

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 6 December 2022	<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>16 - 17 Hay Hill, London, W1J 8NY</b>		
<b>Proposal</b>	Variation of conditions 12 and 13 of planning permission dated 19th June 2018 (RN:17/07518/FULL) for the Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser; NAMELY, to amend and extend the permitted opening hours of the restaurant use (from 23:00 to 00:00 (midnight) each day), as well as remove the requirement for an entrance lobby.		
<b>Agent</b>	Firstplan		
<b>On behalf of</b>	Mira Foods International (UK) Limited		
<b>Registered Number</b>	22/04451/FULL	<b>Date amended/ completed</b>	5 July 2022
<b>Date Application Received</b>	5 July 2022		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		
<b>Neighbourhood Plan</b>	Mayfair Neighbourhood Plan		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY & KEY CONSIDERATIONS

The application proposes to extend the permitted closing times of the restaurant at the site from 23:00 daily to 00:00 (midnight) daily. They also propose to remove the requirement to install and retain an entrance lobby for the restaurant.

The key consideration in this case is the impact on the amenity of neighbouring residential properties.

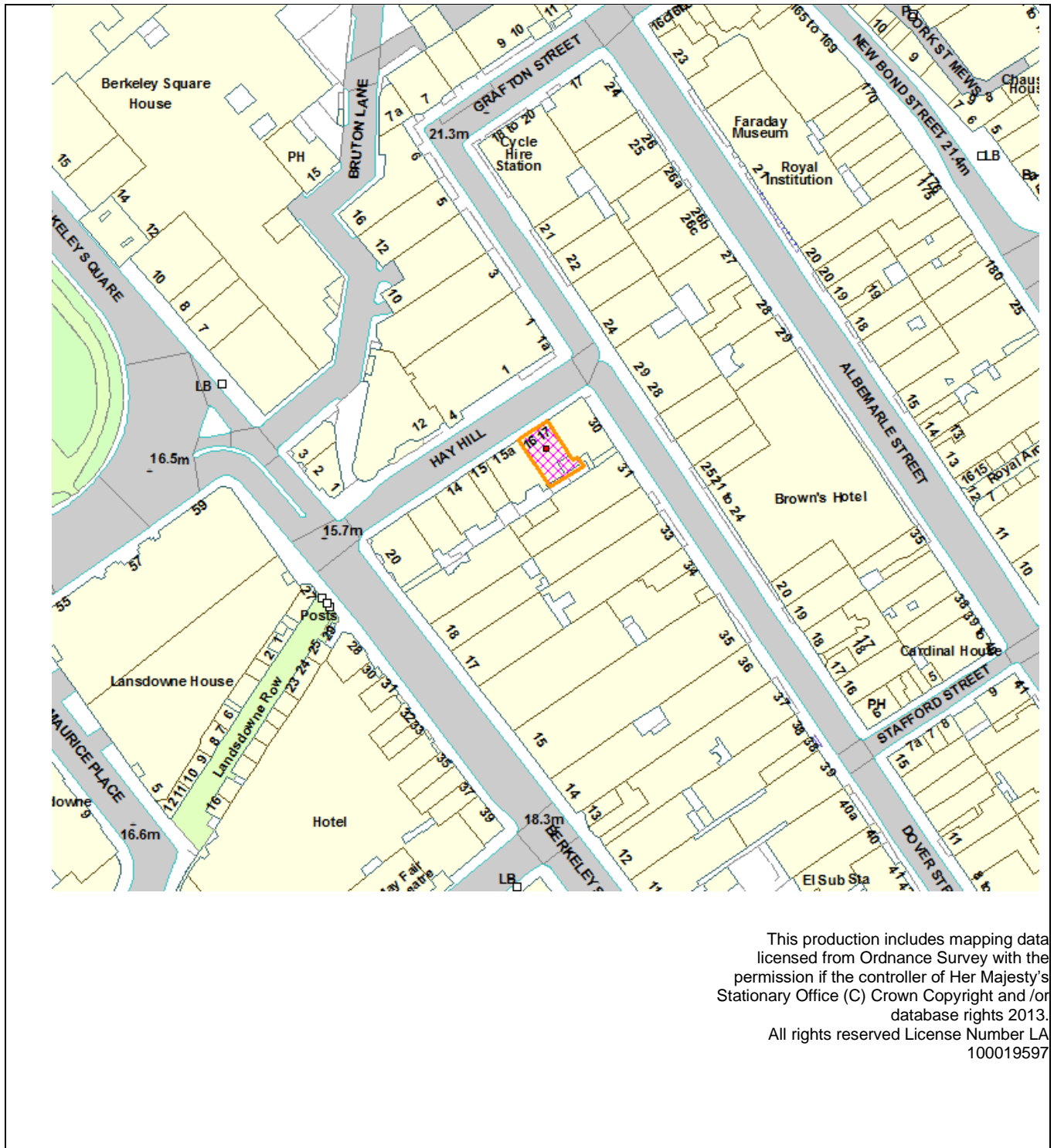
Objections have been received in relation to the impact of the later opening of the restaurant on surrounding residential amenity and the amenity of the area. Given that the increase in opening time is for one additional hour, and there are existing conditions on the restaurant use limiting possible impact on amenity, it is not considered the longer hour would create a material impact on amenity.

Item No.
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The removal of the requirement to retain and install an entrance lobby is, despite objections, considered acceptable in this instance as the applicant has provided an acoustic report demonstrating that it would provide no acoustic benefit beyond that which the existing structure provides. An additional condition is proposed to require that the main entrance door to the restaurant is self-closing and must not be propped open so as to ensure that there is minimal noise break out when the door is used.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### 5.1 Application Consultations

#### RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S (RSMSJ)

Objection – impact on residential amenity from noise and nuisance, specifically:

- The building is predominantly residential on the upper floors and located in the Mayfair Special Consideration Zone (SCZ) [a licensing designation];
- Hours sought “to extend the licence” are beyond core hours;
- Precedents listed by the applicant from the surrounding area are all cases from before the creation of the Mayfair SCZ and therefore should be discounted;
- Located in an area identified in The Westminster Cumulative Impact Assessment 2020 that has demonstrated negative impacts on the licensing objectives to be cumulative in character;
- This area is primarily populated by bars, hotels and restaurants, with the latter giving rise to cumulative impact in this area;
- Consider that the hours currently granted are in keeping with the proposed use, are viable and should not be extended;
- Construction of an entrance lobby is vital to prevent the break-out of noise, provides an area for people to wait inside instead of on street, and is a common feature, that is insisted upon by the Council, in new restaurant developments.

#### MAYFAIR RESIDENTS GROUP

Any response to be reported verbally.

#### MAYFAIR NEIGHBOURHOOD FORUM

Any response to be reported verbally.

#### ENVIRONMENTAL SCIENCES

No objection.

#### HIGHWAYS PLANNING

No objection subject to ensuring no doors open outwards over the highway.

#### WASTE PROJECT OFFICER

No objection

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 88

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Three letters of objection have been received raising the following concerns:

- Impact on residential amenity, particularly for the residential flats above,
- Noise impact late at night,
- Area already saturated with late night operators and within the Mayfair SCZ,

- Increase in traffic to the site resulting in road congestion,
- Increasing number of late night venues in area destroying the residential character of the area,
- Currently permitted opening times are entirely reasonable and normal for a restaurant,
- Entrance lobby is vital for protecting amenity and stopping noise breakout,
- The precedents identified by the applicant in terms of late-night opening after 11pm harm the amenity of the area and residents.

PRESS NOTICE/ SITE NOTICE:

Yes

## **5.2 Applicant's Pre-Application Community Engagement**

The applicant has not submitted a Statement of Community Involvement and the other application documents do not indicate that engagement was carried out by the applicant with the local community and key stakeholders in the area, prior to the submission of the planning application.

However, the Early Community Engagement guidance only expects such engagement to take place where the proposal may have a significant impact on residential amenity or other noise sensitive receptors.

## **6. WESTMINSTER'S DEVELOPMENT PLAN**

### **6.1 City Plan 2019-2040 & London Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **6.2 Neighbourhood Planning**

The Mayfair Neighbourhood Plan includes policies on a range of matters including public realm, directing growth, enhancing retail, commercial and public house uses, residential amenity, commercial growth, cultural and community uses, heritage, design, servicing and deliveries and environment and sustainability.

The plan has been through independent examination and was supported by local residents and businesses in a referendum held on 31 October 2019. It was adopted on 24 December 2019. It therefore forms part of the development plan for Westminster for development within the Mayfair neighbourhood area in accordance with accordance with

Section 38 of the Planning and Compulsory Purchase Act 2004. 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 later in this report.

### 6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

## 7. BACKGROUND INFORMATION

### 7.1 The Application Site

The application site is an unlisted building located within the Mayfair Conservation Area, the Central Activities Zone (CAZ) and the Mayfair Special Policy Area (SPA). The building comprises basement, ground and seven upper floors and is on the south side of the street. The basement, ground and first floors are currently vacant but were last used as retail (Class E) and have a permitted use as a restaurant (Class E).

The upper floors are in residential use and form part of Berkeley House, 15 Hay Hill, which contains 44 flats. There are also other residential properties within the vicinity of the site, including one flat at 4 Hay Hill, opposite the application site.

### 7.2 Recent Relevant History

#### The Application Site:

Planning permission was granted by the sub-committee on 19 June 2018 (RN: 17/07518/FULL) for “*Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser.*” A site inspection shows that internal fit out works are currently underway in the unit on behalf of Mira Foods International, a Middle Eastern and Armenian restaurant with table service. The applicant has confirmed that the consent has been implemented and that this fit out is in relation to the approved use. A Premises Licence has also been issued.

Details of refuse & recycling storage and an updated Operational Management Plan pursuant to condition 14 and 16 of the June 2018 were approved on 05 October 2022 (RN: 22/06072/ADFULL)

On 08 June 2020 (RN: 20/03167/ADFULL), detailed drawings of the entrance lobby with self-closing doors for the approved restaurant and the proposed suspended ceiling at first floor level pursuant to condition 13 of this permission were approved.

#### Relevant History of Nearby Sites:

20 Berkeley Street is located at the western end of Hay Hill (approximately 35 metres from the current application site and in the same ‘block’) on the corner of the two streets. The basement, ground and lower ground floor unit has a permitted use as a restaurant

(granted 03 March 2015 (RN: 14/12025/FULL)). The permitted hours and capacity of this approved use (along with other variations to the initially permitted operational nature of the unit) have been extended over time since that permission. The most recent application and subsequent appeal decision at the site are directly comparable to the current application under consideration in this report, which further extended the opening hours.

An application recently refused at 20 Berkeley Street sought to allow the extension of the permitted opening hours of the restaurant, and the hours of use of the plant, to between 07.00 to 02.30 Monday to Saturdays and 08.00 to 02.00 on Sundays and Bank Holidays. The application was refused on 05 August 2021 (RN: 21/02115/FULL) with regards to the proposed hours of operation being considered unacceptable (the hours of plant operation were considered suitable subject to restrictions).

At application stage, the applicant provided an acoustic report to assess potential noise from patrons leaving the premises who would be in the street. This assessment used a hypothetical scenario to predict potential impacts. While the methodology was technically sound, officers considered that due to the variability in human behaviour, there is always the potential that these predictions can be inaccurate, and thus the possibility of a complaint from nearby sensitive receptors associated with the use. It would not be unreasonable to assume that patrons leaving a restaurant may have consumed alcohol, therefore increasing the variability of human behaviour, or be acting in a manner which is beyond the scope of the hypothetical scenario without alcohol.

The Environmental Sciences Officer suggested a possible solution could be to require an Operational Management Plan (OMP) be submitted by way of condition. However, officers found this suggestion to have significant limitations in that it could only reasonably be enforced within the application site (i.e. within the red line) and could not reasonably be expected to control patrons behaviour once they have moved beyond the restaurant and are in the street.

Officers therefore considered that the extension of the opening hours of the unit would be considered harmful in amenity terms. The reason for refusal for that application was:

*“The proposed extension to the opening hours would add to existing late-night activity and disturbance and would increase levels of noise and cause late night disturbance for nearby residents. This would be harmful to residential amenity contrary to Policies 7, 16, 33 and 38 of the City Plan 2019 - 2040 (April 2021).”*

However, this decision was appealed and allowed by the Planning Inspector on 21 July 2022 (Council Reference: 21/00134/TPCON / Planning Inspectorate Reference: APP/X5990/W/21/3289818). A copy of this decision is included in the background papers for the current application.

The inspector did not agree with officer's views on the suitability of the acoustic report and use of a hypothetical scenario and concluded that:

*“it is highly unlikely that the restaurant will be full every day of the week during the last hour of trading, and that ...people will usually leave at staggered and irregular intervals. In any event, the local noise environment is heavily influenced by traffic, comings and goings and those linked to other premises that operate into the night near to residential premises such as those above the appeal premises.*



*Therefore, to pinpoint the potential effect of noise from persons entering or leaving a single premises with later opening hours would be difficult, especially as the public can use the nearby footways anyway....there is no substantive evidence to suggest that complaints have been made in connection with other late opening commercial premises in the area” ...and that ...reasonable endeavours have been made to predict the potential effect”, and that the submitted acoustic report for that application demonstrated “...that the extended hours would have no material additional adverse effect.... ”*

The Inspector also considered that an OMP was an appropriate approach to help manage impacts outside the site (despite recognising it being limited to the application site) and applied a condition securing the document and stipulating that it included measures to ensure customers leaving the premises will not cause nuisance for people in the area, including people who live in nearby buildings.

## 8. THE PROPOSAL

An application has been made to vary conditions 12 and 13 of the planning permission dated 19th June 2018 (RN:17/07518/FULL), which allowed *“Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser.”*

Condition 12 currently reads:

*“Customers shall not be permitted within the restaurant (Class A3) premises before 11:00 or after 23:00 each day.”*

The proposed variation to condition 12 would extend the permitted opening hours of the restaurant use by an hour each day, from the permitted 23:00, to 00:00 (midnight).

Condition 13 currently reads:

*“You must apply to us for approval of detailed drawings of the following parts of the development*

*1 - an entrance lobby with self-closing doors for the approved restaurant (Class A3);  
2 - the proposed suspended ceiling at first floor level.*

*You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these detailed drawings. The entrance lobby and suspended ceiling must be installed prior to the commencement of the approved restaurant (Class A3) use. They must be maintained in the approved form for the life of the development.*

*You must not use the approved entrance lobby for any activities associated with the restaurant use, you must not put tables and chairs in it.”*

The proposed variation to condition 13 would remove the requirement for an internal entrance lobby (part 1 of the condition) but retain the requirement for the suspended ceiling (part 2).

The details for both parts of the originally worded condition were discharged on 08 June 2022 (RN: 20/03167/ADFULL). The applicant has confirmed that the details of the ceiling would remain as approved under this approval of details application should the change to the condition be approved.

## **9. DETAILED CONSIDERATIONS**

### **9.1 Land Use**

The land use elements of the proposals have already been accepted in the original consent which is being varied. The amenity impacts of the proposed change to the operation of the hours of use are considered in section 9.5 below.

### **9.2 Environment & Sustainability**

The proposed changes to conditions have no environmental or sustainability implications.

### **9.3 Biodiversity & Greening**

The proposed changes to the conditions have no biodiversity or greening implications.

### **9.4 Townscape, Design & Heritage Impact**

The proposed changes to the conditions have no townscape, design or heritage implications.

### **9.5 Residential Amenity**

The upper floors of the application site are in residential use and form part of Berkeley House, 15 Hay Hill, which contains 44 flats. Berkeley House occupies the entirety of the length of Hay Hill on the southern side. On the northern side of the street, it is understood there is only a single large flat on the upper ground floor of 4 Hay Hill, which is opposite the application site. The other uses on that side of the street are all commercial. There is some residential accommodation in the wider area, including 17 and 18 Berkeley Street and 33 Dover Street.

#### **Impact of Extended Opening Hours**

The proposed variation of Condition 12 will allow an additional hour of operation, to midnight, for the approved restaurant for each day.

The applicant has drawn officers' attention to other restaurant premises in the nearby area, such as:

- 4-6 Berkeley Square which operates until 02:00 Monday to Saturdays and 01:00 on Sundays,
- 12 Curzon Street which operates until 01:30 Monday to Thursday, 02:30 on Friday and Saturday and 22:30 on Sundays,
- 10 Berkeley Square which operates until 01:00 Monday to Saturday and 24:00 on Sundays and

- 20 Berkeley Street, which is allowed to open from 07:00 to 00:30 hours Monday to Saturday and 08:00 to 23:00 on Sundays and Bank Holidays (as set out above).

The applicant argues that these examples show the Council's past acceptance of extended hours of opening hours that have been granted planning permission within this location.

They also identify a number of other operators of late night uses within the surrounding and nearby area, including various night clubs (Luxx London at 15 Berkeley Street which operates until 02:00 (RN: 04/10115/FULL), Mahiki at 1 Dover Street, Annabel's at 46 Berkeley Square which is licensed until 04:00 hours (RN: 16/07773/FULL), Be At One (a cocktail bar) at 59 Berkeley Square (open until 03.00 hours Monday to Saturday and until midnight on Sundays) and other restaurants in the vicinity (Sexy Fish, Nobu, Novikov) which they say have permitted trading hours which extend beyond those for the application site, the closest of which, Sexy Fish at 4 Berkeley Square, was granted planning permission for the opening hours of 07:00 to 02:00 on Mondays to Saturdays and 08:00 to 01:00 on Sundays and Bank Holidays (RN: 18/09255/FULL).

Objections have been received against this aspect of this from residents and the RSMSJ on the basis that the later opening of the restaurant would have a negative impact on the residential amenity of the area and cause late night disturbance.

The objectors note that the application building is predominantly residential and is located in the Mayfair Special Consideration Zone (SCZ) (a licensing designation area), and that the proposed hours will extend beyond licensing core hours. Objectors consider that the hours currently granted are in keeping with the proposed use, are viable and should not be extended. They also consider that the precedents provided by the applicant from the surrounding area should be discounted as they date from prior to the creation of the Mayfair SCZ. The objectors also state that as the site is located within The Westminster Cumulative Impact Assessment 2020, it has to demonstrated negative impacts on the licensing objectives and that any impact will not be cumulative in character.

While the objections which refer to the Mayfair SCZ, licensing core hours, and The Westminster Cumulative Impact Assessment are all noted, these refer to documents, policies or approaches which relate exclusively to Licensing decisions. Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations. While the November 2016 City Plan had a specific policy relating to stress areas and the previously saved UDP policies referenced core hours, these topics are not covered in the current Westminster City Plan 2019-2040.

In addition to this, it is of importance to note that in their original consultation memorandum, the Environmental Sciences Officer stated that there was a separate License application (RN: 22/06003/LIPN) currently under review in respect of this site and that Environmental Sciences would be seeking suitable operating conditions to ensure that concerns about possible public nuisance are addressed. This license application has since been issued on 25 August 2022 with opening hours matching the current planning permission (that is 11:00 - 23:00). If planning permission is granted, a

variation to the Premises Licence will be required.

The overall concern of objectors relating to the impact that the later hours of operation would have on residential amenity and the amenity and character of the area are recognised, however, considering that the increase in operational time is only by one hour, it is not considered that this would have a materially different impact to the already permitted closing time in the context of other establishments in the area. The permission also still has a range of other conditions to limit the impact of the restaurant on residents within the building (such as the suspended ceiling) and also on the amenity of the area, including limiting the capacity, restricting the size of any bar area in the unit, ensuring the dining is only by waiter service and prohibiting the operation of a delivery service.

An Operational Management Plan (OMP) has also recently been approved (RN: 22/06072/ADFULL) for the use which was secured by a condition on the original permission. The document (included in the background papers) sets out various measures that will be implemented to assist in managing customers, particularly later into the evening in order to prevent any disturbance or detrimental impact to nearby neighbours, as well as detailing measures that will be in place to prevent any disturbance when customers are arriving at or leaving from the restaurant. It should be noted that the OMP was submitted and approved while this current application was under consideration and it therefore reflects both operating possibilities (either closing at the already permitted 23:00 or the applied for 00:00).

Additionally, the Inspectors Decision on the appeal discussed above at 20 Berkeley Street, is of material consideration in the determination of this application.

For the reasons set out above, it is not considered that the objections to the impact of the additional hour of opening each day can be upheld and so approval is recommended that Condition 12 can be varied.

### **Impact of Removing Internal Entrance Lobby**

The proposed change to Condition 13 would remove the requirement for an entrance lobby with self-closing doors. The applicant sets out that they consider it no longer necessary in acoustic or operational terms and that its removal will simply allow patrons to walk directly into the restaurant without the risk of customers congregating outside or temporarily waiting in the lobby area. Objections have been received against the removal of the requirement of the entrance lobby on the grounds that such a feature is vital to prevent the break-out of noise, provides an area for people to wait inside instead of on street, and is a common feature, that is insisted upon by the Council, in new restaurant developments.

In support of the proposed change to the condition, the applicants have provided an acoustic report in order to demonstrate that removing the acoustic lobby will not result in any additional noise or nuisance generated from the premises. This acoustic report has been assessed by Environmental Sciences who have confirmed that given the premises will operate as a restaurant rather than an entertainment venue and the fact that a suspended ceiling has been provided (and that this arrangement has been tested and reported to be within required levels in the above flats within the submitted acoustic report) they agree with the conclusion of the report. They note that the report provides

results showing that operational noise transmission from the proposed restaurant to outside the closest noise-sensitive windows comply with the already set criteria (which are secured in Condition 7 of the permission which sets limits on noise emitted from the internal activity). Based on this, the report considers that an additional entrance lobby with self-closing doors as required by Condition 13 is unnecessary in acoustic terms.

Objectors consider that the lobby area would provide an area for customers to queue whilst waiting for a taxi, or to greet or say farewell to each other. They are concerned that without a lobby, these activities would take place on the street and result in disturbance. While these concerns are noted, the lobby that has been approved (shown in the relevant drawings at the end of this report) is not large enough to provide a waiting area as described by objectors. It is only large enough to accommodate doors opening and people passing through. It would therefore not be reasonable to require the provision of the approved lobby on the grounds raised by the objectors as it would not address the issues raised.

On this basis, it is not considered that the requirement for an entrance lobby could be maintained in this instance, despite the concerns raised by objectors. The applicant has clearly demonstrated that the existing structure is sufficient to prevent any impact on amenity. However, so as to minimise noise break out when the entrance door is in use, an additional condition is proposed that would require the main entrance door to be self-closing and to not be propped open. The applicant has agreed to this condition.

Subject to the new condition, it is considered acceptable to remove the requirement for the entrance lobby from Condition 13. Given that the details of the acoustic ceiling also secured in Condition 13 have already been discharged, the condition shall be re-worded so as to ensure that the approved ceiling details are installed and retained.

## **9.6 Transportation, Accessibility & Servicing**

### **Highway Impact**

The Highways Planning Manager has assessed the application and raised no objection to the proposed changes, subject to ensuring no doors open outwards over the highway. Condition 15 of the existing permission already secures this requirement.

An objection has been received on the grounds that the proposed changes would result in an increase in traffic to the site resulting in road congestion. While there may be a small additional amount of time that trips to the site may be made as a result of the additional hour of opening that has been applied for, it is not considered that this would be materially different to the anticipate traffic from the already permitted use at the site. This aspect of the objections therefore cannot be upheld.

## **9.7 Economy including Employment & Skills**

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the fit out phase through the generation of increased opportunities for local employment, procurement and spending.

The West End has been particularly hard hit by the pandemic and there is a need for

businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by providing an already permitted use to operate slightly longer and, hopefully, allowing a vacant unit to become occupied. The occupation of the unit will also provide employment opportunities, leading to increased spending in existing nearby shops and services and other town centre uses.

#### **9.8 Other Considerations**

None.

#### **9.9 Environmental Impact Assessment**

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

#### **9.10 Planning Obligations & Pre-Commencement Conditions**

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

#### **10. Conclusion**

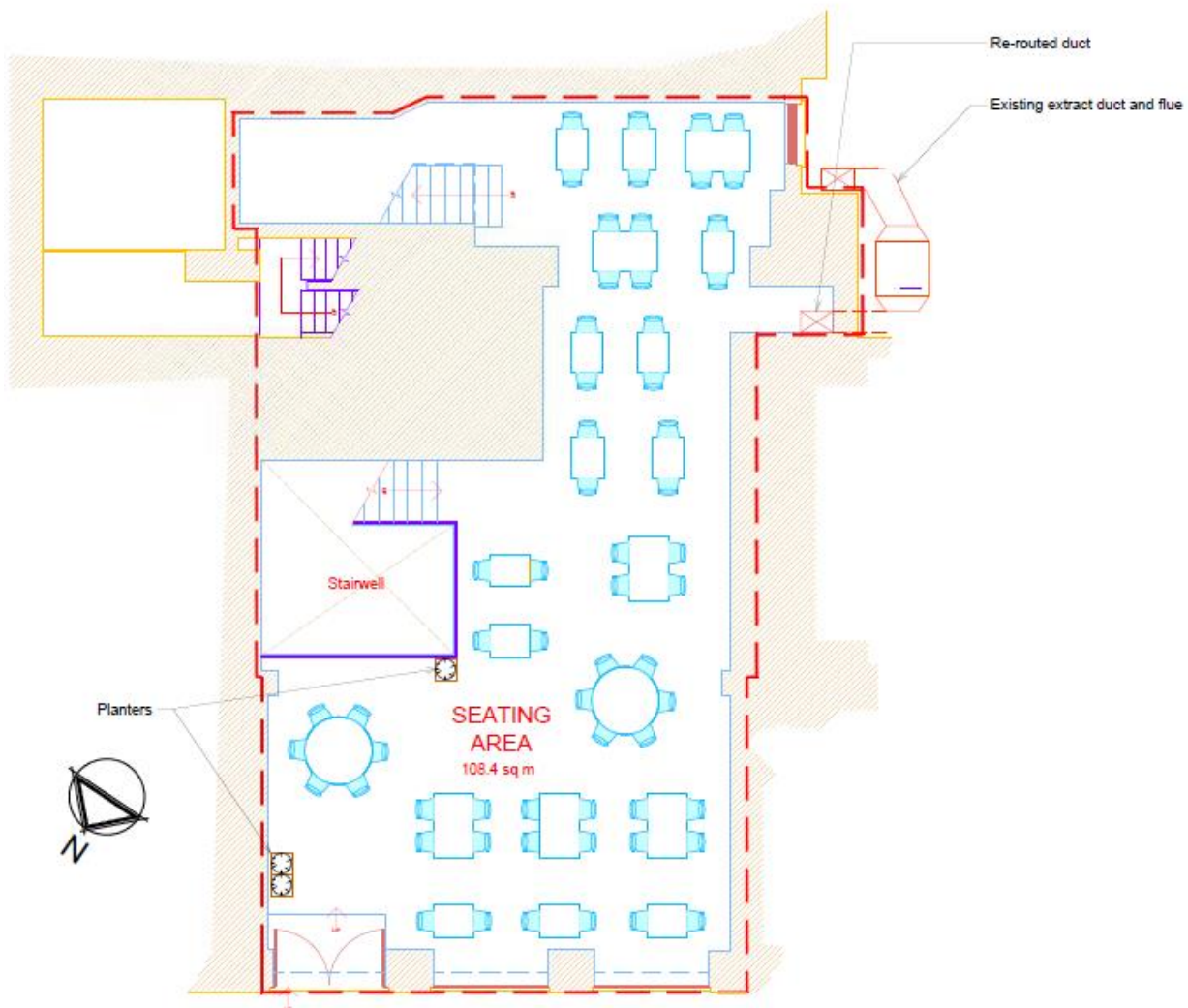
The proposed variations of Conditions 12 and 13 are considered acceptable.

(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: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

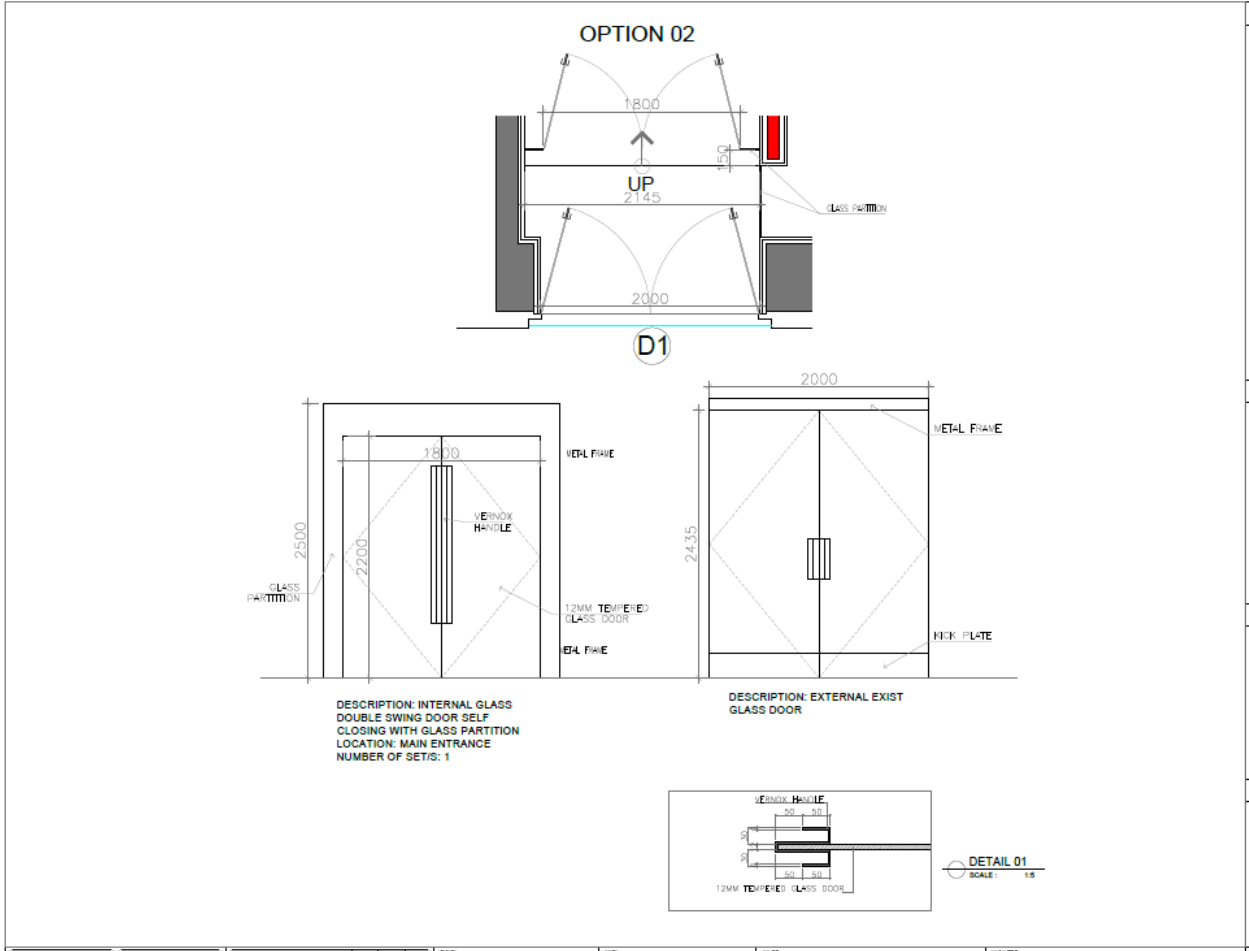
11. KEY DRAWINGS

As Approved Ground Floor Plan



Gross external area - 160.1 sq m

Detailed drawings of the entrance lobby with self-closing doors approved pursuant to Condition 13 of planning permission dated 19th June 2018 (RN:17/07518), which were approved on 08 June 2020 (RN: 20/03167/ADFULL)





**DRAFT DECISION LETTER**

**Address:** 16 - 17 Hay Hill, London, W1J 8NY,

**Proposal:** Variation of condition 12 and 13 of planning permission dated 19th June 2018 (RN:17/07518/FULL) for the Use of lower ground, ground and first floors as a restaurant (Class A3) and minor works to connect to existing riser. Namely, to amend and extend the permitted opening hours of the restaurant use (from 23:00 to 00:00 (midnight) each day), as well as remove the requirement for an entrance lobby.

**Reference:** 22/04451/FULL

**Plan Nos:** Application Form

Approved under application 17/07518/FULL:  
BP350-07C ; BP350-08C ; BP350-09C

**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 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 neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 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 Mayfair Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 4
- (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.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental

Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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.

(R46AC)

- 5 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 6 The plant/machinery hereby permitted shall not be operated except between 09:00 hours and 00:00 (midnight) hours daily. (C46CA)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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.

(R46AC)

- 7 (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 (Class A3) use 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 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 the restaurant (Class A3) use 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 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. 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 Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R47AC)

- 8 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. You must not provide a delivery service from the A1/B1 'cafe', including no deliveries by any independent delivery operators.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 9 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 10 You must not allow more than 148 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not

meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 11 You must only use the property as a sit-down restaurant with waiter service.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 12 Customers shall not be permitted within the restaurant (Class A3) premises before 11:00 or after 00:00 (midnight) each day. (C12AD)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 13 You must install the suspended ceiling at first floor in accordance with details approved on 08 June 2020 (RN: 20/03167/ADFULL) and retain the suspended ceiling in this approved form for the life of the permission.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 14 You must provide the stores for waste and materials for recycling according to the details approved on 05 October 2022 (RN: 22/06072/ADFULL). You must clearly mark the stores and make them available at all times to everyone using the restaurant.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 15 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 16 You must operate the restaurant use allowed by this permission in accordance with the Operational Management Plan document approved on 05 October 2022 (RN: 22/06072/ADFULL). You must then carry out the measures included in the servicing management plan at all times that the restaurant is in use

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not

meet Policy 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 17 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 Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 18 You must connect any internal extract system to the existing full height extract duct to get rid of cooking smells. You must not begin the restaurant (Class A3) use allowed by this permission until you have done so. The use of this duct must be maintained for the life of the permission unless new full height extract equipment is approved by the City Council.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 19 The entrance door at ground floor must be self-closing, and must not be propped open at any time, unless required for emergency access/exit.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R13FC)

**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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.

- 3 Conditions 4, 5 and 6 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (182AA)
  
- 4 The service management plan operational management plan required by condition 16 should identify the hours of servicing, delivery process, storage locations, scheduling of deliveries and staffing arrangements; as well detailing how delivery vehicle size will be managed. It should clearly outline how servicing will occur on a day to day basis to avoid obstruction of residential garages and the public highway.
  
- 5 Please email our Project Officer (Waste) at [wasteplanning@westminster.gov.uk](mailto:wasteplanning@westminster.gov.uk) for advice about your arrangements for storing and collecting waste.
  
- 6 The term 'clearly mark' in condition 14 means marked by a permanent wall notice or floor markings, or both. (188AA)

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.