

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 23 June 2020	<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>	<b>30-31 Peter Street, London, W1F 0AP</b>		
<b>Proposal</b>	Installation of openable windows to shopfront.		
<b>Agent</b>	Firstplan		
<b>On behalf of</b>	Bone Daddies		
<b>Registered Number</b>	19/06813/FULL	<b>Date amended/ completed</b>	30 August 2019
<b>Date Application Received</b>	30 August 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of one year.

## 2. SUMMARY

This building is occupied as a restaurant (Class A3) on the basement and ground floors, offices (Class B1) on the first floor and residential flats (Class C3) on the second to fourth floors.

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

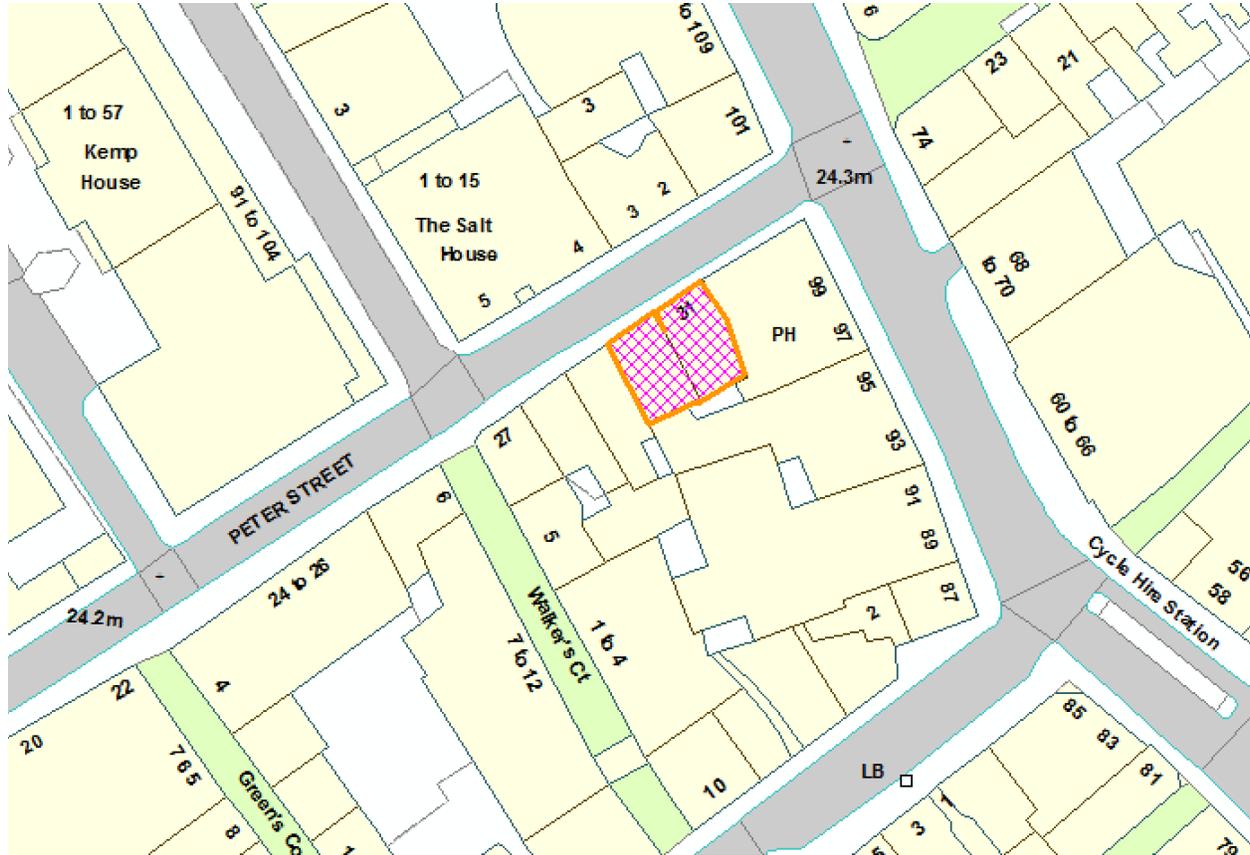
The key issue for consideration is:

- 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 applicant is seeking permission to retain the windows and to open them between 11.30 and 21.30 hours each day. Objections have been received on the grounds that the proposals would result in unacceptable noise disturbance. Acoustic reports have been submitted which compares noise levels with the windows both open and closed. These reports have been reviewed by the Council's Environmental Health officer who raise no objection to the application.

It is recommended that permission is granted for a temporary period of one year in the first instance to allow the situation to be monitored.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### COUNCILLOR GLANZ

Objection: noise disturbance to nearby residents; adverse impact on pedestrian safety, safety concerns due to narrow pavement width.

### SOHO SOCIETY

Objection: noise disturbance to residents; history of noise nuisance relating to this site. Acoustic report inaccurate; query the location that acoustic readings were taken from.

### ENVIRONMENTAL HEALTH:

No objection subject to conditions

### Adjoining owners/occupiers:

No. Consulted: 22; Total no of replies 3

3 objections received on the following grounds:

\* Openable windows add to noise nuisance which emanates from the premises even with the windows closed.

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 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.

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

The site is situated in the centre of Soho which is characterised by an eclectic mix of uses, including a significant number of entertainment facilities. As already set out there are a number of residential flats in close proximity to the application premises.

The site lies within the Core CAZ, the West End Stress Area and the Soho Conservation Area.

### 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) due to potential noise disturbance to neighbouring residents.

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

## **7. THE PROPOSAL**

Permission is sought for the retention of three openable windows within the shopfront. The works were completed in August 2018. The application was submitted in response to the Council's enforcement investigations following a complaint from a neighbouring resident on the grounds of noise disturbance.

The unauthorised works included a shelf below the windows. This has subsequently been removed and doesn't form part of this application.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The application does not raise any land use issues. As detailed above, there has been a restaurant use on the site following the granting of planning permission in 1987. The current tenant (Bone Daddies) has occupied the premises since September 2012.

### **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, 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.

### **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 developments. 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 shopfronts 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.

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 the windows would only be openable between 11.30 and 21.30 hours each day. The principal difference between the current application and the 2012 scheme is that this application includes acoustic information which provides details of background noise levels with the windows both open and closed.

Objections have been received from Councillor Glanz, the Soho Society and three local residents on the grounds that the proposals would result in unacceptable noise disturbance. The Soho Society refer to a history of noise disturbance from the restaurant. However, other than the original complaint received in May 2019, there is no record of any other complaints being received regarding the restaurant operation.

The Soho Society argue that the acoustic report is flawed primarily because it didn't specify the precise location where noise readings were taken from and that readings were only taken in the evening and not during the daytime. In response to this the applicant has submitted a Technical Memo by ACA acoustics dated 21 February 2020 (ref background paper to this report) as an update to the original acoustic report.

The original acoustic report set out that readings were taken at a position equivalent in distance to the nearest residential window, without confirming the exact location where readings were taken. The additional Technical Memo provided by the applicant confirms that access to flats at the application premises was not available at the time of the survey. The noise readings were therefore taken at ground floor level outside Natural Wellness, 29 Peter Street a distance of 3m to the side of the restaurant. The noise surveys undertaken on two evenings earlier last summer (on Friday 2 August 2019, when the restaurant was at full capacity, and on Tuesday 6 August 2019). Further to the objection from the Soho Society daytime readings have now been provided taken on a Monday lunchtime between 12.00 and 14.00.

The acoustic report describes this part of Soho as a busy central location with high ambient noise levels caused by traffic, noise from premises and general street level activity. The reports (Acoustic report and Technical Memo) conclude that there no change in noise levels at the measurement position during the day and only a 1db increase in noise levels when the windows are open and closed in the evening.

Having assessed the information provided Environmental Health raise no objection to the application. They advise that they are satisfied with the noise assessments undertaken and they do not foresee an increase of 1db at the nearest noise sensitive receptor could justify noise complaints. It is however recommended that permission is granted for a temporary period of one year to enable the situation to be monitored.

**8.4 Transportation/Parking**

Not applicable

**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**

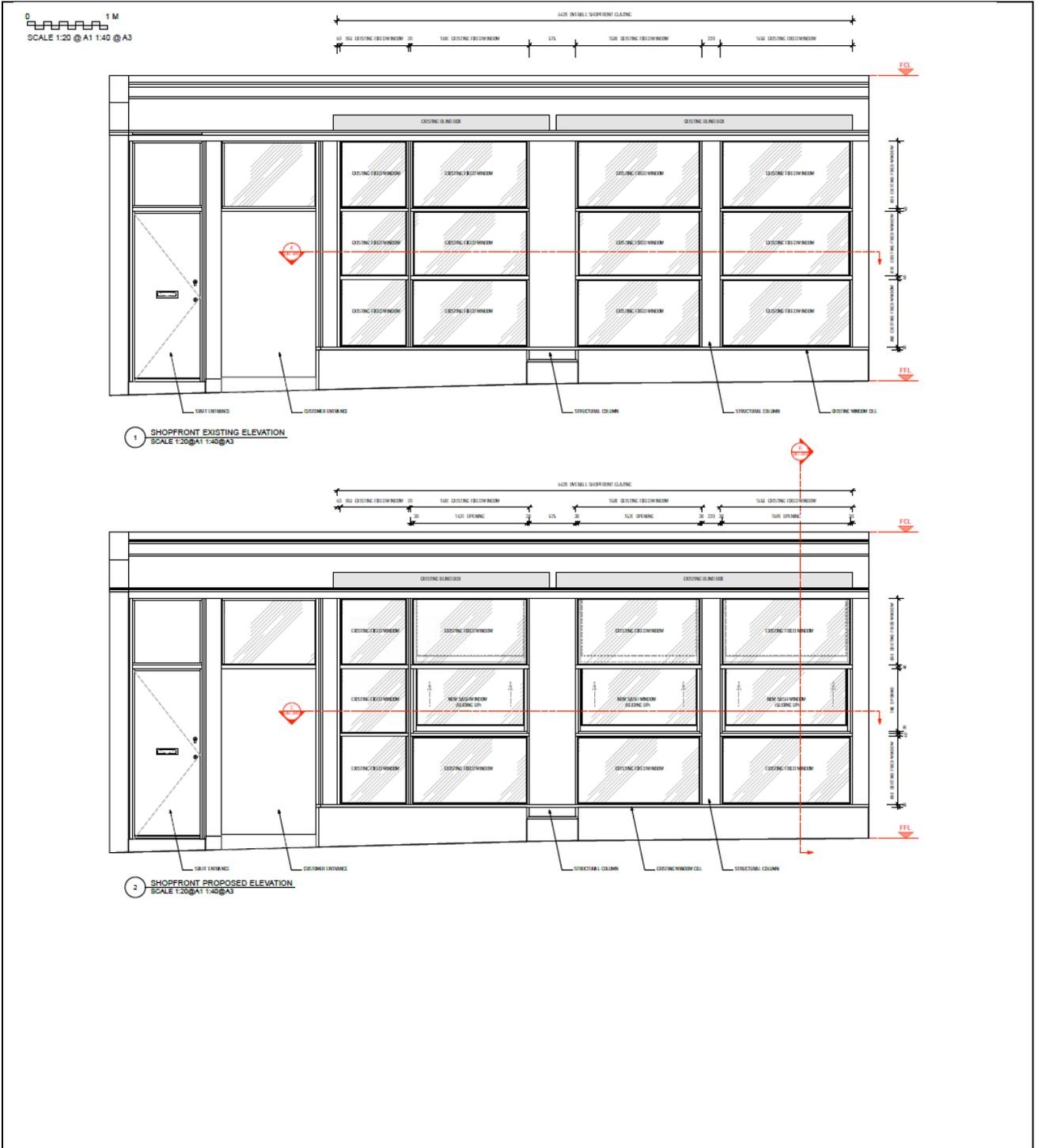
Councillor Glanz has raised concerns that as Peter Street has a narrow pavement and pedestrians evading noise escape may be forced to step into the carriageway. Given the consideration of noise issues set out in section 8.3 of this report, it is not considered that permission could reasonably be withheld due to concerns over pedestrian safety.

Item No.
<b>4</b>

(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: <a href="mailto:mwalton@westminster.gov.uk">mwalton@westminster.gov.uk</a>
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### 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 only open the windows within the shopfronts hereby approved between 11.30 and 21:30 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.