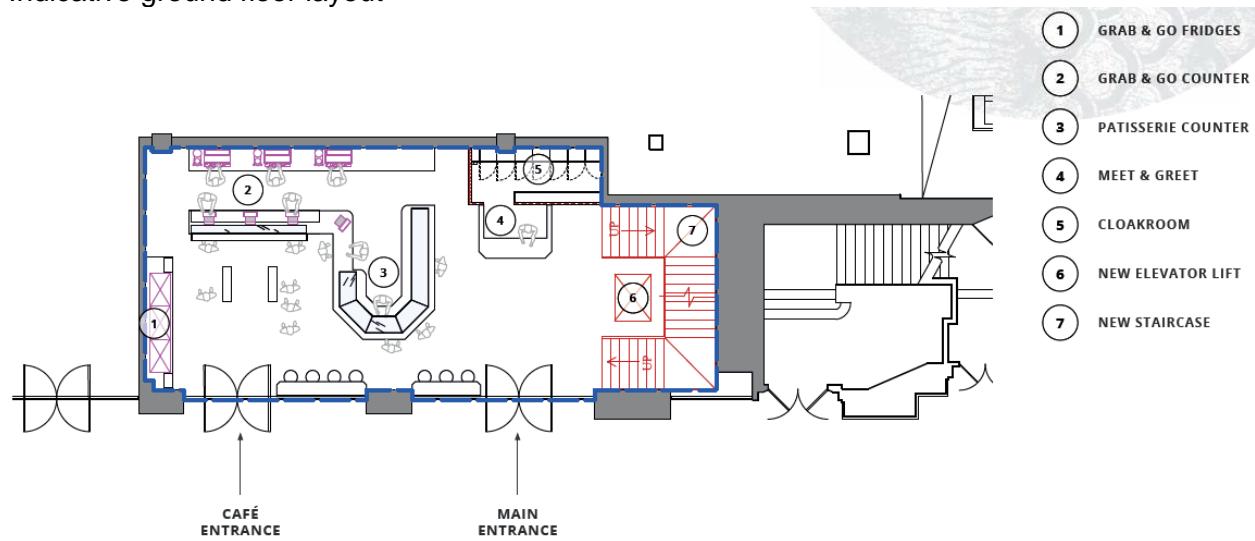


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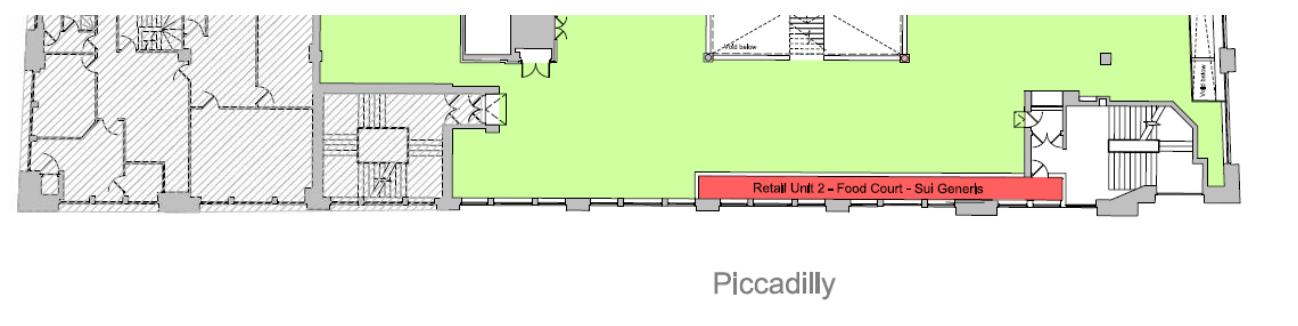
Proposed ground floor



Indicative ground floor layout



Proposed mezzanine



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DRAFT DECISION LETTER

Address: 55 Regent Street, London, W1B 4DY

Proposal: Use of part ground floor and basement level as food court (Sui Generis).

Reference: 19/08511/FULL

Plan Nos: A-PL-A3-03-009, A-PL-A3-03-100, and A-PL-A3-03-100-M.

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 Customers shall not be permitted within the food court at basement and ground floor levels before 07.00 hours or after 23.00 hours on Sundays to Thursdays and before 07.00 hours or after 00.00 hours (midnight) on Fridays and Saturdays.

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)

- 3 You must not allow more than 10 seated customers within the ground floor area nor more than 330 customers into the basement food court 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)

- 4 You must completely install the full height extract duct, including any related equipment at roof level, that was approved as part of the planning permission dated 22 May 2019 (RN 19/01689/FULL) before the food court use commences. You must then maintain the duct and associated equipment in working order for as long as the food court operates.

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

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Development Plan that we adopted in January 2007. (R14AC)

- 5 You must apply to us for approval of details of the ventilation system to get rid of cooking smells at basement level, including details of how it will connect the different cooking areas with the already approved internal high level extract duct. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details.

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)

- 6 You must provide the waste store shown on drawing A-PL-A3-03-009 before the use hereby approved commences. You must clearly mark it and make it available at all times to everyone using the food court. 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. (C14DC)

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)

- 7 You must submit an updated servicing management plan to us for approval before the food court use commences. This plan must identify the delivery process, storage locations, scheduling of deliveries and staffing, etc. In particular it must include details of the proposed collective procurement approach and scheduling of deliveries. The food court use must then be carried out in accordance with the approved updated servicing management plan.

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)

- 8 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)

- 9 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

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purpose, or the location of the cycle parking changed, 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)

- 10 You must apply to us for approval of detailed drawings of the following parts of the development - details of the proposed display within the designated area for the food court at mezzanine level. You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these details, unless otherwise agreed in writing with the City Council as local planning authority. (C26DB)

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 Regent Street 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)

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 The food court use we have approved is referred to as being 'sui generis'. This means that the use is not in any particular class. Any future plans to materially (significantly) change the use that we have approved will need planning permission. (I78AA)
- 3 You may need separate licensing approval for the food court. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 4 You are reminded of the need to get listed building consent for the proposed layout and other works within the food court hereby approved, including the kitchen extract ducts. This may include works required for the reopening of the link at basement level between the application site and Piccadilly Circus Underground Station: full details of what is proposed to the opening,

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including within the demise of the Underground Station, should be included as part of any listed building application.

- 5 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)
- 6 You are reminded that previous permissions have been conditioned to prevent any doors opening over the highway.

Please note: the full text for informatics 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.