



Appeal Decision

Site visit made on 4 March 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2024

Appeal Ref: APP/X5990/W/23/3330461

18, 20-24 Broadwick Street and 85 Berwick Street, London W1F 8JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Broadwick Street Holdings Ltd against the decision of the City of Westminster Council.
- The application Ref is 23/00159/FULL.
- The application sought planning permission for the demolition of 20-24 Broadwick Street & 85 Berwick Street and partial demolition of 18 Broadwick Street and redevelopment of the site to provide new buildings comprising three basement levels, ground floor and first to eighth floor levels in connection with the use of the buildings for retail (Class A1) at part basement and ground and a hotel (Class C1) with up to 69 bedrooms, associated bar and restaurant facilities including terraces at sixth and seventh floor levels; installation of plant at basement level and on the rear elevation at first to sixth floor levels. Installation of a partially retractable roof over the bar area at eighth floor level without complying with conditions attached to planning permission Ref 20/04766/FULL, dated 11 February 2021.
- The conditions in dispute are Nos. 8, 22 and 23 which state that:
 - 8. *Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain within the seventh floor restaurant premises except between the following hours: 07:00 till 00:00 (midnight) Sunday to Thursday, and; 07:00 till 00:30 (the following morning) Friday and Saturday.*
 - 22. *The openable elements at seventh and eighth floor levels including all external windows, rooflights and doors shall be fixed shut between 22:00 and 07:00 every day.*
 - 23. *The terrace area hereby approved at seventh floor level associated with the hotel use can only be used between the hours of 07:00 and 22:00. You can not use the terrace area outside of these hours other than in the case of an emergency.*
- The reasons given for the conditions are:
 - 8. *We cannot grant planning permission for unrestricted use in this case because it would not meet TACE10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)*
 - 22. *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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)*

23. 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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

Decision

1. The appeal is dismissed insofar as it relates to the variation of condition 8.
2. The appeal is allowed insofar as it relates to the variation of conditions 22 and 23, and planning permission is granted for the demolition of 20-24 Broadwick Street & 85 Berwick Street and partial demolition of 18 Broadwick Street and redevelopment of the site to provide new buildings comprising three basement levels, ground floor and first to eighth floor levels in connection with the use of the buildings for retail (Class A1) at part basement and ground and a hotel (Class C1) with up to 69 bedrooms, associated bar and restaurant facilities including terraces at sixth and seventh floor levels; installation of plant at basement level and on the rear elevation at first to sixth floor levels. Installation of a partially retractable roof over the bar area at eighth floor level at 18, 20-24 Broadwick Street and 85 Berwick Street, London W1F 8JB in accordance with the terms of the application, Ref 23/00159/FULL, subject to the conditions in the attached schedule.

Preliminary Matters and Background

3. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
4. The description of the development in my formal decision is taken from the original planning permission (16/09526/FULL) as required by the 'Finney' judgment¹. This judgment clarifies that the description of development in the decision must be taken from the original planning permission and not from any subsequent applications to vary conditions.
5. Furthermore, the site address in the above banner heading, and within my formal decision, is taken from the site address as detailed on the original planning permission.
6. Planning permission² for the development of this site was originally granted, subject to conditions, in February 2018 and a Section 73 (S73) application³ was approved in March 2019 to vary the approved plans condition (No.1).
7. A separate S73 application⁴ was approved in November 2020 to further vary the approved plans condition (No.1) and an additional S73 application⁵ was again approved in February 2021 to vary the approved plans condition (No.1).

¹ Finney v Welsh Ministers & Carmarthenshire County Council, Energiekontor (UK) Ltd [2019] EWCA 1868; [2020] JPL 524

² 16/09526/FULL

³ 18/08538/FULL

⁴ 19/07554/FULL

⁵ 20/04766/FULL

8. A S73 application was refused in August 2023 to vary conditions 8 (hours of use of seventh floor restaurant), 22 (hours of opening of external windows, rooflights and doors at seventh and eighth floor levels) and 23 (hours of use of seventh floor roof terrace) from the above mentioned most recently approved S73 application (20/04766/FULL). It is this refused S73 application that is subject of this appeal.
9. The appellant is seeking to vary Condition 8 to allow the opening hours of the seventh-floor restaurant to extend, for non-residents of the hotel or their guests, from 00:00 (midnight) on a Thursday and from 00:30 (the following morning) on a Friday and Saturday, until 01:30 (the following morning) on Thursday, Friday and Saturday.
10. The appellant seeks to vary Condition 23 to allow the use of the rear roof terrace on the seventh-floor to be extended from 22:00 until 23:00 (on any day). In the interest of clarity, the hours of use of the larger terrace on the seventh-floor is not proposed to be altered through the variation of this condition.
11. The appellant is also seeking to vary Condition 22 to allow the external door that serves the rear roof terrace on the seventh-floor to be opened until 23:00 in order to allow access to this roof terrace area in connection with the request to vary the above mentioned condition 23. In the interest of clarity, the hours that all other external windows, rooflights and doors on the seventh and eighth floors can be opened is not being proposed to be altered.
12. As part of the appellant's S73 application to the Council, a request was also made to vary condition 7 from approved S73 application (20/04766/FULL). However, during the determination of that application the proposal was amended to remove the proposed variation of condition 7 from the scheme. As part of their appeal submission the appellant has requested that condition 7 be varied.
13. The reference to any variation of condition 7 is not included on the decision notice and having regard to the Wheatcroft⁶ principles, the tests in Holborn Studios Ltd⁷ and procedural guidance⁸, I conclude that it would not be fair or reasonable to consider the proposed variation of condition 7 as part of this appeal, as to do so would prejudice interested parties. As such I have determined the appeal against the conditions listed within the decision notice, which were considered by the Council when it made its decision.
14. In view of all the above, this appeal therefore relates to the proposed variation of conditions 8, 22 and 23 from approved S73 application ref: 20/04766/FULL.

Main Issue

15. The main issue is the effect of the proposed variations of conditions 8, 22 and 23 on the living conditions of nearby residents, with regard to noise and disturbance.

⁶ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

⁷ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁸ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 13 September 2023)

Reasons

16. The appeal relates to a recently constructed multi-storey hotel, known as the Broadwick Soho Hotel, situated at the junction of Broadwick Street and Berwick Street. The hotel has a bar and restaurant at ground floor level and a seventh-floor restaurant / bar, with an eighth-floor dining room.
17. The seventh-floor restaurant / bar has two external terrace areas with the larger terrace wrapping around the Broadwick Street and Berwick Street elevations of the building. The second terrace is smaller in size and is situated to the rear of the building, facing towards Livonia Street, albeit this terrace is set back from Livonia Street with intervening buildings situated in between.
18. The appeal site is located in a mixed-use area consisting of a variety of commercial uses including retail, food and drink establishments, and hotels, however there are also residential flats within the vicinity. The appeal site is located within the Soho Conservation Area, the Central Activities Zone (CAZ) and the West End Retail and Leisure Special Policy Area (WERLS). The appeal site is also within the Soho Neighbourhood Plan area.

Hours of use of seventh-floor restaurant / bar (condition 8)

19. I appreciate that the locality of the appeal site is a thriving daytime destination for visitors, and existing food and drink establishments, including the premises subject to this appeal, extend this activity into the evening. As such, I have no doubt that the appeal site and other similar uses in the area make an important and positive contribution to the night-time economy, and local economy in general. Nevertheless, and as mentioned above, there are a number of existing residential flats within the vicinity of the appeal site, and the living conditions of the occupiers of these flats is an important consideration in the determination of this appeal.
20. The Noise chapter of the Planning Practice Guidance (March 2014, updated July 2019) (Planning Guidance) states that in areas which already experience high noise levels even a small increase in noise can result in a significant adverse effect. The Planning Guidance further states, people tend to be more sensitive to noise at night as they are trying to sleep and that the adverse impact of noise can be greater simply because background noise levels will be much lower at this time.
21. Therefore, whilst I accept there is already likely to be a degree of noise and general disturbance at night, the appeal proposal, seeking to extend the opening hours of the seventh-floor bar / restaurant from 00:30 (00:00 on Thursday) until 01:30 (the following day) on Thursdays, Fridays and Saturdays, would likely result in more people visiting the premises and more activity taking place around the premises later into the night.
22. Groups of patrons arriving and leaving the premises by foot until 01.30am, and then dispersing through the surrounding streets which contain residential properties, or patrons leaving the premises in taxis, would likely be in high spirits, particularly following the consumption of alcohol. In this context, instances of raised voices caused by patrons arriving and leaving the premises would be very noticeable at times when the occupiers of nearby residential properties are expecting peace and quiet to sleep.

23. In coming to this view, I acknowledge the appellant's comments that the restaurant / bar is a high-end luxury establishment and can only accommodate circa. 50no. people, with some of these being guests at the hotel and therefore will not be leaving the premises at 01:30. Nevertheless, the quality of the establishment and the reduced number of people leaving the venue does not guarantee that the patrons that do leave will not make noise after they have exited the building. Furthermore, there is no condition, or suggested condition, which restricts the number of customers within the venue to a maximum of 50no people.
24. Consequently, the proposal would result in greater disturbance to the living conditions of nearby residential uses than the existing opening hours would. This would be particularly harmful during warmer nights when residential properties would be more likely to have their windows open.
25. The appellant contends that footfall and traffic remain high in this area until 01:30 and subsequently assert that this is not an area which benefits from what would be considered to be standard levels of residential amenity. These comments however are not substantiated within any technical data or evidence to demonstrate the existing footfall and traffic movements in the area at this time, or any noise reports to demonstrate the background noise levels at 01:30. As such, I have been provided with no substantive evidence as to the existing environment and activities taking place around the appeal site at 01:30.
26. To further support their case the appellant submits that there are other bars and pubs within 30m of the appeal site, namely The Blue Posts at 22 Berwick Street; My Place at 21 Berwick Street; and Basement Sate. However, the appellant's submission details that two of these three venues close at midnight. As such, these two venues are more comparable to the existing hours of opening permitted at the appeal site, rather than the proposed later hours sought by this S73 application.
27. I acknowledge that the appellant states that the third of these venues, Basement Sate, opens until 01:30 on weekends, and I accept this is comparable to the hours subject of the appeal proposal. However, I have been provided with limited information as to the planning history of Basement Sate and whether these hours of opening were permitted by way of planning condition.
28. Consequently, from my observations on site, and the limited information before me, the majority of these aforementioned examples provided by the appellant are operating at hours similar to those already permitted at the appeal premises. Whilst I accept a premises in the immediate area may currently open later than the appeal site, allowing the appeal site to open later would be likely to add to any late night noise issues for nearby residents as customers make their way home, or move between premises.
29. My attention has also been drawn to drinking establishments further from the appeal site which, according to the appellant, open later into the morning than the appeal proposal. Again, however I have been provided with limited information as to the planning history of the majority of these venues and whether the hours were permitted by way of planning approval.

30. The appellant has also explained that 72 Broadwick Street has been granted planning permission⁹, in January 2023, for a live music venue that can operate until 02:00. However, I have not been provided with the particular details of this approval or how the venue compares with the appeal scheme in terms of the movement of customers in and out of the building.
31. The appellant has also made reference to the Council's decision to grant permission for the Nomad Hotel in Covent Garden to operate until 02:00 (the following day) on Friday and Saturday, and provided a copy of the Planning Committee Report. Nevertheless, I observed on site that the Nomad Hotel is located a significant distance away from the appeal site, and within a different character area. As such the Council's decision does not set a precedent for the appeal proposal.
32. In view of the above, I attribute limited weight to these other drinking establishments referred to by the appellant in my determination of this appeal.
33. The application was accompanied by an Operational Management Statement (OMS) explaining how the venue would be managed, and the appellant states that this OMS could be conditioned to ensure the venue operates in accordance with the submitted details.
34. Measures within this submitted OMS include, but are not limited to, details of a no vertical / standing drinking policy within the venue and how no alcohol will be served after 01:00. The OMS also explains that measures and tactics will be implemented to ensure the gradual dispersal of customers to prevent everyone leaving at the same time, and that customers will be asked to wait indoors until a taxi / cab becomes available to prevent people waiting outside on the street.
35. The submitted OMS suggests that the behaviour of patrons can be somewhat controlled and managed within the premises. However, the concerns in this case relate primarily to people leaving the premises later in the night and potentially creating or adding to existing noise and disturbance on the surrounding streets for nearby residents, either on foot or any additional noise and disturbance created by vehicles collecting patrons. Even with the best intentions the OMS will not be able to control people's behaviour once they leave the venue, or require people to wait inside the venue against their own free will until a taxi / cab arrives. As such the submission of the OMS does not overcome my concerns in respect of the potential noise and disturbance created by patrons, and collection vehicles, outside the premises.
36. The appellant has explained that as the primary use of the building is a hotel, it is within their interest to ensure any noise is kept to a minimum. I fully acknowledge and accept this point. However, the hotel is a new-build development that has likely been constructed using more modern techniques including enhanced soundproofing and air conditioning which may limit any noise disturbance from outside the building, and likely not require windows to be open on warm summer nights. I have no evidence that the existing nearby residential properties benefit from similar modern construction techniques.
37. Therefore, noise and disturbance from the surrounding streets is likely to be more readily observed from nearby residential properties than rooms within the hotel. Furthermore, a hotel guest experiencing some late-night noise and

⁹ 21/03136/FULL

disturbance during a short stay at the hotel is not comparable to occupiers of nearby residential properties that would be subjected to any such noise impacts on a much more regular occurrence.

38. I have not been provided with any detailed evidence in respect of the specific economic benefits that would arise from the proposed extended hours of opening. However, as mentioned earlier I acknowledge that there would undoubtedly be some economic benefits to the appeal premises, and other businesses within the WERLS and CAZ, and therefore this is a benefit to which I attribute moderate weight.
39. Nonetheless, the economic benefits have to be balanced against any likely adverse effects on nearby residential occupiers, who are reasonably entitled to some peace and quiet, especially in the early hours of the morning. In this case I find the harm that would be caused to residents would outweigh any benefits arising from extending the opening hours.
40. Overall therefore, I conclude that the proposed extension to the opening hours of the seventh floor restaurant / bar until 01:30 (the following day) on Thursday, Friday and Saturday would adversely affect the living conditions of nearby residents due to additional noise and disturbance in the early hours of the morning. Consequently, the proposed extension of the opening hours would be contrary to Policies 7, 16 and 33 of the City of Westminster City Plan 2019 – 2040 (2021) (City Plan) which amongst other things, together seek to ensure that proposals will be neighbourly by protecting local environmental quality and do not adversely affect the quality of life of existing occupiers. Furthermore, this element of the appeal proposal is also considered to be contrary to paragraph 135(f) of the Framework which seeks to ensure developments provide a high standard of amenity for existing users.

Roof terrace (condition 22 and condition 23)

41. As mentioned earlier, the seventh-floor restaurant currently has two terrace areas. The smaller of these roof terraces is located towards the rear of the hotel and faces towards Livonia Street. The appellant states that this terrace measures 10.8sqm and due to its size would have a maximum capacity of 10no. people. Having visited and accessed this roof terrace during my site visit, I have no reason to dispute these figures.
42. Under the most recent S73 approval, condition 23 allows this roof terrace area to be used until 22:00 on any evening, and in addition condition 22 restricts the external door that provides access to this roof terrace area from being opened after 22:00. The appeal seeks to extend the use of the roof terrace area until 23:00 on any evening, and consequently also seeks to allow the external door that provides access to this terrace to be opened until 23:00.
43. The appellant's submission states that this roof terrace would be used by guests that smoke, and this would be better for nearby residents, and guests of the hotel, than the present situation where smokers must leave the building and stand on the pavement after 22:00, which is closer to nearby residential flats.
44. The appellant's submitted OMS includes measures that would be put in place in order to seek to manage behaviour and reduce noise levels on this terrace. Such measures include patrons not being able to take drinks out onto the roof

terrace after 22:00, and a security operative being present on the terrace between 22:00 – 23:00.

45. As mentioned earlier in this decision, the appellant has not provided any technical information by way of a noise report to demonstrate the existing noise levels in this area between 22:00 and 23:00. However, as a result of my observations on site and the evidence that has been presented to me it is apparent that there are drinking establishments in the immediate vicinity of the appeal site that are open until at least 23:00. Therefore, it is not unreasonable to conclude that there will be associated noise on the surrounding streets between 22:00 and 23:00 when patrons of the appeal site itself, and other drinking establishments in this area, visit and / or leave these establishments.
46. I acknowledge the concerns raised by an interested party that the rear roof terrace faces towards a bedroom window in their property, which has no soundproofing and will be open in the summer months, and that Livonia Street is a quiet street. However, I observed on my site visit that the roof terrace is set a significant distance from, and higher than, the existing residential properties that have elevations fronting onto Livonia Street. Furthermore, there are intervening buildings and roofs which partially screen the roof terrace from these residential properties.
47. In view of all the above, including the measures that are detailed within the OMS as to how the use of this terrace area will be managed, which can be secured by condition, the proposed variation of conditions 22 and 23 to allow the rear roof terrace area to be used and accessed until 23:00 in an evening would not have an adverse impact upon the quality of life of existing residents by way of noise and disturbance.
48. I conclude that the proposed variation of conditions 22 and 23 to allow the rear roof terrace at seventh floor level, and the external door that serves this roof terrace, to be accessed until 23:00 would not result in any unacceptable harm to the living conditions of nearby residents. Consequently, I find that the use of the rear roof terrace until 23:00 complies with Policies 7, 16 and 33 of the City Plan which amongst other things, together seek to ensure that proposals will be neighbourly by protecting local environmental quality and do not adversely affect the quality of life of existing occupiers. Furthermore, this element of the appeal proposal is also considered to accord with paragraph 135(f) of the Framework which seeks to ensure developments provide a high standard of amenity for existing users.

Other Matters

49. The appeal site is located within the Soho Conservation Area (CA) and in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
50. The significance of the CA, insofar as it relates to this appeal, in part derives from its vibrant character which is defined through both its built form which includes a dense street pattern with multiple layers of history, and its many varied uses and businesses.

51. The appeal site, being in commercial use with an active ground floor frontage, makes a positive contribution to the bustling character of the CA. The proposed variation of condition in respect of the hours of operation of the seventh-floor restaurant would not impact upon the appearance of the appeal property or the CA. The proposed extended use of the rear roof terrace by an additional hour would result in patrons being on the roof terrace for longer periods, however the visual impact of this upon the appearance of the CA would be minimal.
52. In terms of character, as mentioned above the CA is characterised by a wide variety of uses and the proposed variations of conditions would have a very limited impact upon how the character of the CA functions. The appeal proposal would therefore preserve the character and appearance of the CA and avoid harm to its significance.
53. The appeal site is located within the Soho Neighbourhood Plan area. Whilst not included within the reason for refusal the Council's submission refers to Policy 12 of the Soho Neighbourhood Plan (NP), albeit I acknowledge that the Council's submission does not appear to suggest that the appeal proposal would be in conflict with this policy. Nevertheless, having reviewed Policy 12 of the NP, it relates to proposals for new food uses, public houses, drinking establishments, takeaways and music venues. The appeal proposal seeks to vary the operation hours of an existing food / drinking establishment and thus this policy is not determinative in relation to the appeal scheme.
54. The previously approved planning applications at the appeal site included a Section 106 obligation (S106) in relation to off-site highway works and compliance with an Operational Management Plan. Both parties have confirmed that the highway works required by the S106 have now been completed and thus a S106 is no longer required with regard to this matter. Furthermore, both parties agree that any requirement in relation to the submission of, and future compliance with, an Operational Management Plan can now be secured by way of a planning condition rather than a S106.
55. Paragraph 55 of the Framework states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. In this instance, I am of the opinion that the requirement for the submission of, and future compliance with, an Operational Management Plan can be secured by way of a planning condition rather than a S106. As such, and in view of the above, a S106 is not required for the appeal proposal.

Conditions

56. I have varied conditions 22 (hours of opening of all external windows, rooflights and doors at seventh and eighth floor levels) and 23 (hours of use of seventh floor roof terrace), as numbered on approved S73 application 20/04766/FULL. In the interest of clarity, I have made some minor alterations to the suggested wording for condition 23 to make this condition more precise. However, my amended wording does not alter the fundamental purpose of the proposed variation sought by the appellant.
57. I have also varied conditions 3 (façade details), 14 (servicing management plan) and 24 (use and layout of entertainment spaces) as suggested by the Council. These conditions have been varied to reflect the most recently submitted details and documents that have been approved by way of discharge of condition applications since the previous S73 application (20/04766/FULL)

was granted. I have however made some alterations to the recommended wording of these conditions, including the removal of the suggested tailpiece wording at the end of these condition as I consider that this suggested wording was not precise and therefore would not meet the conditions test.

58. In addition, and as referred to above, I have added a condition (26) which requires a new Operational Management Plan to be submitted to and approved in writing by the Council, prior to the seventh-floor rear roof terrace being used after 22:00, as approved under amended condition 23. I acknowledge that the appellant has submitted an Operational Management Statement with the appeal proposal, however this document refers to management practices that relate to elements of the appeal proposal that I have found to be unacceptable. As such, a new and revised Operational Management Plan is required in order to protect the living conditions of nearby occupiers of residential properties. This additional condition is therefore considered to be both reasonable and necessary.
59. I have not been provided with copies of all the approved drawings that form part of this appeal proposal. Therefore, I have included all the drawing numbers referred to on the refused decision notice that is subject of this appeal. This list appears to include all the drawings that have been approved as part of the various applications that have been determined in relation to the appeal proposal and I have no reason to doubt that these drawing numbers are not correct.
60. The Planning Guidance makes it clear that decision notices for the grant of planning permission under S73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have limited information before me about the status of the other conditions imposed on the previous planning permission (20/04766/FULL), I have re-imposed them all as I consider them to be relevant, reasonable and necessary. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

61. For the reasons given above, I conclude that the proposed variation of condition 8 to allow for an extension to the hours of operation of the seventh-floor restaurant / bar would adversely affect the living conditions of occupiers of nearby residential properties due to additional noise and disturbance in the early hours of the morning. However, I find that the proposed variation of conditions 22 and 23 to allow access to, and the use of, the seventh-floor rear roof terrace until 23:00 would not result in any unacceptable harm to the living conditions of nearby residents.
62. As such, the appeal is allowed in part and dismissed in part.

R Major

INSPECTOR

SCHEDULE OF CONDITIONS

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.

Drawing Number List:

21/08143/ADFULL - PL(00)102 REV B, PL(00)103 REV B, PL(00)110 REV C, PL(00)111 REV F

21/08142/NMA - Covering Letter dated 25 November 2021.

21/04006/ADFULL - 20-24 BROADWICK STREET Servicing Management Plan dated June 2021

21/00852/ADFULL - AA[21]001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012; AL[21] 001, 002, 003, 004, 005, 006

20/04766/FULL - PL(00)103 RevC, PL(00)110 RevC, PL(00)111 RevE, PL(00)200 RevH, PL(00)201 RevF, PL(00)300 RevE, PL(00)301 RevG, PL(00)302 RevF, PL(00)303 RevG.

19/07554/FULL - PL(00)100 A, PL(00)101 A, PL(00)102 A, PL(00)103 A, PL(00)104, PL(00)105, PL(00)106, PL(00)107, PL(00)108, PL(00)109 A, PL(00)110 A, PL(00)111 C, PL(00)112 E, PL(00)200 F, PL(00)201 E, PL(00)300 C, PL(00)301 C, PL(00)302 D, PL(00)303 E.

18/08538/FULL - PL110 RevA, PL111 RevA, PL112 RevA, PL113 RevA, PL210, PL300, Structural Methodology Statement Addendum.

16/09526/FULL - Structural Methodology Statement (1512 - 27th September 2016)), Construction Management Plan (September 2016), Hotel Operational Management Plan, Servicing Management Plan (September 2016), Energy Strategy Report (September 2016), Acoustic Report (16360-R01-B), Transport Statement (September 2016), BREEAM Pre- Assessment (September 2016), Drawings: A-HW-525-03 Rev02, A-HW-505-01 Rev02, A-HW-501-01 Rev02, A-HW-504-01 Rev02, A-HW-500-01 Rev02, A-HW-525-02 Rev02, A-HW-5B1-01 Rev02, A-HW-502-01 Rev02, A-HW-507-01 Rev02, A-HW-506-01 Rev02, A-HW-525-01 Rev02, A-HW-503-01 Rev02, A-HW-525-04 Rev02, A-HW-200-01 Rev06, A-HW-200-02 Rev05, A-HW-250-03 Rev08, A-HW-109-01 Rev09, A-HW-250- 01 Rev08, A-HW-250-04 Rev02, A-HW-250-02 Rev07, A-HW-250-03 Rev08, A-HW- 1B3-01 Rev11, A-HW-1B2-01 Rev12, A-HW-1B1-01 Rev11, A-HW-101-01 Rev10, AHW- 106-01 Rev10, A-HW-102-01 Rev05, A-HW-103-01 Rev05, A-HW-104-01 Rev10, A-HW-105-01 Rev10, A-HW-107-01 Rev10, A-HW-108-01 Rev11, A-HW-109-01 Rev09, A-HW-100-01 Rev12.

2. You must carry out the development in accordance with the samples of the facing materials, details of which were approved by the City Council as Local Planning Authority on 16th October 2020 under reference 20/05066/ADFULL

or in accordance with any other details as submitted to and approved by the City Council.

3. The development hereby approved shall be carried out in accordance with the detailed drawings of the typical façade details which were approved by the City Council as the Local Planning Authority on 3rd March 2021 under planning reference 21/00852/ADFULL.
4. You must carry out the development in accordance with the details approved by the City Council as Local Planning Authority on 24th May 2018 under reference 18/02922/ADFULL or in accordance with any other details to ensure that demolition on the site will only occur immediately prior to development of the new building as submitted to and approved by the City Council.
5. You must not carry out demolition work unless it is part of the complete development of the site. You must carry out the demolition and development without interruption and according to the drawings we have approved. (C29BB)
6. 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:
 - between 08.00 and 18.00 Monday to Friday;
 - between 08.00 and 13.00 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.

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

- between 08.00 and 18.00 Monday to Friday; and,
- 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).

7. You must not allow more than 370 customers within the seventh and eighth floor restaurant, bar and terraces areas at any one time.
8. Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain within the seventh floor restaurant premises except between the following hours:
 - 07:00 till 00:00 (midnight) Sunday to Thursday, and,
 - 07:00 till 00:30 (the following morning) Friday and Saturday.
9. Customers who are not residents of the hotel, or their guests, shall not be allowed access to or remain within the entertainment areas at lower ground, ground and eighth floor levels except between the following hours:
 - 08:00 till 00:00 (midnight) Sunday to Thursday, and
 - 08:00 till 00:30 (the following morning) Friday and Saturday.

10. You must hang all doors or gates so that they do not open over or across the road or pavement.
11. You must provide each cycle parking space as approved by the City Council as Local Planning Authority on 16th October 2020 under reference 20/05066/ADFULL or in accordance with any other details as submitted to and approved by the City Council.
12. Before occupation of the hotel, you must provide the separate stores for waste and materials for recycling shown on the approved drawings. You must clearly mark them and make them available at all times to everyone using the premises.
13. You must apply to us for approval of details of how waste is going to be stored within the retail accommodation and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the premises.
14. All servicing of the development hereby approved shall be carried out in accordance with the approved Servicing Management Plan which was approved by the City Council as the Local Planning Authority on 15th July 2021 under planning reference 21/04006/ADFULL.
15. The 'Back of House and Temporary Holding Area' marked on drawing PL(00)103 RevA shall be used for holding deliveries and refuse & recycling bins associated with the hotel use and no other purpose.
16. 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 0.2m/s (1.75) 8 hour nighttime as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)
17. (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 in writing 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 in writing 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 written 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 LA90, 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.

18. You must carry out the development in accordance with the details approved by the City Council as Local Planning Authority on 23rd June 2020 under reference 20/03548/ADFULL or in accordance with any other details as

submitted to and approved by the City Council to ensure that the noise levels from the plant operation accord with the requirements detailed in condition 17 of this consent.

19. You must carry out the development in accordance with the detailed drawings and bio-diversity management plan in relation to the green roof, details of which were approved by the City Council as Local Planning Authority on 16th October 2020 under reference 20/05066/ADFULL or in accordance with any other details as submitted to and approved by the City Council.
20. You must install any required acoustic mitigation measures at the same time as the plant is installed and maintain it in situ for as long as the plant remains in place.
21. You must carry out the development in accordance with the details approved by the City Council as Local Planning Authority on 31st May 2019 under reference 19/03745/ADFULL or in accordance with any other details to ensure that the development is bound by the council's Code of Construction Practice as submitted to and approved by the City Council.
22. The openable elements at seventh and eighth floor levels, including all external windows, rooflights and doors, shall be fixed shut between 22:00 and 07:00 every day, with the exception of the door to the rear seventh floor terrace which can be used between the hours of 07:00 and 23:00 daily.
23. The rear seventh floor terrace area facing north can only be used between the hours of 07:00 and 23:00. The larger terrace area facing Broadwick Street to the south and Berwick Street to the east can only be used between the hours of 07:00 and 22:00. The roof terrace areas cannot be used outside of these hours other than in the case of an emergency.
24. The development hereby approved shall operate in accordance with the details showing the use and layout of the entertainment spaces at lower ground, ground, seventh and eighth floor levels, including the bar, seating and kitchen areas, which were approved by the City Council as the Local Planning Authority on 6th December 2021 under planning reference 21/08143/ADFULL.
25. You must not allow more than 130 customers within the lower ground and ground floor areas of the hotel at any one time.
26. Prior to the rear seventh floor roof terrace area being first used after 22:00, an updated Operational Management Plan shall be first submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall operate in complete accordance with the duly approved Operational Management Plan thereafter.

***** END OF SCHEDULE*****