

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 24 November 2020	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	34 Grosvenor Square, London, W1K 2HD		
Proposal	<p>Application 1: Alterations including the construction of platform within lightwell fronting South Audley Street to provide space for tables and chairs for use in association with restaurant (Class A3).</p> <p>Application 2: Variation of Condition 2 of planning permission dated 01 September 2015 (RN: 15/05750/FULL) for, 'Use of first floor as restaurant (Class A3) in connection with the existing restaurant at basement and ground floor and new plant at roof level'. NAMELY, to allow the increase the capacity of the restaurant from 168 to 194.</p>		
Agent	Jon Dingle Ltd		
On behalf of	Caprice Holdings Ltd		
Registered Number	20/04702/FULL 20/04701/FULL	Date amended/ completed	4 September 2020
Date Application Received	24 July 2020		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

<ol style="list-style-type: none"> 1. Grant conditional temporary permission 2. Grant conditional temporary permission

2. SUMMARY

34 Grosvenor Square is a mixed-use building comprising a restaurant at basement, ground and first floors with residential flats on the second to fifth floors. The restaurant has remained closed since late March 2020 due to the COVID 19 pandemic. Permission is sought for the erection of a platform within a front lightwell for use as *al fresco* dining in association with the restaurant. The platform would accommodate 13 tables and 26 chairs. A second application has been made to vary a condition on an earlier permission to increase the capacity of the restaurant by the proposed 26 covers from 164 to 194.

The key issues for consideration are:

- The impact on the appearance of the building and the character and appearance of the Mayfair Conservation Area.
- The impact on residential amenity

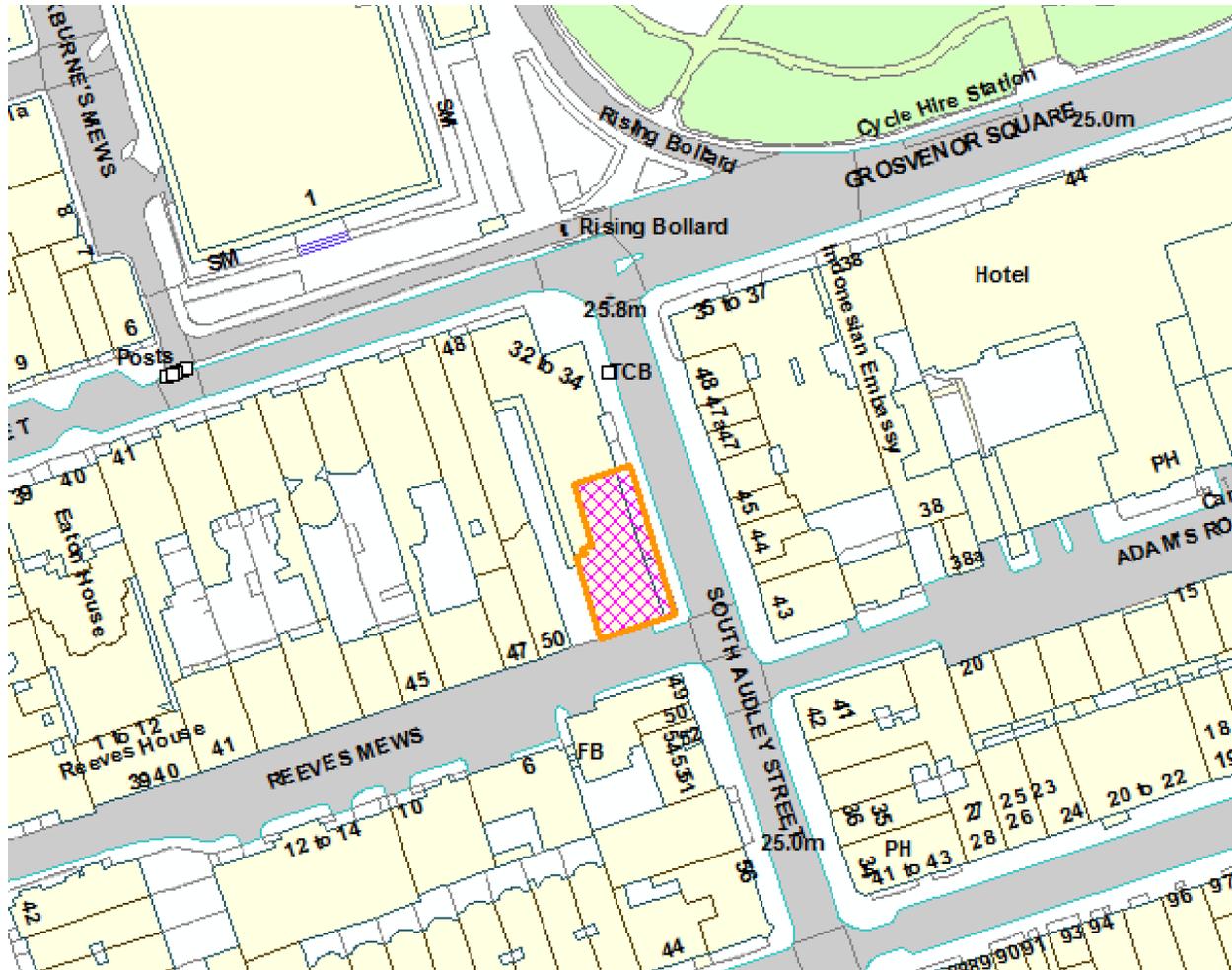
With regards to Application 1, front basement lightwells are a traditional feature within many conservation areas including the Mayfair Conservation Area. Infilling lightwells would not normally be acceptable as these lightwells are an important characteristic. The applicant advises that the external dining is important to aid the restaurant to re-open during the pandemic. Despite the proposal being contrary to the Council's adopted design policies, in recognition of the unprecedented circumstances it is considered that a temporary permission is acceptable. This will require the removal of the platform and reinstatement of lightwell to its current position at the end of the temporary permission.

Objections have been received from residents on the upper floors that the use of the external seating would result in noise nuisance. On the basis that the tables and chairs are not used beyond 10pm daily, the external dining is considered acceptable in amenity terms.

As the application is only considered acceptable due to the exceptional circumstances during the pandemic, it is recommended that the time life of the permission is reduced from the normal 3 years to 1 year. A further condition is recommended restricting use of the tables and chairs to 1 year from use of the tables and chairs commencing.

With regards to Application 2 for the reasons set out in the main body of this report the proposed increased capacity is considered acceptable. A condition is recommended which will only allow the increased capacity on a temporary basis whilst the tables and chairs are in situ.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

Application 1 (Ref: 20/04702/FULL) Infilling lightwell – tables and chairs

RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S

Any response to be reported verbally.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 32

Total No. of replies: 7

No. of objections: 7

7 objections received on behalf of 8 owner occupiers raising some or all of the following issues:

Design:

Harm to the appearance of the building,
Spoiling the uniform look of the front elevation.

Amenity:

Noise nuisance to residential flats above, many of which have bedrooms directly above;
No noise impact assessment has been submitted;
External dining will result in noise spikes which can be particularly disturbing above constant background noise levels;
Nuisance from food odours.

Other Issues:

Obstruction to doors and utility rooms in the basement;
Increase in traffic levels;
The tables and chairs are located too close to the residential entrance.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

Application 2 (Ref: 20/04701/FULL) Increased capacity of the restaurant from 164-194

RESIDENTS SOCIETY OF MAYFAIR AND ST JAMES'S

Any response to be reported verbally.

MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 33

Total No. of replies: 5

No. of objections: 5

5 objections received raising some or all of the following issues

Amenity:

Increased capacity will result in more cooking odours

Noise nuisance, harmful to the existing peaceful environment

Nuisance from increased activity from additional deliveries and refuse provision

Other Issues:

Impact on emergency escape via the residential entrance.

6 BACKGROUND INFORMATION

6.1 The Application Site

No. 34 Grosvenor Square comprising basement, ground and five upper floors. The basement, ground and 1st floors are in use as a restaurant with residential flats on the 2nd to 5th floors. The entrance to the premises is on South Audley Street.

The restaurant use, which commenced in November 2011, initially had 108 covers and occupied the basement, ground and a small area at 1st floor level. Permission was granted on appeal on 26 March 2013 to extend the restaurant use into the whole of the 1st floor providing an additional 60 covers. The restaurant opening hours are 08.00 to 01.00 (the following morning) on Monday to Saturday and 08.00 to 23.00 on Sundays.

The site lies within the Core CAZ and the Mayfair Conservation Area, outside the designated West End Stress area.

6.2 Recent Relevant History

On 2 September 2010 permission was granted for use of the lower ground, ground and part first floor as a restaurant (Class A3) and associated alterations including a full height extract duct.

On 26 March 2013 permission was granted on appeal for use of the 1st floor as a restaurant in connection with an existing restaurant at basement and ground floors and new plant at roof level (RN 12/01295/FULL - Appeal Ref APP/X5990/A/12/2183693).

On 24.05.2013 an Operational Management Plan was approved pursuant to Condition 8 of planning permission dated 26 March 2013 (RN: 12/01295/FULL) 13/04008/ADFULL.

On 01.09.2015 permission was granted for the variation of Conditions 4 and 7 of planning permission granted on appeal dated 26 March 2013 (RN: 12/01295/FULL) to allow the restaurant opening hours and operation of plant as follows : 08.00 to 01.00 (the following morning) on Monday to Saturday and 08.00 to 23.00 on Sundays (15/05750/FULL). Condition 2 on this permission restricted the capacity of the premises to a maximum of 168 covers including 60 covers on the first floor.

7 THE PROPOSAL

Application 1 (20/04702/FULL)

The proposal involves the erection of decking infilling a front lightwell to provide a platform for the provision of 13 tables and 26 chairs to be used in connection with a restaurant. The works include the removal of railings and alteration to steps to provide access onto the platform. Permission is sought for a temporary period of 1 year from first occupation. The life of the permission will be limited to 1 year. The applicant advises that the external dining will aid the restaurant being able trade in the current unprecedented circumstances.

Application 2 (20/04701/FULL)

As set out in the history section above, Condition 2 on permission dated 1st September 2015 restricted the capacity of the restaurant to 168. This application seeks to vary the condition to enable the capacity of to increase to 194 for a temporary period whilst the tables and chairs are in situ.

8 DETAILED CONSIDERATIONS

8.1 Land Use

The applications raise no new land use issues.

8.2 Townscape and Design

The application premises is a red brick building, with stone dressing at lower ground and first floor levels. The building has two main stepped entrances, on South Audley Street one for the restaurant at lower ground; ground and first floors and one for the residential. The building is not listed but lies within the Mayfair Conservation Area.

The ground floor is faced in stone with a fixed canopy over the principal entrance to the restaurant. While it dates from the twentieth century, the multi-paned sash windows, first floor keystones, lightwell and railings reflect details found elsewhere within the conservation area.

The proposals will result in the loss of the open area, the removal of two sections of railings and result in an unusual addition to the streetscape and fail to reflect the character of the street.

The loss of these traditional features is contrary to saved polies DES1, DES 5 and DES 9 of the UDP and Paragraph 71 of our 'Development and demolition in Conservation Areas' SPG, which states 'extensions which involve infilling of light wells at basement level at the front will not normally be acceptable, as these light wells are an important characteristic of many conservation areas and should be retained'.

The proposals will fail to preserve or enhance the character of the building and its contribution to the Mayfair Conservation Area. The proposals are contrary to saved policies DES 1, DES5 and DES9 of the UDP, the City Council's 'Development and demolition in Conservation Areas' SPG and MD3 of the 'Mayfair Neighbourhood Plan.

Given the size of the Mayfair Conservation Area and that the majority of it will be unaffected by the proposal, it is concluded that the harm to the significance of this designated heritage asset is less than substantial.

Only if this less than substantial harm is clearly outweighed by the public benefits derived from the proposal development should permission be granted. In making this balancing exercise, the City Council is required to have the statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 at the forefront of its mind. This statutory duty is that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.

Given that the works are contrary to the Council’s design policies and harmful to the character and appearance of the Mayfair Conservation Area, under normal circumstances the application would not be supported by Officers and would be recommended for refusal.

However, the application has been submitted to provide external dining to aid the restaurant to operate during the COVID-19 pandemic. In light with Government advice the Council is adopting a pragmatic approach to support businesses through unprecedented times. The applicant has agreed to a temporary permission which would enable the tables and chairs to be used for a period of one year. Despite the clear design policy position, given that the works would be capable of being reversed and the lightwell returned to its current position a temporary permission is considered to be acceptable in this instance, in order to facilitate the continued operation of the restaurant. This conclusion is reached on the basis that the temporary and reversible harm to the character and appearance of the Mayfair Conservation Area is outweighed by proposal’s ability to assist in the economic recovery during these unprecedented times; a clear public benefit.

8.3 Residential Amenity

Objections have been received to both applications from and on behalf of residents on the upper floors of the building. These objections are summarised in Section 5 of this report. The primary reason for objection to Application 1 is that the external dining would result in noise nuisance to the residents above. Reference is made to the fact that the extension of the restaurant into the 1st floor was only allowed subject to strict controls regarding sound insulation, furthermore no acoustic report or assessment has been submitted in support of the application and the spikes in noise levels associated with external dining has the potential to be very disturbing to residents. Objections to Application 2 which will allow the capacity of the restaurant to increase also refer to noise nuisance from the increased activity.

UDP policy TACE 11 deals with tables and chairs on the footway. Although in this case the tables and chairs would not be on the public highway, the principles of the policy and justification are applicable. The policy states that permission will not be granted for tables and chairs where this would cause a nuisance to residents or harm the amenity of an area.

The supporting text of the policy states that the City Council will have regard to the

proximity to residential accommodation and will not normally permit tables and chairs outside premises that have upper floors in residential use. Tables and chairs will not normally be permitted outside premises beyond 11pm, even if the premises are licensed to operate beyond this time.

In this instance the hours of use of the tables and chairs is considered to be the key factor with regards to any impact on residential amenity. It is considered that late night use could lead to a loss of residential amenity through increased noise levels. However, given both the number of tables and chairs proposed and the fact that they would be used in connection with an established restaurant that has operated successfully without detriment to residents above use of the tables and chairs until 10pm is considered acceptable. This terminal hour and temporary permission will both be controlled by conditions.

The proposed increased capacity of the restaurant by 26 covers would not materially alter the operational activities of the restaurant. Permission could not be withheld on the grounds that the increased capacity would result in additional deliveries or refuse provision to the detriment of residential amenity.

8.4 Transportation/Parking

Not applicable

8.5 Economic Considerations

As set out within Section 8.2 of this report, the ability of the development proposal to assist in the economic recovery of the West End during the COVID-19 pandemic is given considerable weight.

8.6 Access

Alterations are proposed to the steps and side railings leading onto the proposed platform. These works are considered acceptable and are reversible upon expiry of the temporary permission. An objection has been received that the platform will block doors to the basement area. This point has been raised with the applicant who advise that the scheme would not impede access or any operational activities of the restaurant.

8.7 Other UDP/Westminster Policy Considerations

None

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. The Examination in Public took place between 28 September and 2 October and 12 October and 16 October. Having regard to the tests set out in paragraph

48 of the NPPF, whilst the draft City Plan has now been through an Examination in Public, it continues to attract very limited weight at this present time.

8.9 Neighbourhood Plans

The Mayfair Neighbourhood Plan 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.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

The application does not require an EIA

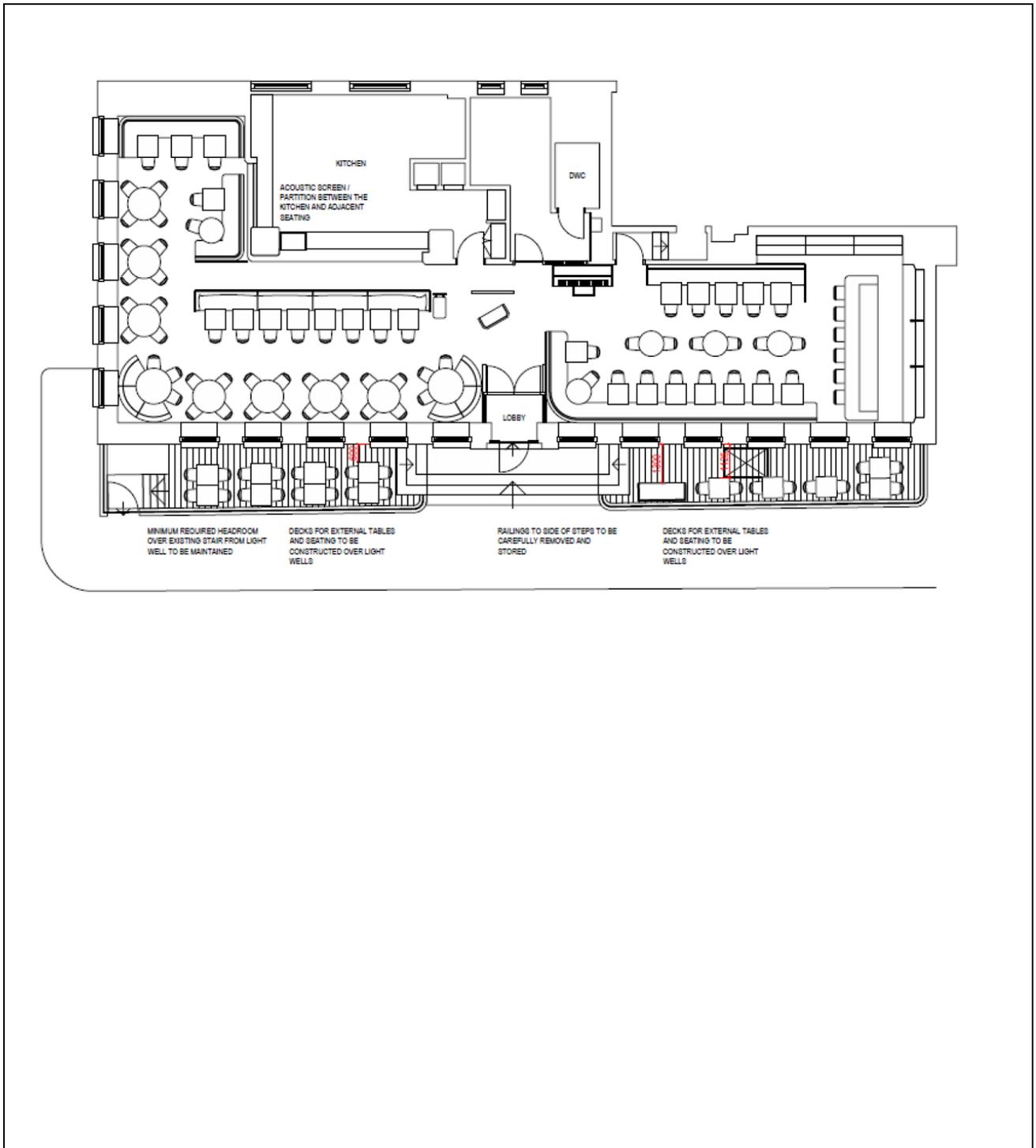
8.14 Other Issues

The restaurant currently has an internal means of escape into the residential common part staircase adjacent. This is not proposed to be altered by either of these applications. One of the objections received refers to the increased capacity of the restaurant potentially adversely impacting on use of the residential staircase. Increasing the overall restaurant capacity by 26 is not however considered to have any material impact on the existing escape arrangement.

(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

9 KEY DRAWINGS



DRAFT DECISION LETTER (APPLICATION 1)

Address: 34 Grosvenor Square, London, W1K 2HD,

Proposal: Alterations in connection with the construction of platform within lightwells fronting South Audley Street to provide space for tables and chairs for use in association with restaurant (Class A3).

Plan Nos: 1A3-GA-G-01, Unnumbered drawing titled section exterior drawing dated 4/9/2020

Case Officer: Mike Walton

Direct Tel. No. 07866039922

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 This permission must be commenced with 1 year from the date of this decision notice.

Reason:

Because of the unusual circumstances of the case, including that the proposed development is contrary to the City Council's adopted policies.

- 3 You must write to the City Council to notify us when the platform has been erected and the first date that the use of the tables and chairs will commence. The platform may be used or dining for one year from this date, after which the tables and chairs must be removed from the platform and the use of the platform must cease.

Reason:

We cannot give you permanent permission as we 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, we can therefore only grant a temporary permission.

- 4 You must reinstate the railings and plinth to match existing in materials, design and finished appearance and remove the platform from the lightwell in its entirety within 13 months of the first use of the platform.

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 Mayfair 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)

- 5 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 Mayfair 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)

- 6 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 1A3-GA-G-01

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 can only put the tables and chairs hereby approved within the lightwell between 08.00 and 22.00 hours.

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)

- 8 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of residents and the area generally as set out in S29 of

Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

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.

DRAFT DECISION LETTER (APPLICATION 2)

Address: 34 Grosvenor Square, London, W1K 2HD,

Proposal: Variation of Condition 2 of planning permission dated 01 September 2015 (RN: 15/05750/FULL) for, 'Use of first floor as restaurant (Class A3) in connection with the existing restaurant at basement and ground floor and new plant at roof level'. NAMELY, to allow the increase the capacity of the restaurant from 168 to 194.

Plan Nos:

Case Officer: Mike Walton

Direct Tel. No. 07866039922

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 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 capacity of the restaurant shall be limited to 194 persons, made up of no more than 60 covers on the first floor, no more than 26 external dining spaces and no more than 108 covers at ground floor level.

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 3 The development hereby permitted shall be operated in accordance with the approved mechanical ventilation scheme (or such revisions as approved in writing by the local planning authority) and in particular:

i) The mechanical ventilation system shall be inspected by a specialist company, at such intervals as set out in the approved mechanical ventilation scheme (or such revisions as approved in writing by the local planning authority)

ii) The operator of the premises shall retain all records verifying that the mechanical ventilation system has been inspected and maintained in accordance with the approved mechanical ventilation scheme and shall make such records available for inspection by the local planning authority upon request

Reason:

(1) Where noise emitted from the proposed plant and machinery will not contain tones or will not

be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, 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, 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 proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, 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, 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 proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

- 4 The development hereby permitted shall not be used in the event that the mechanical ventilation system is not in proper working order

Reason:

(1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, 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, 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 proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, 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, 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 proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

- 5 The restaurant use of the basement and ground and floors shall not open outside the hours of 08.00 to 01.00 the following morning for a temporary period of 1 year from the date of the decision. The restaurant use of the first floor shall not open outside the following times : Monday to Thursday and Sunday 08.00 to 23.30, Friday and Saturday 08.00 to 00.30. Thereafter the restaurant use on all floors shall not open outside the following times : Monday to Thursday and Sunday 08.00 to 23.30, Friday and Saturday 08.00 to 00.30 the following morning.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 6 The plant and machinery hereby permitted shall not be operated outside the hours of 08.00 to 01.00 the following morning for a temporary period of 1 year from the date of the decision. Thereafter the plant and machinery hereby permitted shall not be operated except between 08.00 - 23.30 Sunday to Thursday and 08.00 to 00.30 the following morning on Friday and Saturday.

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, 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. (R46AB)

- 7 The development hereby permitted shall be carried out in accordance with the management plan approved on 24 May 2013 (RN 13/04/008/ADFULL)

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)

- 8 You must demonstrate compliance with the management plan each year for a period of 4 years from the date of this permission

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)

- 9 No live music other than unamplified music from a piano, saxophonist and base player shall be played at first floor level. Live music within the first floor dining area shall be located in the area shown in Martin Brudnizki Drg 1A3-GA-01-01A at the northern end of the room. Bands will be instructed by the restaurant, management to play within a defined noise limit as approved on 17/10/2013 (RN 13/07661/ADFULL).

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)

- 10 Any music played through the PA systems shall accord with the digital limiting advice approved on 17 October 2013 RN 13/07661/ADFULL.

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)

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.