

**Planning and Rights of Way Panel 2<sup>nd</sup> August 2022**  
**Planning Application Report of the Head of Green City & Infrastructure**

<b>Application address:</b> 37-39 Oxford Street, Southampton			
<b>Proposed development:</b> Change of use of the existing building from restaurant (Use Class E) to drinking establishment/restaurant (Sui Generis) with associated external alterations to the façade and erection of a 3rd floor with roof terrace bar			
<b>Application number:</b>	22/00761/FUL	<b>Application type:</b>	FUL
<b>Case officer:</b>	Stuart Brooks	<b>Public speaking time:</b>	5 minutes
<b>Last date for determination:</b>	15.07.2022	<b>Ward:</b>	Bargate
<b>Reason for Panel Referral:</b>	Five or more letters of support have been received contrary to the officer recommendation. Five or more objections have also been received.	<b>Ward Councillors:</b>	Cllr Bogle Cllr Noon Cllr Paffey
<b>Referred to Panel by:</b>	n/a	<b>Reason:</b>	n/a
<b>Applicant:</b> Mrs Jafari		<b>Agent:</b> Kode Architecture	

<b>Recommendation Summary</b>	<b>Refuse</b>
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<b>Community Infrastructure Levy Liable</b>	<b>Yes (if approved)</b>
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<b>Appendix attached</b>			
1	Development Plan Policies	2	Refusal Medbar, 50 Oxford Street
3	Premises License		

**Recommendation in Full**

**Refuse**

1. Reason for Refusal: Impact on Public Safety

The proposed bar and restaurant use by reason of its nature and capacity would lead to an intensification of premises in the area led by wet trade which would adversely harm community safety and lead to noise disturbance to local residents. The Police have raised concerns with the cumulative impact from the proliferation of such night time uses leading to public nuisance and crime incidents in the Oxford Street area. It is, therefore, considered that this proposal would be contrary to saved policies SDP1(i), SDP16 and CLT15 of the Local Plan Review (March 2015 amended) and policy AP8 of the City Centre Action Plan (March 2015 amended) as supported by the relevant crime and safety objectives of the NPPF (2021).

## 2. Reason for Refusal: Noise Disturbance

The significant level of noise disturbance associated with the intensity, scale and nature of the proposed restaurant and bar use and the associated use of the roof terrace bar is considered to adversely affect the amenity of nearby residents. There is a lack of noise assessment submitted to fully assess the noise impact, and the effectiveness of potential options available for mitigation measures, although it is likely given the close-knit arrangement of buildings in Oxford St that the existing amenity enjoyed by neighbours will be harmed as a consequence of public use of the proposed roof terrace (even with planning conditions restricting hours). This would be contrary to saved policies SDP1(i), SDP16 and REI7 of the Local Plan Review (March 2015 amended) as supported by the relevant amenity objectives of the NPPF (2021).

## 3. Reason for Refusal: S106 contributions not secured

In the absence of a completed Section 106 legal agreement to support the development the application fails to mitigate against its wider direct impacts in the following areas and is, therefore, contrary to Policy CS25 of the adopted LDF Core Strategy (2015):

- a) Late Night Community Safety Contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015).
- b) CCTV contribution to address the wider implications of late night uses within the city centre in accordance with 6.5 of the Developer Contributions Supplementary Planning Document (2013) as supported by Policy AP8 of the adopted City Centre Action Plan (2015).

## **1. The site and its context**

- 1.1 The site comprises a 3-storey building on the southern side of Oxford Street which is located within the Oxford Street Conservation Area. The building itself is vacant (former Kuti's restaurant). Oxford Street is designated as an evening zone as it contains a concentration of night time food and drink uses. There are residential uses nearby including adjoining flats above no. 40 (Max's Bar and Brasserie), whilst there are flats to the rear in Queens Terrace and flats on the opposite side of Oxford Street (no. 33, 34 & 36) and the mews properties leading off into John Street and Latimer Street.

## **2. Proposal**

- 2.1 Planning permission is sought to change the use of the existing restaurant to operate as a mix of drinking establishment and restaurant. A roof terrace bar is also proposed on the extended third floor at the front overlooking Oxford Street, with seating capacity outside shown initially for 34 patrons and 53sqm bar area with bi-fold opening doors linking with the outdoor terrace. The existing front openings in the parapet façade at the roof terrace level will be filled in with fixed glazing and louvres. The existing extraction flue to the rear will be extended vertically taking account of the upward extension.
- 2.2 The applicant has since agreed to amend the proposed opening hours of the premises to close at midnight. The roof terrace will operate under the same

hours as the premises.

### **3. Relevant Planning Policy**

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 3.3 The Council will use its planning and licensing functions to promote a night time economy with a range of activities that contribute to a vibrant city centre whilst minimising potential disturbance to nearby residential areas. The permitted closing hours guidance of midnight closing in policy AP8 is subject to meeting other policies, particularly those to protect residential amenity.
- 3.4 Paragraph 4.70 indicates:- There are however challenges in managing people using night clubs, bars and pubs at night in order to reduce the noise and disruption to people living in and close to the city centre (to address potentially negative impacts on health and increased crime raised in the Sustainability Appraisal SA/SEA).

The Sustainability Appraisal SA/SEA (background evidence supporting the CCAP) indicates:- There are uncertain effects on health (improve the health and well-being of the population and reduce inequalities in health) as there is potential for noise disturbance to residents and it should be ensured that this is kept to a minimum. In addition, crime associated with late night uses, possibly connected to the consumption of alcohol should be considered. It is felt that planning conditions may be utilised to reduce and restrict harmful effects from late night uses.

- 3.5 The governments planning practise guidance in relation to town centre uses states:- Evening and night time activities have the potential to increase economic activity within town centres and provide additional employment opportunities. They can allow town centres to diversify and help develop their unique brand and offer services beyond retail. In fostering such activities, local authorities will also need to consider and address any wider impacts in relation to crime, noise and security (Paragraph: 001 Reference ID: 2b-001-20190722).
- 3.6 With regards to assessing noise impact for night time uses, the practise guidance states:- some commercial developments including restaurants, hot

food takeaways, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity (Paragraph: 006 Reference ID: 30-006-20190722).

#### **4. Relevant Planning History**

- 4.1 There is no relevant planning history for this site. It should be noted that an application for a roof terrace bar was refused last year by the planning panel at 50 Oxford Street (Medbar). The details of this application are set out in **Appendix 2** of this report for comparison. The original planning permission granted for the restaurant in 1993 (ref no. 930769/E) imposed hours of use to operate till 09:00 to 00:30 Monday to Saturday and 10:00 to 22:30 Sundays.

#### **5. Consultation Responses and Notification Representations**

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, placing a press advertisement **17.06.2022** and erecting a site notice **10.06.2022**. At the time of writing the report **21** representations (6 objections and 14 support) have been received from surrounding residents with an objection from ward Cllr Bogle. The following is a summary of the points raised:

##### Comments in SUPPORT

- 5.2 ***The proposal would revitalise the local economy and street scene/conservation area by bringing a vacant unit back into use. Well designed and respects the conservation area. The proposed use will be appropriate for an entertainment area and complement the mix of uses and vibrancy/atmosphere of Oxford Street.***

##### Response

The importance of supporting the night time economy in the interests of creating a vibrant city centre is recognised, and form a material consideration in the Panel's deliberations. However, the adverse impacts in relation to crime and disturbance given the nature and capacity of the venue are considered to outweigh the economic and social benefits of the change of use and greater weight has been afforded the comments from the Police.

- 5.3 ***The applicant manages a vibrant premises on the corner of Oxford Street and Latimer Street.***

##### Response

The merits of the application should be judged on the planning and land use impacts of the site itself. The business could be sold and relet many times following a consent as the permission runs with the land.

- 5.4 ***The roof terrace will not cause noise disturbance. The majority of the premises have outdoor terraces at the front with opening hours beyond midnight.***

##### Response

Officers, supported by the Environmental Health team, consider that it is likely there will be undue noise disturbance caused by the higher level outdoor terrace, whilst there is a lack of noise assessment submitted to fully assess the impact of the proposed use.

Comments in OBJECTION

- 5.5 ***Local residents and businesses were not properly notified about the application. The site notice was removed during the consultation period.***

**Response**

The Council has exceeded its statutory duty in publicly consulting immediate neighbours and posting a site notice nearby the site for public viewing. Only one means of notification is legally required – either letter or site notice. The removal of the site notice is outside of the Council's control. The Council also advertised the application in the local newspaper. The Panel is free to determine the application.

- 5.6 ***The upward extension is out of character with the local area.***

**Response**

The Conservation Officer considers that the extension would not adversely harm the historic setting and character of the local area, whilst the set back of the upward extension from the front wall minimises its over-dominance in appearance in relation to the host building.

- 5.7 ***Noise disturbance impact to local residents from the roof terrace bar use and noise disturbance through the party wall to the occupants of Royal Mail House. With the potential for more intensive use of the premises, which could attract patron numbers in excess of all other Oxford Street establishments, there will be a greater disturbance impact to local residents from the dispersal at closing time.***

**Response**

The Council's Environmental Health team consider there is likely to be undue noise disturbance caused by the higher level outdoor terrace, whilst there is a lack of noise assessment submitted to fully assess the impact of the proposed use.

- 5.8 ***The two-metre parapet referred to would not remove the dangers of items being thrown over; alcohol consumption can promote irresponsible behaviour.***

**Response**

Such concerns relate to premises management and the planning system has to make decisions based on reasonable behaviour.

- 5.9 ***The business will imbalance the impact between supporting the established night time economy and protecting the amenity of local residents.***

**Response**

Agreed. The negative amenity and public nuisance impact will outweigh the positive benefits to the night time economy.

**Consultation Responses**

5.10

<b>Consultee</b>	<b>Comments</b>
<p>SCC Licensing</p>	<p><b>Objection</b>            I am the licensing manager for Southampton City Council and have been in this role for ten years, prior to this I was a police officer for thirty years, the majority of which was served covering Southampton Central which includes Oxford Street. I retired from the police as an Inspector and had responsibility for the city centre area and licensing for the south west of Hampshire.</p> <p>Oxford Street at the Eastern end has a good number of food led venues which are complimented by some bars that are more wet led. The western half and surrounding roads are predominantly residential including the Salvation Army hostel. There have been a few noise related complaints over the years but generally the mix of use has worked well. In recent years we have seen a decrease in food being the lead at venues, instead some have become wet led venues with loud music. This is changing the environment in the street. The police have also noticed an increase in crime and disorder, so much so the area has a dedicated patrol on evenings when they resource the night time economy.</p> <p>Another premises moving away from food to wet led is, in my opinion, likely to significantly change the atmosphere of the street, particularly at weekends. This change is likely to involve loud music emanating from premises disturbing the more traditional venues offering outdoor dining and increase in alcohol related nuisance and crime.</p>
<p>Hampshire Constabulary</p>	<p><b>Objection</b>            In relation to the proposed planning changes afoot I have had the opportunity to look into crime data for the area of Oxford St &amp; Terminus Terrace area only thus far. I could extend the search wider but for the time being I am satisfied that they give a good picture of what is going on in the area. The figures created will only cover what the Police call NTE offences, these are collected from the following criteria:</p> <ol style="list-style-type: none"> <li>1. Crimes occurring between 1900-0700 daily              Any 2 of the following 4:</li> <li>2. Link to Licensed Premises</li> <li>3. Drugs or Alcohol Related</li> </ol>

	<p>4. A relevant crime or ASB 5. Known NTE location</p> <p>2018 – 60 incidents 2019 – 82 incidents 2020 – 30 incidents – (Covid) 2021 – 78 incidents – (Covid – trading July to December) 2022 – 71 incidents until 07/07/22</p> <p>These are not linked to any particular licensed premises but encompass the area stated above. What is interesting is clearly the figure is on the increase and this as after the opening of a number of premises such as One Oxford, Tropic, Pam Pam Pizza, Mail Room, OX47, Rita’s etc. etc. Allowing the change of use to increase wet trade in the area will have a detrimental effect on the area, we have already seen large scale disorder in the street during the latter part of last summer that included throwing of tables and chairs, hardly the behaviour expected from the European restaurant culture the street is trying to portray itself as.</p>
Environmental Health	<p>Objection.</p> <p>The impact of noise disturbance including party wall transfer and the use of the roof terrace bar is likely to lead to undue noise disturbance to nearby residents. There is a lack of noise assessment submitted with the application to demonstrate how the noise impact of the premises can be adequately mitigate and managed.</p>
Ward Cllr Bogle	<p>Objection</p> <p>I welcome this long-vacant building coming back into use but am concerned about the addition of another drinking-led establishment in Oxford Street (wet-led seems to be the licensing term) that might put more pressure on very scarce police resources. I object to the creation of a roof-top bar and extension as am concerned about noise impact to residents nearby. If a roof-top terrace bar is permitted, it would need to be strictly limited in terms of hours of opening. (10pm latest - similar to Revolution for example). Oxford Street is a lovely street with a positive mix of uses - I would prefer this remained as a restaurant with a bar rather than a bar as is a very large space that could change the character of the local night time economy.</p>

City of Southampton Society	<p><b>Objection</b></p> <p>We approve of the proposed changes to the front of the building and, in so far as it cannot be seen from street level, we do not object to the construction of additional facilities on the roof. However we are concerned about use of the roof space as an open-air bar in view of the potential of noise nuisance. We are mindful that on Friday and Saturday evenings the volume of noise generated by the existing bars and restaurants in Oxford Street is significant, even at mid-night. We are also concerned that objects (or people) could fall from the roof top onto the pavement/tables below. Prior to giving our approval we would require a technical noise assessment confirming that any noise generated at roof level would not spread further than noise generated at ground level. Should planning permission be granted we would require a condition that strict control is maintained to ensure that closing times, possibly at an earlier level, are respected and that customers vacate the premises in a timely manner.</p>
Sustainability (Flood Risk)	<p>Part of the site is located in Environment Agency Flood Zone 2 for medium flood risk. Over the lifetime of the development (by 2075) the site moves into Flood Zone 3, land classified as having a greater than 0.5% chance of flooding in any given year. In line with the National Planning Policy Framework, any development application located within Flood Zone 2 or 3 should be accompanied by a site-specific Flood Risk Assessment, which does not seem to be included with this application. The proposed change of use (from a restaurant to a 'drinking establishment/ restaurant') changes the vulnerability classification of the site from 'less vulnerable' to 'more vulnerable'. Further information is required (a Flood Risk Assessment and Flood Plan) for the applicant to illustrate how the development will be made safe for its lifetime and for the planning authority to determine this application. I would recommend applying an objection to the application until additional information is submitted and approved by the Lead Local Flood Authority.</p> <p><u><i>Officer Response</i></u></p> <p><i>It is not considered that the change of use will significantly increase vulnerability and safety of the users from flood risk and these concerns have not led to a further reason for refusal</i></p>
Conservation Officer	No objection



## **6.0 Planning Consideration Key Issues**

6.1 The key issues for consideration in the determination of this planning application are:

- The principle of development;
- Design and effect on character and heritage;
- Residential amenity and community safety and;
- Mitigation of direct local impacts.

### **6.2 Principle of Development**

6.2.1 The application site is located within an area designated as an evening zone. Therefore, the scheme needs to be considered against Policy AP8 of the City Centre Action Plan which seeks to control the location and hours of late night venues in order to promote a vibrant night time economy whilst minimising disturbance on nearby residents. Policy AP8 permits a latest opening time of midnight for late night venues within Oxford Street. The proposed bar/restaurant use seeks opening hours until midnight.

6.2.2 However, the presumption in favour of such development also relies on the proposal satisfying other policies, *'particularly those to protect residential amenity and retail areas'*. The creation of any new bars should not be to the detriment of the amenities of any neighbouring residential uses for example by causing undue noise and disturbance.

6.2.3 The proposal would also need comply with the requirements of saved policy REI7 of the Local Plan Review. This policy relates to new food or drink uses. Whilst promoting such uses within the city the policy also seeks to protect the amenities of neighbouring residential uses from undue noise or other forms of nuisance from food and drink uses.

6.2.4 Furthermore, saved Policy SDP1(i) of the Local Plan Review states, amongst other things, that planning permission will only be granted for development which does not unacceptably affect the health, safety and amenity of the city and its citizens.

6.2.5 Core Strategy Policy CS13 requires development to 'respond positively and integrate with its local surroundings' and 'impact positively on health, safety and amenity of the city and its citizens'.

6.2.6 Whilst the principle of the use and rooftop development with the conservation area can be supported, it is considered that the detailed proposals will result in harm to existing residential amenity and safety, which cannot be mitigated for the reasons set out later in this report.

6.2.7 As stated above the proposal is located within an evening zone. As such similar mixed restaurant and bar uses are present within the vicinity. Policy AP8 of the City Centre Action Plan does permit such uses within this area up to an opening time of midnight. Despite the objections from SCC licencing and the Police regarding the growing culture and imbalance of 'wet' led premises

in Oxford Street, the night time economy policy does not distinguish between the type of entertainment use it permits. So whilst Oxford Street is more associated with a restaurant and dining culture, late night entertainment uses such as bars of this scale wouldn't be uncharacteristic of the evening zone policy. Such uses are predominately located at street level rather than the upper floors or rooftops. It does not restrict such uses to the ground floor only, however, the policy does seek to preserve the amenity of neighbouring occupiers that will be discussed later in this report. So whilst the principle of a new bar is accepted the impacts arising need further consideration.

### 6.3 Design and effect on character and heritage

6.3.1 The application site is located with the Oxford Street Conservation Area nearby other heritage assets including grade II listed buildings. The statutory tests for the proposal, as set out in section 72 (Conservation Areas) of the Planning (Listed Building and Conservation Areas) Act 1990, are: whether the proposal would preserve or enhance the character or appearance of the Conservation Area. The NPPF requires the proposal to be assessed in terms of the impact on the significance of the building having regard to:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and;
- The desirability of new development making a positive contribution to local character and distinctiveness.

6.3.2 In accordance with para 189 of the NPPF, an assessment of the significance of the nearby heritage assets is set out in the Council's Conservation Area Appraisal. With respect to the Oxford Street Conservation Area Appraisal (OSCAA) the main aim is as follows; 'Designation of the Oxford Street Conservation Area does not prevent change from taking place. Rather it helps to manage change in a way that enhances the area, and ensures that new development does not harm, overwhelm or destroy the special qualities found within it, by giving additional controls over the demolition of buildings, minor developments and the loss of trees.'

6.3.3 Policy HE1 of the City of Southampton Local Plan Review states permission will only be granted if the proposal meets the following; (i) must 'preserve or enhance' the character and appearance of the conservation area, having regard to the Conservation Area Character Appraisal where available.

6.3.4 The Conservation Officer considers that the existing property is currently vacant and is a modern building of no historic merit and contributes little to the overall character or appearance of Oxford Street Conservation Area. Consequently, refreshing the external facade would improve upon the existing arrangement whilst setting the position of the proposed roof top bar back into the plot and behind the interceding rooflines of the neighbouring buildings would ensure that this element would be relatively hidden from the public realm, especially from ground floor level. Similarly, the installation would not adversely impact, nor dominate, the setting of the adjacent listed buildings.

6.3.5 As such, the change of use proposals would be considered to have a neutral impact on the physical characteristics of the street scene, and the setting of the nearby listed buildings, and would preserve the character or appearance of this part of the conservation area.

#### 6.4 Residential amenity and community safety

6.4.1 The applicant is seeking a mixed use, with the introduction of a bar use so that customers need not attend the premises purely for dining. Following an amendment by the applicant the premises and the roof terrace will operate until midnight. The applicant has said it would work with the Council to accept an earlier closing hour for the roof terrace, however, as explained below there are fundamental amenity concerns regardless of the hours of use. The vicinity of Oxford Street is unique as an evening zone in the sense that the night time uses are nestled amongst a residential community, so the Council has to carefully consider the amenity impact of the use with regards to its nature and capacity of the venue. As it can be seen from the comments made by SCC Licensing and Police, there is a greater potential for adverse impact to community safety from public nuisance and disorder issues associated with a 'wet' led premises. There particular concerns are this is likely to significantly change the atmosphere of the street, particularly at weekends. This change is likely to involve loud music emanating from premises disturbing the more traditional venues offering outdoor dining and increase in alcohol related nuisance and crime. The police have also noticed an increase in crime and disorder, so much so the area has a dedicated patrol on evenings when they resource the night time economy. The Police have commented that there has been an increasing trend of crime offences within Oxford Street area in past 4 years as further wet trade businesses have started trading.

6.4.2 The SCC licensing team granted a variation to the existing Kuti's license earlier this year in March. The applicant (same as this application) requested removal of the condition restricting the alcohol only to served at tables. The license would have to be subsequently amended to include the use of the proposed roof terrace. A copy of the license can be found in **Appendix 3**. The capacity of the patrons is not controlled by the license. As an everyday comparison, the SCC Licensing manager recently witnessed Mailrooms with approximately 250 patrons sitting down, so there is greater capacity at the application site for patrons to crowd inside, over 3 floors (including the roof terrace – albeit 1 floor is restricted for office use associated with the business), who are no longer bound by the premises license to be served alcohol at the restaurant table. It is should be noted that the issuing of the current premises license does not give less weight to their community safety objection which is backed up by the Police concerns with regards to the cumulative impact associated with public nuisance and crime from the proliferation of wet led uses in the Oxford Street area. The legislative functions of planning and licensing have different remits, so the planning assessment is entitled to assess the wider and cumulative impacts from a over-concentration of land uses.

- 6.4.3 This site-specific impact can be mitigated to an extent by Section 106 financial contributions secured by the applicant towards measures to improve community safety and CCTV, however, the Police and SCC licensing have identified a cumulative impact associated with a wet use of this scale and nature and, therefore, introducing this type of use would be harmful to community safety in the local area based on the evidence for the greater potential for public nuisance.
- 6.4.4 Turning to the SCC Environmental Health concerns regarding noise disturbance associated with the change of use to a wet led entertainment venue and creation of the roof terrace bar, it is considered that the noise impact from the proposed roof terrace bar on the newly extended floor and the internal party wall noise transfer on lower floors is likely to adversely affect the residential amenity of nearby occupiers. The closest residential properties are the neighbouring flats at 40 Oxford Street, with flats opposite the street as well and residential properties in Latimer Street and John Street. There will be element of dining associated with the business as well as drinking and entertainment use, however, once a mixed use is granted there are limited planning controls to prevent the land use becoming pre-dominantly a bar and entertainment venue.
- 6.4.5 Given the local context, the local residents and business users in the Oxford Street area will typically experience ambient background noise from the existing restaurant and bar premises and nearby road traffic during the day and night time, however, the introduction of the proposed use should avoid subjecting existing residents and occupiers to further noise disturbance above those current levels. The roof terrace bar can accommodate a large gathering of patrons and the open bi-fold doors would allow the noise of amplified music to spill out across the street at high level. It is noted that there are mitigation and management options such as to limit music volume and fill in the façade openings with glazing and louvres on the Oxford Street frontage, however, there is a lack of noise assessment submitted to enable the noise impact to be fully assessed with regards to the overall capacity and scale of the roof terrace bar use and to evaluate the effectiveness the of mitigation measures options available. Closing the roof terrace any earlier in the evening would not be sufficient in itself to alleviate the adverse harm caused by noise disturbance affecting nearby residents especially including the occupants of the flats immediately next doors at 40 Oxford Street. This view is consistent with the refusal of the roof terrace at Medbar 50 Oxford Street (**see Appendix 2**). Whilst residents can choose to buy into living in a noisy night time city centre environment like the Oxford Street area, the Council has a duty to safeguard their amenity from additional noise disturbance. The applicant has agreed to adjust the closing time to midnight to minimise the disturbance caused by patrons dispersing after closing time in accordance with policy AP8, however, this does not mitigate the other noise and community safety issues.
- 6.4.6 As such, the significant level of noise disturbance associated with the intensity, scale and nature of the proposed restaurant and bar use and the associated use of the roof terrace bar is considered to adversely affect the amenity of

nearby residents. This would be contrary to the objectives of saved policies SDP1(i), SDP16 and REI7 of the Local Plan Review to safeguard amenity of the local residents.

6.4.7 The vertical massing of the additional storey will not project any further the rear wall of the main building and the existing flue will be shortened on the same alignment. As such, the outlook and light of existing occupiers will not be adversely affected. There will be no overlooking from the extension at the rear towards Queens Terrace, whilst it is proposed to use infill louvres to screen overlooking from the roof terrace across Oxford Street.

#### 6.5 Mitigation of direct local impacts

6.5.1 As this application sits within the city centre and is opening past 10pm and the proposal would lead to a change of use and intensification of patrons, it triggers the Late Night Community Safety Facilities obligation, which will likely attract a financial contribution to contribute to community safety measures, such as Late Night Bus, CCTV, street cleansing etc.

6.5.2 In order to secure these monies a Section 106 Agreement (S106) is required, which will include the above obligation and a private CCTV System obligation.

6.5.3 The applicant has indicated that they will be willing to enter into a legal agreement to secure the necessary contributions, however, as the application is recommended for refusal this will not be possible (unless the Panel determine that the scheme warrants planning permission).

### 7. Summary

7.1 In summary, the Panel are being asked to consider the impacts of changing a restaurant use to a mixed use including late night drinking. The negative impacts identified to amenity and safety of the Oxford Street area will significantly outweigh the positive benefits to support the night time economy and the vibrancy of Oxford Street in bringing the vacant building back into use and increasing the range of entertainment facilities. Whilst the proposed external changes are acceptable from a design perspective, they facilitate a use that is not supported for the reasons set out in this report.

### 8. Conclusion

8.1 It is recommended that planning permission should not be granted for the reasons set out above.

#### Local Government (Access to Information) Act 1985

#### Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (d) (e) (f) (g) 4. (g) (mm) 6. (a) (b)

**Stuart Brooks** for 02.08.22 PROW Panel

**Application 22/00761/FUL**

**APPENDIX 1**

**POLICY CONTEXT**

Core Strategy - (as amended 2015)

CS1 City Centre Approach

CS3 Promoting Successful Places

CS13 Fundamentals of Design

CS14 Historic Environment

CS25 The Delivery of Infrastructure and Developer Contribution

City of Southampton Local Plan Review – (as amended 2015)

SDP1 Quality of Development

SDP4 Development Access

SDP10 Safety & Security

SDP11 Accessibility & Movement

SDP16 Noise

CLT 15 Night time uses

HE1 New Development in Conservation Areas

HE2 Demolition in Conservation Areas

REI7 Food and Drink Uses (Classes A3, A4 and A5)

City Centre Action Plan - March 2015

AP8 The Night time economy

AP16 Design

Supplementary Planning Guidance

Planning Obligations (Adopted - September 2013)

Other Relevant Guidance

The National Planning Policy Framework (2021)

The Southampton Community Infrastructure Levy Charging Schedule (September 2013)