

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 April 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Warwick	
Subject of Report	58 - 60 Lupus Street, London, SW1V 3EE,		
Proposal	Use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit.		
Agent	Truekiffin & Co		
On behalf of	Mr Jose Cruz		
Registered Number	19/08973/TCH	Date amended/ completed	25 November 2019
Date Application Received	19 November 2019		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		

1. RECOMMENDATION

Grant conditional permission for a temporary year.

2. SUMMARY

The site consists of two A1 retail units at 58 – 60 Lupus Street over ground and basement levels, which are unlisted and located within the Pimlico Conservation Area, Pimlico Central Activities Zone (CAZ) and Lupus Street Local Centre.

Permission is sought for use of an area of the public highway measuring 11.2m x 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit. This has been reduced from five tables and fifteen chairs, as originally submitted. The hours sought are between 09:00 hours and 18:00 hours daily.

The applicant has also submitted applications for shopfront alterations and new signage which are considered under Item 3.

Letters of objection have been received to the proposal from neighbouring residents some of whom live above the application property. They are concerned that the proposed tables and chairs would give the shop unit the characteristics of a restaurant (Class A3) and result in "A3 creep". The area for tables and chairs will form part of a larger A1 retail unit which measures 195 sqm. The applicant's Operational Statement for the unit states that there will be no table service provided and no internal tables and chairs are shown on the drawings. It is considered that the amount of external tables and

chairs proposed would be ancillary to the lawful A1 use of the unit.

Unitary Development Plan Policy TRANS 3 seeks to improve conditions for pedestrians and make walking a safer, quicker, more direct and more attractive form of travel. In 2011 the City Council adopted Westminster Way within this document is the Westminster Code which seeks to achieve the minimisation of street furniture and the obstruction it may cause and should be used in the selection, design and placement of street furniture within the public realm. It states that items of furniture such as tables and chairs on the pavement area should provide a minimum 2m clearance from the demised area from the furniture to the kerb edge and between any other obstructions on the footway.

The area of pavement proposed for tables and chairs is approx. 4.9m, from the building frontage to the kerb edge. The area proposed for tables and chairs is 1.9m from the building frontage, leaving a clearway of approx. 3m. There is a street tree in front of 60 Lupus Street which creates a pinch point, however the clearway is considered to be acceptable.

The Highways Planning Manager and Projects Officer (waste) both objected to the original proposal for five tables and fifteen chairs (within the same area of public highway), as the proposal did not provide a sufficient buffer area for service/access and any overspill could narrow the clearway causing obstruction to pedestrians and street cleansing.

It is considered that the revised proposals provide a sufficient buffer and a condition is recommended to ensure that the tables, chairs and barriers will only be positioned in accordance with the approved drawings. The applicant has provided a drawing which shows that the tables, chairs and barriers will be stored in the shop unit overnight. This is welcomed and will reduce the impact of the proposals on pedestrian obstruction. Objectors state that the barriers could be urinated on by dogs and storing them within the unit would not be hygienic, however this is not a material planning consideration. It would not be in the applicants interest to permit littering in and around the demised area, any reports of littering would be dealt with by Westminster's City Inspectors.

Objectors also state that the installation of outdoor seating below residential windows will provide unacceptable noise, smoke, overlooking and outdoor pollution in a residential area.

Policies S29 of the City Plan and ENV13 of the UDP seek to protect the amenity of existing residents from the effects of new development.

The application site is located within the Lupus Street Local Shopping Centre on a main road with high levels of pedestrian and vehicular activity. Noise is likely to arise from customers using tables and chairs plus staff setting up and clearing away the tables/chairs/barriers daily. However, given the number of tables and chairs proposed and the proposed hours of operation, it is considered that the proposals would not lead to unacceptable noise and disturbance to residents. With regards to smoking, this is not something that is within the control of planning. A condition is recommended to ensure that the tables, chairs and barriers are only placed on the highway during the hours permitted.

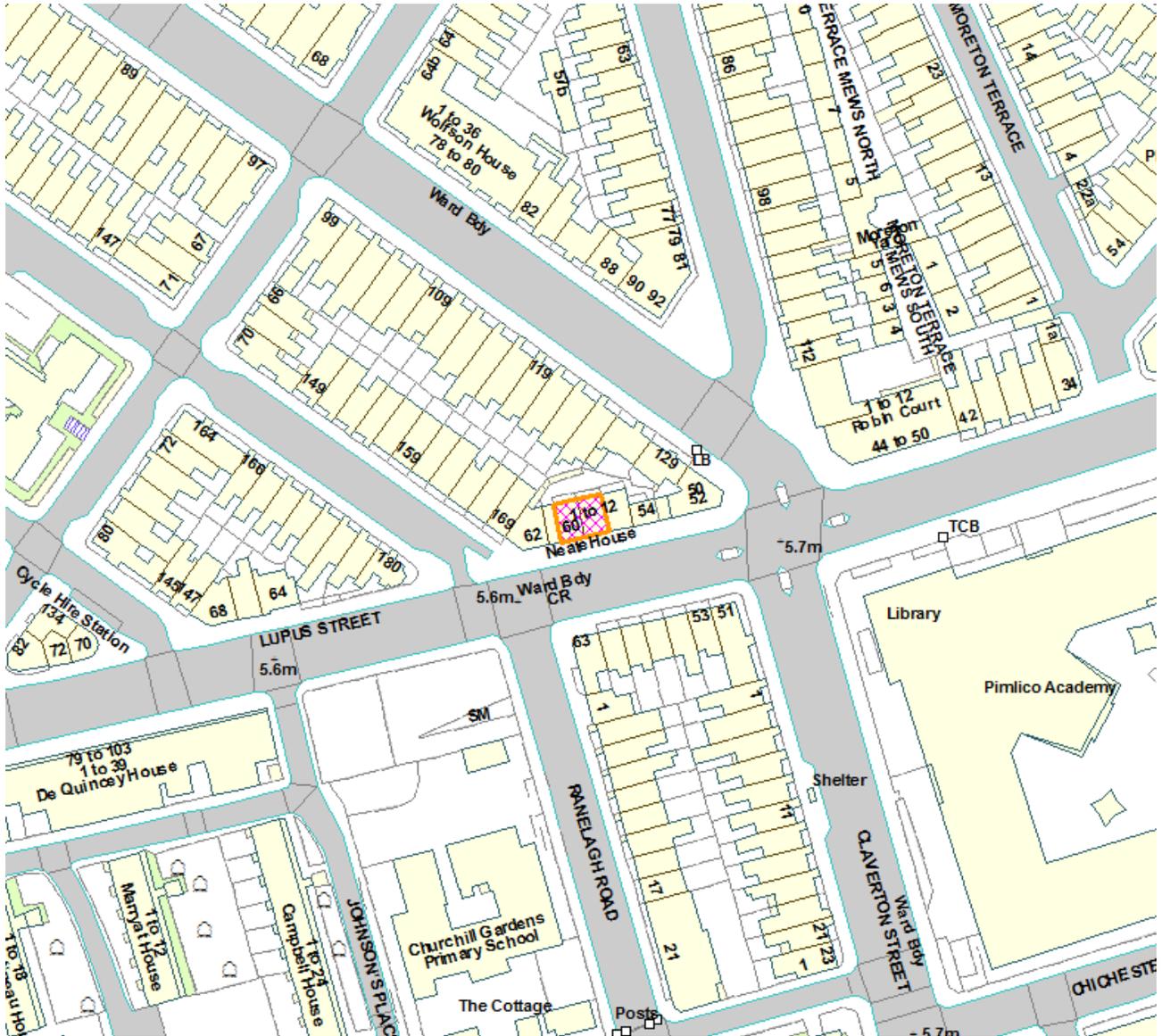
The area for tables and chairs would be approximately 19.7m from the residential properties which directly face the application site on the opposite side of Lupus Street. Given this distance, it is not considered that there would be an unacceptable degree of overlooking.

Objectors also state that the proposals would detract from the uniformity of building and surrounding conservation area. Originally planters were proposed, but fabric barriers are considered a more suitable approach. Subject to these being brought inside with the tables and chairs when the

premises closes each evening, the proposal is not considered to have a sufficiently injurious impact on the appearance of the host building or detrimental impact on the appreciation of this part of the Pimlico Conservation Area to merit a refusal of planning permission on these grounds.

As set out above the proposed tables and chairs are considered to comply with the relevant policies. It is recommended that permission is only granted on a temporary basis of one year so that the impact of the tables and chairs on residents and compliance with the recommended conditions can be monitored.

3. LOCATION PLAN



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4. PHOTOGRAPHS



58-60 Lupus Street (Front Elevation)

5. CONSULTATIONS

CLLR JACQUI WILKINSON

Supports application. Calls and e-mails have been received from local residents supporting the application. The applicant has operated his previous premises in a proper manner and has been willing to work with the planning department on improvements. The objections to the application are as much reactions to previous planning applications for this parade of businesses (e.g. Papa John's Pizza and Café Borek) as they are to the current situation. Given the present tough economic climate for business and the "High Street", it is felt that we should do all that we can to support well-run local businesses. This view is shared by MP Cllr Nickie Aiken.

PIMLICO FREDA

29/12/2019

Objection. This is essentially an A3 use outside an authorised A1 shop. It is noted that within the applicant's current shop on Warwick Way, there is a sign advertising that the new premises will have "big seating outdoor space" and "Internal seating area". Tables and chairs outside on the highway are detrimental to residential amenity due to noise, nuisance and privacy. The tables, chairs and planters will detract and conflict with the appearance and setting of the building. It is unlikely that the planters will be kept inside overnight.

03/01/2020

A full detailed objection has been submitted to WCC via e-mail and post however it has yet to appear on the website. Objection on the grounds of harm to residential amenity, design, health and safety and use of public land outside retail A1 shop. A new convenience shop is welcomed but without pavement seating, lighting and canopies.

PROJECTS OFFICER (WASTE)

No objection to revised scheme.

HIGHWAYS PLANNING MANAGER

No objection to the revised drawing and layout. Standard conditions recommended.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 40

Total No. of replies: 10

No. of objections: 9

No. in support: 1

9 letters of objection have been received on the following grounds:

Land Use

-Lupus Street is a residential area, so the proposed tables and chairs would not be appropriate.

-The proposed tables and chairs would give the unit the characteristics of an A3 unit and result in "A3 creep".

Amenity

- The proposals will cause nuisance to the residents above from smoking and the noise of people talking. This would particularly be a problem in the summer when residents will have their windows open, evenings and the weekend.
- If allowed the proposed tables and chairs might expand beyond the numbers proposed.
- Not clear what the proposed hours are and whether they would extend into the evening.
- The residential occupiers opposite the application site will lose privacy as patrons will be able to look into their living space on the ground floor.
- The dragging of metal chairs onto the highway each morning, will cause noise disturbance to residents.
- The proposals could result in crumbs and cigarette butts littering the pavement.

Design

- The introduction of the tables and chairs would detract from the uniformity of the building and surrounding conservation area.
- The proposed planters are intrusive.
- The mosaic tabletops are out of keeping with the area.

Highways

- The proposals would compromise pedestrian access to the pathway.

Other

- The proposed planters will encourage dog urination which has health implications, if they are stored inside the unit at night.
- The mosaic tabletops would be unhygienic
- The illuminated signage would cause nuisance to residents.
- Residents were not consulted prior to building work taking place.

1 letter of support was received on the following grounds:

Land Use

- The business will be a benefit to the surrounding area. The tables and chairs will help it be successful in this location and stay as an occupier.
- The proposals will increase footfall and vibrancy on Lupus Street.

Highways

- The tables and chairs would have little or no impact upon pedestrians as it is an extremely wide pavement in this location.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

NEIGHBOURS RE-NOTIFIED ON 18 FEBRUARY 2020

Drawings amended to reduce the number of tables and chairs proposed (from 5 tables and 15 chairs to 4 tables and 8 chairs) and replacing the proposed planters with fabric barriers.

No. Consulted: 52

Total No. of replies: 8

No. of objections: 7

No. in support: 1

8 letters of objection have been received on the following grounds:

Land Use

- The proposals will give the unit an A3 character as the applicant wants to operate as an A3 café as they do in other branches.
- The area is residential on nature and the proposals would be out of keeping.

Amenity

- The installation of outdoor seating below residents main windows will provide unacceptable noise, smoke and outdoor pollution. There are a number of retired residents in the surrounding flats who will be impacted both during the day and at weekends.
- The proposed hours of operation (09:00 – 18:00) do not correlate with those of the applicant's website (08:00 – 19:00 Mon to Sat and 09:00 – 14:00 on Sun) and are considered to be too long

Highways

- The proposals would cause pedestrian obstruction

Design

- The proposals would be unsightly.

Other

- The demountable fabric barriers will encourage dog urination which has health implications, if they are stored inside the unit at night.

1 letter of support was received on the following grounds:

Land Use

- The business will be beneficial for the area and attract footfall.

5.1 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 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.

5.2 London Plan

This application raises no strategic issues.

5.3 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.

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

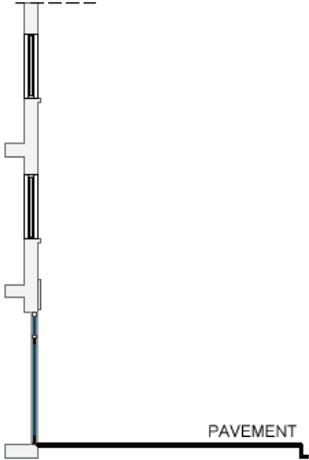
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT mmason@westminster.gov.uk

6. KEY DRAWINGS

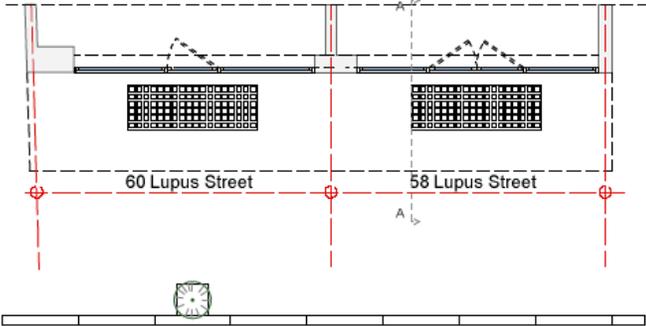
Existing Drawings



FRONT ELEVATION
EXISTING



SECTION A-A
EXISTING

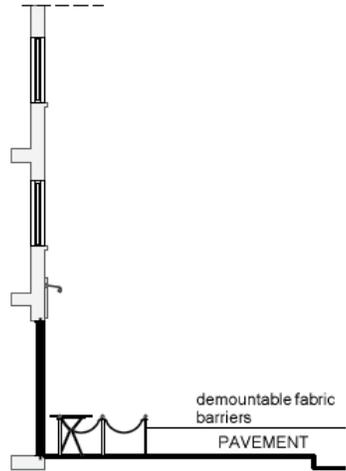


GROUND FLOOR PLAN
EXISTING

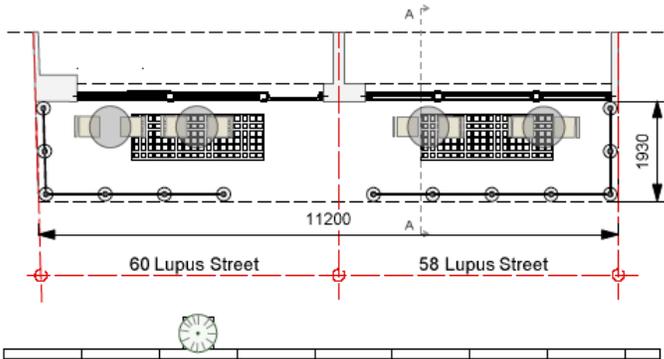
Proposed Drawings



FRONT ELEVATION PROPOSED



SECTION A- A PROPOSED



GROUND FLOOR PLAN PROPOSED

DRAFT DECISION LETTER

Address: 58 - 60 Lupus Street, London, SW1V 3EE,

Proposal: Use of an area of the public highway measuring 11.2m X 1.93m for the placing of four tables, eight chairs and associated barriers in connection with ground floor retail unit (Description Amended)

Reference: 19/08973/TCH

Plan Nos: P'S'01 Rev. A; P'01 Rev. A.; P'03 Rev. A; Tables and Chairs Specification

Case Officer: Ian Corrie **Direct Tel. No.** 020 7641
07866038370

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 put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing P'01 Rev. A. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 09:00 and 18:00. (C25BA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by customers of the A1 retail unit at 58 - 60 Lupus Street. (C25CA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 5 This use of the pavement may continue until 28 April 2021. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing P'01 Rev. A. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in th

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 You cannot put tables and chairs in the area unless you have a street trading licence, which can be applied for at the following link: www.westminster.gov.uk/tables-and-chairs-licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service by email to streettradinglicensing@westminster.gov.uk. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times.

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

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.