

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 29 September 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	47 - 48 Newman Street, London, W1T 1QQ		
Proposal	Use of the public highway for the placing of two tables and two benches in an area measuring 0.9m x 2.6m on Newman Street and four tables and five benches in an area measuring 0.9m x 8.0m on Goodge Street in connection with the existing ground floor use.		
Agent	Inception Group Ltd		
On behalf of	Newman Street Bar Limited		
Registered Number	20/03926/TCH	Date amended/ completed	26 June 2020
Date Application Received	25 June 2020		
Historic Building Grade	Unlisted		
Conservation Area	Charlotte Street, West		

1. RECOMMENDATION

Grant conditional permission for a temporary period of two years.

2. SUMMARY

The basement to first floors of the building were previously in restaurant use but are now used as a public house following an August 2017 planning approval. The upper floors are occupied as flats. There is a history of permission for the siting of tables and chairs/benches on both street frontages, in various configurations, dating back to 2006. The current proposals have been revised to reduce the amount of furniture, on both frontages, when compared with the most recent approvals.

The key issues for consideration are:

- The impact of the external seating area on residential amenity, and
- The impact of the external seating upon pedestrian movement and highways safety.

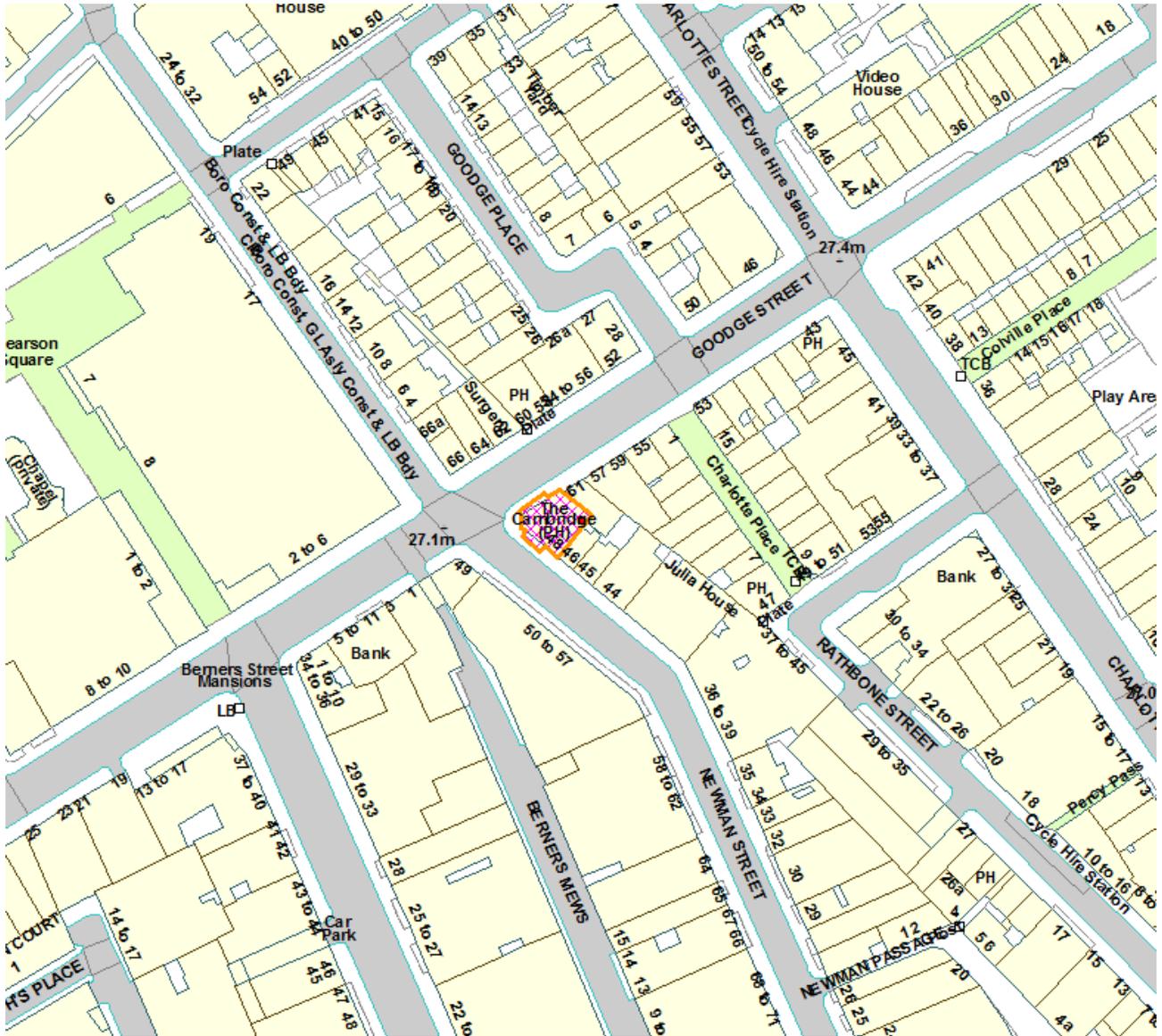
Objections have been received relating to noise disturbance and highway obstruction from the use of the proposed seating, and noise nuisance from staff moving the furniture late at night. Objectors are also concerned about the impact of vertical drinkers standing beyond the external seating areas, but this is beyond the scope of the consideration of the current application. The revised proposals would comply with the requirements of the Westminster Way and, subject to conditions restricting the hours of use of the external seating and its layout, it is not considered that the proposals would have a

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material impact upon the amenity of neighbouring residential properties or the operation of the highway. The application is therefore recommended for approval for a temporary period of two years to enable the impact of the external seating to be monitored.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

COUNCILLOR LEWIS

Supports comments made by objectors; insufficient space for pedestrians to walk along the pavements; consideration should be given to creating temporary additional pavement space to accommodate both outdoor seating and pedestrians.

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

HIGHWAYS PLANNING

No objection but concerns raised regarding pinch points and reports of items remaining on the highway beyond the permitted hours of use

WASTE PROJECT OFFICER

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 50

Total No. of replies: 4 (2 letters from same objector).

Objections made on some or all of the following grounds:

Highways

- Obstruction of the footpath by drinkers standing outside the premises forcing pedestrians into road and obstructing the pavement for wheelchairs users.
- Limited space on footway due to existing permanent and temporary street furniture; less space available than shown on drawings
- Amount of furniture should be reduced.

Amenity

- Noise from use of tables (particularly late at night and after 11pm), and
- Noise from staff moving furniture.

Other

- Difficult to maintain social distancing on the highway in wake of COVID-19,

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application premises, which comprises basement, ground and three upper floors, is located on the corner of Newman Street and Goodge Street. The three lower floors were formerly in restaurant use but are now a public house following the granting of planning permission in August 2017. The upper floors are occupied as flats.

The site is located in the Charlotte Street West conservation area and the Core Central

Activities Zone (Core CAZ). The area is in a mixture of commercial and residential use. .

6.2 Recent Relevant History

18/03241/TCH

Use of the public highway for the placing of four tables and four benches in an area measuring 1.2m x 7.0m on Newman Street and five tables and five benches in an area measuring 1.3m x 8.0m on Goodge Street in connection with the existing ground floor use.

Application Permitted 13 June 2018

17/05736/FULL

Use of the basement, ground and first floors as a public house (Class A4).

Application Permitted 29 August 2017

15/03951/TCH

Use of the public highway for the placing of four tables and four benches in an area measuring 1.2m x 7.0m on Newman Street and five tables and five benches in an area measuring 1.3m x 8.0m on Goodge Street in connection with the existing ground floor use.

Application Permitted 4 August 2015

11/12326/TCH

Use of the public highway for the placing of six tables and 12 chairs in two areas measuring 3.5m x 1.2m and 1.3m x 7m in connection to the existing use at ground floor level.

Application Permitted 8 March 2012

08/02098/TCH

Use of the public highway for the placing of six tables and twelve chairs in connection with existing restaurant at No. 48.

Application Permitted 28 April 2008

06/07489/TCH

Use of the public highway for the placing of eight tables and 16 chairs on the Goodge Street frontage and the Newman Street frontage in connection with No. 48. (Resubmission)

Application Permitted 3 November 2006

7. THE PROPOSAL

Permission is sought for the use of the public highway for the placing of two tables and two benches in an area measuring 0.9m x 2.6m on the Newman Street frontage and for five tables and four benches in an area measuring 0.9m x 8.0m on Goodge Street in connection with the existing public house.

The application originally sought permission for the same furniture layouts as approved in 2015 and 2018. However, the application was revised to accurately represent the location of doors on the building, pavement dimensions and street furniture positions and, consequently, now proposes two fewer sets of tables/benches on the Newman

Street frontage and removes a table on the Goodge Street frontage.

The seven benches proposed (two on Newman Street and five on Goodge Street), would comfortably seat two people, providing seating for four customers on Newman Street and ten on Goodge Street.

The applicant has confirmed that the tables and chairs would be placed on the highway between 11:00 - 23:00 daily. These are the same hours as previously approved.

8. DETAILED CONSIDERATIONS

8.1 Land Use

This proposal does not raise any land use issues.

8.2 Townscape and Design

As previously, it is not considered that the siting of tables and chairs outside the premises would have an adverse impact upon the character of this part of the Charlotte Street West conservation area.

8.3 Residential Amenity

UDP Policy TACE11 states that planning permission for tables and chairs on the highway will only be granted when such developments do not cause a nuisance to residents or harm the amenity of the area or result in highway obstruction. Policy S29 of the City Plan seeks to resist proposals that result in an unacceptable loss of residential amenity.

Council records show that the upper floors of the application site are in use as flats. There are also flats on the upper floors of 45-46 Newman Street and 61 Goodge Street, adjacent to the site, and also at 49 Newman Street, opposite.

There is no record of any complaints having been received in relation to the existing tables and chairs. No objections were received to the majority of applications to renew permission for tables and chairs in connection with the restaurant use, the last objection being received in 2015

Objections have, however, been received in response to the current application on the grounds of noise from the use of the external furniture, (particularly late at night and after 23:00) and noise from staff moving the furniture.

Given the revisions, the proposed seating on Newman Street is significantly reduced and moved further away from the objectors' property. It is not considered that the amount of seating now proposed, which is less than previously approved, would give rise to significant noise disturbance in this relatively busy location and objections on these grounds could be supported.

Assuming that the use of the furniture ceases at 23.00 hours, the furniture should be removed a little after this time. Failure to comply with these conditions would be am

matter for investigation by the Planning Enforcement Team. Given the concerns about noise from furniture being dragged rather than lifted, it is recommended that an information is added to any permission to deal with this issue. Subject to conditions, the application is considered acceptable in amenity terms.

8.4 Highways

As originally proposed, and previously approved, the proposals created slight pinch points on the Newman Street and Goodge Street frontages, where furniture was sited between lamp posts and the building line. The amendments to the scheme have removed these historic pinch points, as well as a further pinch point on Goodge Street, which became evident following the correction of the original drawings. The Highways Planning Manager notes that the revisions on the Newman Street frontage represent an improvement to the approved scheme and raised no objection to the revised layout, noting that the pinch point on Goodge Street was historic. The situation has been further improved by the removal of this pinch point and the proposals now comply with the requirements of the Westminster Way.

The Highways Planning Manager also notes the objections relating to furniture remaining on the highway beyond the permitted hours. The furniture is required to be removed at this time to enable the public highway to be cleaned by Council operatives. Failure to remove the furniture in accordance with relevant condition, would be a matter for investigation by Planning Enforcement and Highways Licensing Officers. However, it is clear from the objections relating to noise disturbance from the movement of furniture that it is being taken in at night. The submitted plans show an adequate place for furniture storage within the building.

The revised scheme is now considered acceptable and it is not considered that objections relating to highway obstruction from the proposed furniture, could be supported. In these circumstances, it is not considered that the Council could reasonably require the amount of furniture to be further reduced.

Accuracy of Drawings

The drawing, as originally submitted, was the same as that which has been approved since 2015. Following the receipt of an objection that this drawing was inaccurate, and that there was significantly less available pavement width than indicated. The objection raises concerns regarding the position of permanent street furniture - the traffic light pole and lamppost on Newman Street. The objector advises that the distance between the front of the building and the adjacent traffic light is a "*barely a meter wide*" and also contend that there would be less than a metre distance between the lamppost and the proposed furniture.

Officers subsequently measured the pavement outside the site and found the drawings to be inaccurate. The drawings were subsequently revised to correct the dimensions and to show the correct position of doorways on the adjacent building. The receipt of these revisions addresses objections relating to the accuracy of the drawings. The distance between the building line and the traffic light pole is approximately 2.27m and no furniture is proposed (in either the original layout or revised layouts) between this pole

and the building in this location. The distance between the lamppost and the building line was measured at approximately 2.54m. Following the revisions to the scheme, no furniture is proposed between this lamppost and the building.

The objections also refer to a temporary road diversion sign that is located on Newman Street, which reduces available space. This temporary sign is outside of the applicant's control and it is not a permanent item of street furniture which needs to be shown on the application drawings. Furthermore, seating is no longer proposed adjacent to this location.

The Highways Planning Manager originally recommended that the proposed seating layout only be approved for a temporary period of one year on the basis that it is a new layout. However, given that there is less furniture than previously approved, as what remains is in the same location as previously approved, and as all historic pinch points have been removed, making more space available for pedestrian movement, it is considered that a two year period would be acceptable in this instance.

The revised proposals comply with the Council's requirements in terms of highway clearance. Subject to conditions controlling the furniture layout and requiring the removal of the furniture from the street outside of the permitted hours, it is considered that the proposals are acceptable in highways terms.

Impact of vertical drinking

Objectors are concerned about disturbance, and highway obstruction affecting the passage of pedestrians and wheelchair users, caused by large numbers of customers gathered on the pavement, beyond the permitted seating area, which suggest that vertical drinking occurs outside the premises. These concerns are noted. However, the application does not include proposed areas for vertical drinking and objectors' concerns regarding the impact of drinkers standing on the highway cannot be taken into account when considering the acceptability of the current proposals.

COVID-19 and Social Distancing

Objectors have raised concern that the siting of tables and chairs on the highway, and the reduction in available pavement width, will make it difficult for pedestrians to adhere to Government guidance relating to social distancing. While these concerns are noted, these guidelines are separate to planning considerations and it is not considered that permission could justifiably be withheld on these grounds. Nevertheless, given the revisions to the scheme, it is considered that sufficient highway clearance remains for pedestrians to pass freely.

Pavement widening

Councillor Lewis has suggested that the temporary additional pavement space might be created outside of the premises to accommodate both outdoor seating and an increased pavement width. Similar works have been undertaken as part of a co-ordinated Council initiative, e.g. in Soho. However, this work cannot be proposed by the applicant as part of the current application, or in relation to individual premises, but would need to form part of a Council initiative for the area, taking into account factors such as road widths

and traffic flows on affected streets. In these circumstances, the acceptability of the proposals must be based upon consideration of the submitted application, which is considered acceptable for the reasons outlined above.

8.5 Economic Considerations

Any economic benefits generated by the application are welcomed.

8.6 Access

Access arrangements for the site will remain the same as existing.

8.7 Other UDP/Westminster Policy Considerations

None applicable.

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 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

There are not currently any neighbourhood plans for this area.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

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

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application.

8.13 Environmental Impact Assessment

Not applicable.

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

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk

DRAFT DECISION LETTER

Address: 47 - 48 Newman Street, London, W1T 1QQ,

Proposal: Use of the public highway for the placing of two tables and two benches in an area measuring 0.9m x 2.6m on Newman Street and four tables and five benches in an area measuring 0.9m x 8.0m on Goodge Street in connection with the existing ground floor use.

Reference: 20/03926/TCH

Plan Nos: HoB-18 A-103 Rev. A7 dated 10.05.15, received by the Council on 11.09.2020

Case Officer: Adam Jones

Direct Tel. No. 020 7641
07779431391

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 can only put the tables and benches hereby approved on the pavement between 11:00 and 23:00. All tables and benches must be removed from the highway when trading is not taking place and/or outside the above stated times.

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)

- 3 The tables and benches must only be used by customers of the existing basement and ground floor unit at 47-48 Newman Street.

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)

- 4 This use of the pavement may continue until 30 September 2022. You must then remove the tables and benches hereby approved.

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.

- 5 You can only put out on the pavement the tables and benches hereby approved as shown on drawing HoB-18 A-103 Rev. A7 dated 10.05.15, received by the Council on 11.09.2020. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and benches 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)

- 6 The area of footway is to be maintained in a clean and tidy condition at all times and the footway is to be thoroughly washed down each day after trading has ceased.

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)

- 7 You must not put the tables and benches hereby approved in any other position than that shown on drawing HoB-18 A-103 Rev. A7 dated 10.05.15, received by the Council on 11.09.2020.

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)

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 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)
- 4 When removing the tables and benches hereby approved from the pavement between at or before 23:00, you are requested to be mindful of neighbouring residents and ensure the moving of the furniture does not cause unreasonable noise.

Please note: the full text for informative 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.