

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 04 April 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	Lower Ground Floor, Basement And Part Ground Floor Criterion Building , 225-229 Piccadilly, London, W1J 9HR		
Proposal	Use of part ground and part lower ground floors for retail, café and restaurant purposes (sui generis). Creation of new entrances and new shopfronts on both Coventry Street and Haymarket frontages and associated works, including lighting.		
Agent	Savills		
On behalf of	Hard Rock International		
Registered Number	17/00354/FULL	Date amended/ completed	16 January 2017
Date Application Received	16 January 2017		
Historic Building Grade	Unlisted		
Conservation Area	Regent Street		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The site is a mixed use building located on the corner of Coventry Street and Haymarket, to the east of Piccadilly Circus. The application site is currently used for retail purposes (Class A1). Permission is sought for the use of the part ground and part lower ground floors for retail, café and restaurant purposes (sui generis). New entrances are proposed on the Coventry Street and Haymarket frontages, together with the installation of shopfronts and external lighting.

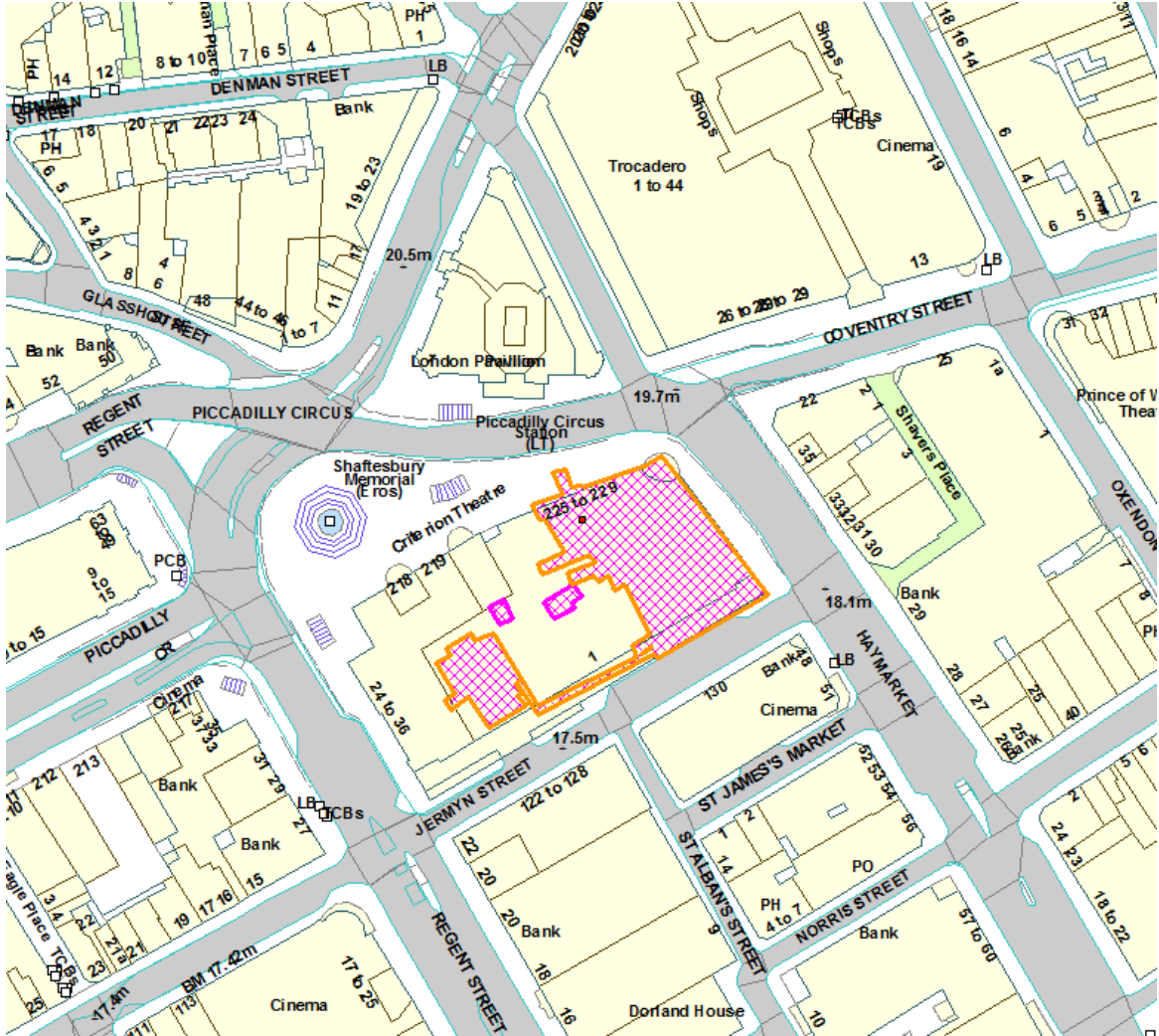
The key issues for consideration are:

- The loss of retail floorspace;
- The impact of the proposed large entertainment use on the amenity of neighbouring residential properties and the West End Stress Area; and
- The impact of the alterations to the shopfront and proposed lighting scheme on the conservation area.

The loss of retail floorspace in this location is regrettable. However, an element of retail floorspace will be provided at ground floor level. The proposed use is considered acceptable and complies with the

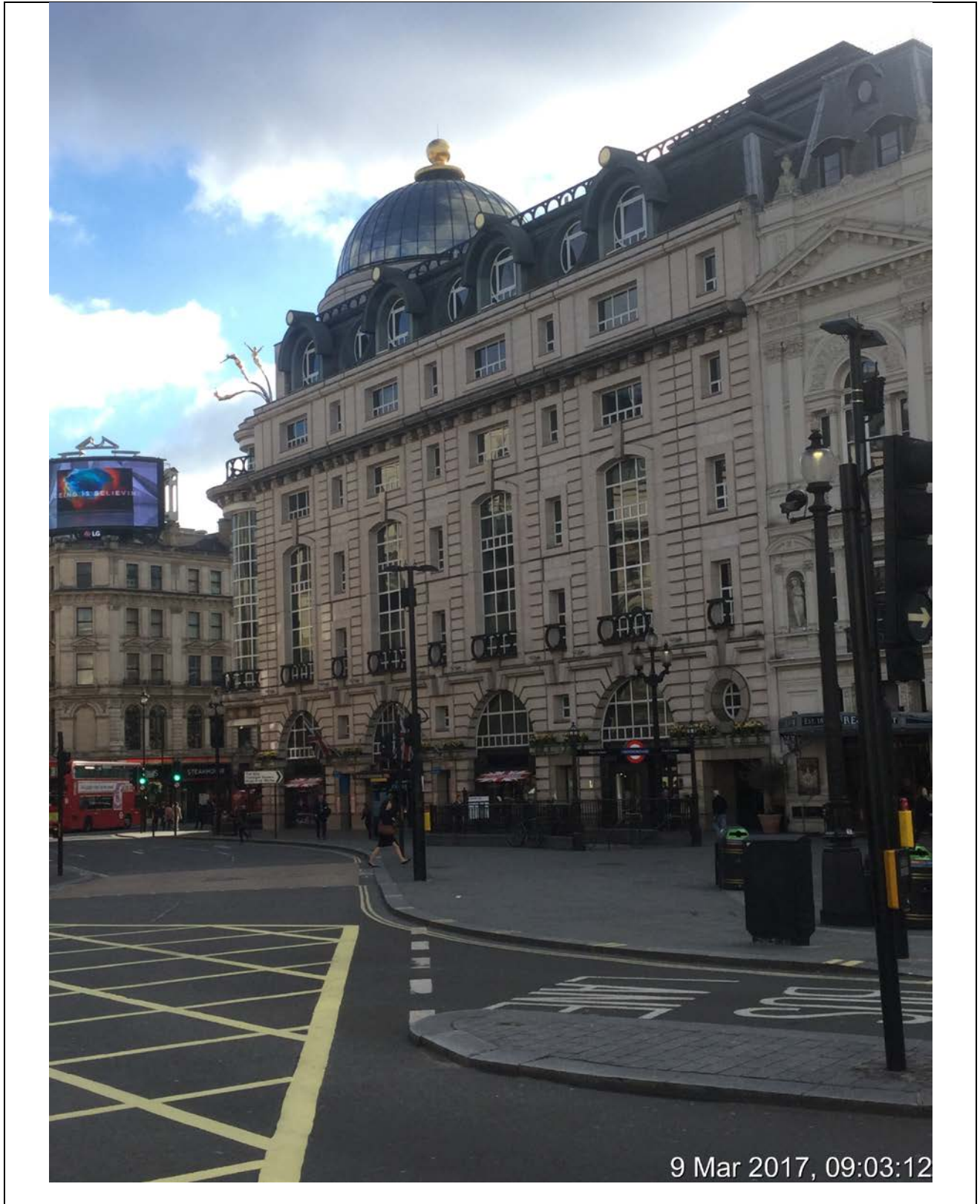
policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan) and is recommended for approval.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013.
All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



5. CONSULTATIONS

WESTMINSTER SOCIETY

No objection – represents a possible “sea-change in the overall tourist offer in the Piccadilly Circus area”. Concerns over servicing however feel that this is addressed well in the supporting documents.

TRANSPORT FOR LONDON

Advise that cycle storage provision (both long stay and short stay) should be policy compliant in line with The London Plan.

HIGHWAYS PLANNING

No objection subject to conditions

CLEANSING

No objection subject to condition

ENVIRONMENTAL HEALTH

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 111

Total No. of replies: 1 letter of support

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application building lies within the Core Central Activities Zone (Core CAZ), the Regent Street Conservation Area and immediately opposite the boundaries of the Soho Conservation Area to the north and the Haymarket Conservation Area to the east and south. The site is also in the West End Stress Area and the West End Special Policy Retail Area (WESPRA). It is situated on the corner of Coventry Street and Haymarket, to the east of Piccadilly Circus. This part of the Criterion Building is not listed however, it does neighbour the Grade II* listed Criterion Theatre and Restaurant at 219 Piccadilly to the west and is surrounded by a number of grade II listed buildings to the north and east.

The property consists of basement, ground and first to sixth floors and is in a range of uses including retail at basement and ground floor. The area of the site pursuant to this application is part of the ground floor and part of the basement and is currently occupied by the gift shop ‘Cool Britannia’. There is direct access from this part of the basement level to the Piccadilly Circus Underground Station through a set of double doors which access into the underpasses linking the ticket hall to the access stairs.

The nearest residential properties are located at Nos. 32, 33 and 35 Haymarket, on the opposite side of the road.

6.2 Recent Relevant History

Planning permission was granted on 08 July 2010 (RN: 10/03087/FULL) for the replacement of the existing Haymarket ground floor window with a set of two double entrance doors. This permission was not implemented.

7. THE PROPOSAL

Permission is sought for the use of part ground and part lower ground floors for retail, café and restaurant purposes (sui generis).

The proposed user of the unit is Hard Rock Café, who currently occupy a unit at 150 Old Park Lane. The proposed unit will become Hard Rock's flagship London location. Part of the ground floor will be used for retail purposes (Rock Shop) and will sell fashion items (t-shirts/hats etc), memorabilia and other music inspired items. The remaining part of the ground floor will be used as a café with 85 covers. Access to the restaurant in the basement will be gained from ground floor level, this will include seating, bar areas and a live music stage. The existing access from the underground will be used as a VIP entrance.

Permission is also sought for the creation of new entrances on Coventry Street and on Haymarket. New shopfronts are also proposed along with external lighting of the facades.

Initially the application also included alterations to the existing roof top plant enclosures to accommodate new plant however; this aspect has since been omitted as the new plant can be accommodated within the existing structure.

Use	Existing (M ² GIA)	Proposed (M ² GIA)	Net Floor Area (M ² GIA)
Retail (Class A1)	1976	0	-1976
Mixed retail and restaurant/cafe use (Sui Generis)	0	1962	+1962
Total Floorspace	1976	1962	-14

Table 1: Existing and proposed land use floorspace

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of Retail

The proposal will result in the loss of retail (Class A1) floorspace at basement and ground floor levels comprising 1976sqm.

Policy S7 of the City Plan seeks to maintain and enhance the unique status of the WESPRA. The policy encourages the provision of retail floorspace. City Plan Policy S21 seeks to protect existing retail floorspace throughout Westminster except where the Council considers it is not viable as demonstrated by long-term vacancy despite reasonable attempts to let.

The basement and ground floors are currently occupied by 'Cool Britannia' a gift shop; therefore the applicants are unable to demonstrate that a retail use in this location is unviable.

However, the applicants argue that an element of the proposed use will be used for retail purposes. This retail element will occupy approximately 447m² (65%) of the ground floor. This will maintain a retail frontage onto Coventry Street. The remaining part of the ground floor 153m² (23%) will be used as a café, which will sell snack items and non-alcoholic drinks. The applicants argue that the café element of the proposals will encourage customers to spend more time within the retail element therefore complementing the retail offer.

The proposal results in the loss of retail floorspace within WESPRA and is contrary to Policy S21. However, it is considered that in this location the loss of retail floorspace will not have a detrimental impact on the character and function of the area. An element of retail floorspace is being retained at ground floor level and a condition to ensure that at least 447m² is retained is recommended. This will ensure that the active retail frontages at ground floor are retained. This element of the proposal is therefore considered acceptable.

Proposed entertainment use (retail/café/restaurant)

City Plan Policy S6 accepts that, in principle, entertainment uses are appropriate for the Core CAZ. City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses. The TACE policies are on a sliding scale in which developments where TACE 8 is applicable would be generally permissible and where TACE10 is applied (where the gross floorspace exceeds 500sqm) only in exceptional circumstances. Given the size of the development, it needs to be assessed against UDP Policy TACE 10.

City Plan Policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts, and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area. The policy states that new large-scale late-night entertainment uses of over 500sqm will not generally be appropriate within Westminster.

The policies aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the City, while acknowledging that they provide important services in the City and contribute to its role as an entertainment centre of national and international importance. The nearest residential properties are located at

Nos. 32, 33 and 35 Haymarket. These are located across the road from the application site.

It is important to note proposals at 34 Grosvenor Square where an appeal was allowed to extend a restaurant to over 500sqm. The Inspector considered that application of the relevant planning policies should be dependent upon demonstrable harm, rather than being applied in a generalised manner. Other large entertainment uses (over 500sqm) have been permitted at other sites in Westminster, such as 46 Berkeley Square and 26 - 28 Broadwick Street (Amalco House), where the policy approach established at 34 Grosvenor Square was accepted by the Council.

Existing/Proposed floorspace (GIA)	Ground floor – 689sqm Basement – 1273sqm Total - 1962sqm (Including back of house/ restrooms etc.)
Proposed nature (%) of the floors	Ground floor – 65% retail, 23% café (12% BOH) Basement – 52% restaurant (48% BOH/kitchens/restrooms)
Opening Times	09:00 – 01:00 Sunday – Thursday, 09:00 – 02:00 Friday and Saturday
Seating capacity	Ground floor – 113 Max. Basement – 419 Max. Total – 532 Max.
Servicing	Within the existing building and enclosed service yard accessed from Jermyn Street/from the layby on Jermyn Street
Queuing	Internal – managed by staff
Stage performances	Occasional – as background to dining

Table 2: Proposed venue key details

The proposal will result in a large entertainment use, with the main restaurant dining area being at basement level. There are two access points to the basement restaurant, either through the ground floor retail element, or via the existing entrance from the underground station. The applicants have stated that the basement entrance will be used infrequently by VIP guests and performers accessing the stage. The basement restaurant includes a bar area which will serve customers pre-during and post meals. This is not indicated on the proposed plans, but a condition is recommended to ensure that this is limited to 15% of the basement restaurant. The applicants have indicated that there the capacity of the basement will be 419 and the capacity of the ground floor café will be 83. Conditions are recommended to secure these numbers.

The applicants have requested opening hours that extend beyond those set out in the UDP as they argue that this is not a predominantly residential area. The opening hours are largely in line with other entertainment uses in the vicinity, and on this basis they are considered acceptable.

The location restaurant element of the proposal at basement level is seen as providing significant mitigation against any loss of residential amenity as there is no direct access from the basement to street level. A representation has been received from one of the residential occupiers of 35 Haymarket, who raise a concern over music escaping from the new Haymarket entrance. Due to the hours of opening of the restaurant, it is considered necessary to impose a condition to ensure that customers entering or leaving the

premises after 23.00 can only exit using the main entrance on Coventry Street not the Haymarket entrance. The applicants have requested that a condition restricting how the Haymarket entrance is used should not be imposed, but in light of the nearest residential premises it is considered necessary in this case.

An Operational Management Plan (OMP) has been submitted by the applicant in support of the proposals which demonstrates the applicants' commitment to operating the premises without causing disturbance to neighbouring residents and other uses in the area. The OMP includes measures for a full time host team, who will manage the arrival and departure of guests; the management of staff; the sit down and waiter service nature of the proposed dining area; the management of background music levels in the restaurant area; dealing with queuing during high volume periods; servicing of the unit and operation of plant equipment. These last two topics are covered in detail by other documents submitted with the application, specifically the Draft Servicing Management Plan (DSMP) and acoustic review, which are discussed in more detail below. The OMP will be secured by condition.

It is noted that in peak periods that customers queue outside the existing Hard Rock Café at 150 Old Park Lane. This causes congestion on the public highway and can have an adverse impact on amenity. The Highways Planning Manager has raised concerns over the potential for queuing combined with the high levels of pedestrian movement in the immediate vicinity. The OMP states that any queuing for the restaurant will be contained within the unit at ground floor level or at the bar area within the basement, where customers will be managed by the full time host team. A condition is recommended to ensure that all queuing should take place in the unit and not on the public highway.

The proposal includes a small stage area at basement level. The applicant has advised that live music events will primarily serve as background entertainment during dining in the restaurant and is only intended for occasional use. It is important to ensure that the operation of the restaurant and the live (recorded) music does not affect the Criterion Theatre or the residential properties in Haymarket. The theatre is located in the same building but is separated by stair cores and corridors. The OMP states that the Host Team will ensure any background music played within the restaurant will be limited to ensure it is not audible outside of the restaurant or in the upper parts of the building. There are no details of this automated system, however, Environmental Health have recommended a condition to prevent the unfettered operation of the stage and to ensure any music played is through a sound limiter device. This condition, along with a condition limiting noise from internal activity, is recommended to address any potential impact that live or recorded music could have on the amenity of the area and theatre.

The proposal includes voids either side of the main internal entrance ramp, from Piccadilly, which the applicant has advised will be glazed. This glazing will be secured through condition to ensure that no noise breaks out from the ground floor restaurant and stage area (which is directly below) into the street.

It is considered that with the restrictive conditions that the proposed use is considered acceptable and complies with TACE 10 of the UDP.

8.2 Townscape and Design

New Shopfronts

The new shopfronts are to be installed within the existing stonework openings; no alterations to the stonework or top lights are proposed. The existing bronze frames will be retained and altered to accommodate new glazing and two new door openings. An acceptable extent of fixed glazing will be retained. Overall, the proposed alterations to the shopfront are considered minor in nature and are acceptable.

Exterior Lighting Scheme

Permission is also sought for the installation of external LED lighting. The applicant advises that the majority of existing lighting positions will be re-used with some additional locations added. The applicant originally applied for coloured lighting to the Coventry Street and Haymarket elevations. However, officers considered that the use of coloured lighting to the upper floors of the building is inappropriate, in line with UDP Policy DES 7 which states that coloured lights are unlikely to be suitable on most buildings. Coloured external lighting was approved in 2008 to the lower levels of the London Pavillion, directly opposite the proposal site. Thus, in the vibrant context of Piccadilly Circus it is considered that some external coloured lighting is acceptable, but this should be restricted to the Coventry Street façade and to the low levels of the building only. Following negotiations, the design has been revised to omit all coloured lighting from the Haymarket elevation and from the upper floors of the Coventry Street elevation. White lighting is now proposed to the Haymarket elevation and the upper floors of the Coventry Street elevation, which is considered acceptable.

It is recommended a condition be imposed to ensure the external lighting scheme is carried out in accordance with the revised lighting strategy.

The Highways Planning Manager has advised that the lighting, particularly if it were used in a fast paced/changed lighting display, could cause a distraction to drivers and is therefore would not be consistent with TRANS2. Given the location of the site plus the limited proposed light changing schemes, while a significant concern is raised to the proposed changing lights, an objection is not raised on highway safety or operational grounds, provided appropriate condition is applied to any permission granted.

8.3 Residential Amenity

The impact of the proposed use has been considered as part of section 8.1.

8.4 Transportation/Parking

Servicing

The Highways Planning Manager has assessed the application and the submitted Servicing Management Plan (SMP). They have advised that while the proposed change of use is likely to result in an increase in trip generation, it is considered that the highway

network will be able to accommodate this increase in trips. A condition is recommended to prohibit a delivery service operating from the premises which the applicant has agreed to.

The SMP indicates that all servicing for the site will occur off street within the existing loading bay accessed from Jermyn Street, or from the layby, also on Jermyn Street, for larger vehicles. Servicing will mostly occur between 07:00 – 12:00 (midday) Monday to Saturdays and 08:00 – 12:00 (midday) on Sundays and Bank Holidays. The Highways Planning Manager has advised that use of the layby for servicing is not preferred and that all servicing should take place from within the building due to the presence of the existing servicing/loading bay within the building. A condition is recommended to ensure that all servicing is carried out from the existing off-street servicing bay. A further condition is recommended to ensure the submission of a finalised SMP. Servicing of the proposed use was raised as a possible area of concern by the Westminster Society however; it is considered that the conditions above address these concerns.

Cycle Parking

There is an existing off street cycle storage associated with the building and the applicant has advised that the staff of the new use would have access to this storage area. A minimum of 12 cycle spaces are required and these will be secured through condition.

The applicant is also proposing six on street cycle parking spaces; two of these will be next to existing on street cycle parking on Haymarket, while four will be located on the wide pavement close to the pavement edge on Coventry Street. TFL have stated that policy compliant cycle parking should be provided both for long stay (within the building) and short stay (on the street). While the Council recognises the policy requirement for on street cycle parking, given the high pedestrian flow in the area and limited space on the highway, it would not be pragmatic to require this provision as this would come at the cost of other highways users. As a result, this element of the comments from TFL cannot be upheld. The spaces proposed by the applicant also fall outside of the application site and would need separate permission however, the Council is unlikely to permit these.

Shop Fronts/Doors/Canopies

The provision of new entrance doors do not raise any highways concerns providing these do not open out over the highway which will be secured through condition. The canopy on the existing building is to remain unchanged however, it has been advised that canopies and structures over the highway need to maintain 2.6 meters vertical clearance to allow for pedestrian passage and be set back 1 meter from the kerb edge to provide sufficient clearance from vehicles. A condition is recommended to ensure that the canopies comply with these requirements.

8.5 Economic Considerations

Any economic benefits generated by the scheme are welcomed.

8.6 Access

The proposal will see access to the unit improved with the introduction of the two additional entrances. The existing entrance will be retained and continue to provide level access to the unit through the internal ramp. Internal lifts provide level access to the basement floor.

The existing entrance doors at basement level which provide access to/from the Piccadilly Circus Underground Station will be retained as part of this application however will become the VIP entrance. The applicant has advised that these doors will be used infrequently by performers accessing the stage area in the basement. When these doors are in use, they will be managed by the host team to prevent any possibility of queuing within the Tube Station itself which may impact the operation of the station itself. TFL have raised no objection to this aspect of the proposal.

8.7 Other UDP/Westminster Policy Considerations

Plant

The proposed scheme includes plant located within an existing acoustic enclosure at roof level. An acoustic review and survey have been submitted in support of the application. Environmental Health has assessed these documents and advised that they are satisfied the proposed plant and machinery is likely to comply with the Councils standard noise conditions.

Refuse/Recycling

The initial submission did not provide sufficient information relating to waste and recycling storage. However, following feedback from the Waste Officer, the applicant has provided updated details of waste and recycling storage which now meet the requirements of the Council. This storage will be secured by condition.

Sustainability

Policy S40 of the City Plan requires that all major development throughout Westminster should maximise on-site renewable energy generation to achieve at least 20% reduction of carbon dioxide emissions, and where feasible, towards zero carbon emissions, except where the council considers that it is not appropriate or practicable due to the local historic environment, air quality and/or site constraints.

While this is not a major application, the applicant has submitted an Energy and Sustainability Report, by Couch Perry Wilkes, in support of the application. This outlines that through adopting a more sustainable design for the development, an energy saving of 19.6% on existing usage can be achieved. This is welcomed by the Council.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

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

8.10 Planning Obligations

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

8.11 Environmental Impact Assessment

Not applicable

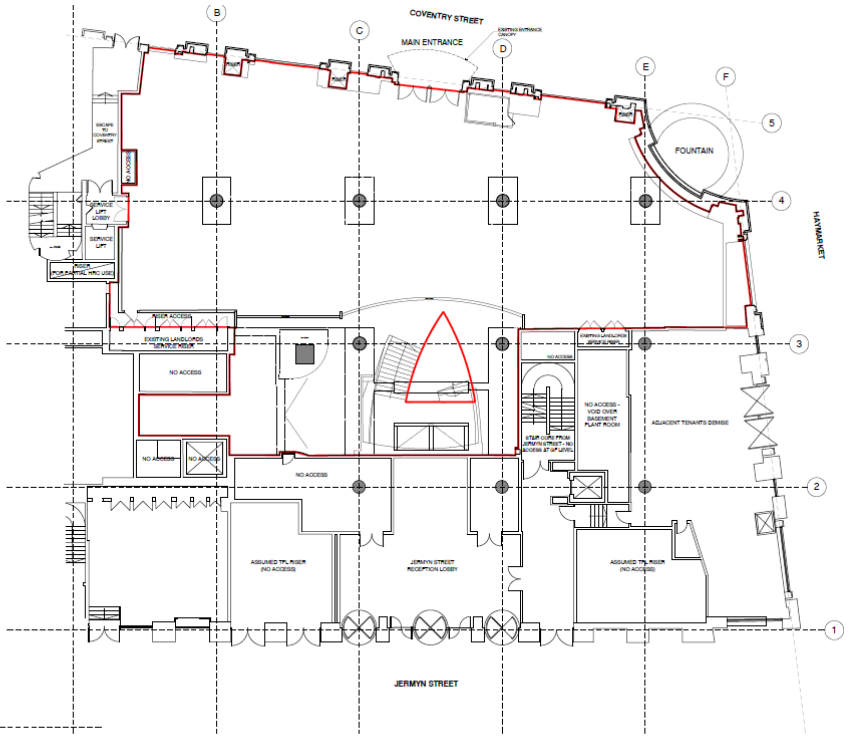
9. BACKGROUND PAPERS

1. Application form
2. Response from Westminster Society, dated 24 January 2017
3. Responses from Environmental Health, dated 27 February 2017 and 14 March 2017
4. Response from Transport For London, dated 6 February 2017
5. Responses from Highways Planning, dated 31 January 2017 and 10 March 2017
6. Responses from Cleansing, dated 27 January 2017 and 09 March 2017
7. Letter from the occupier of 35 Haymarket dated 20 March 2017
8. Letter from Savills on behalf of the applicant dated 23 March 2017

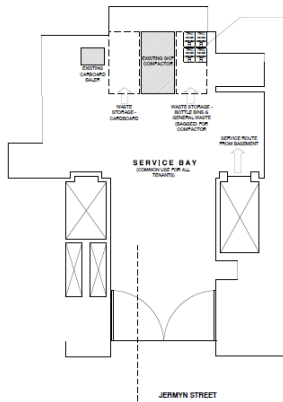
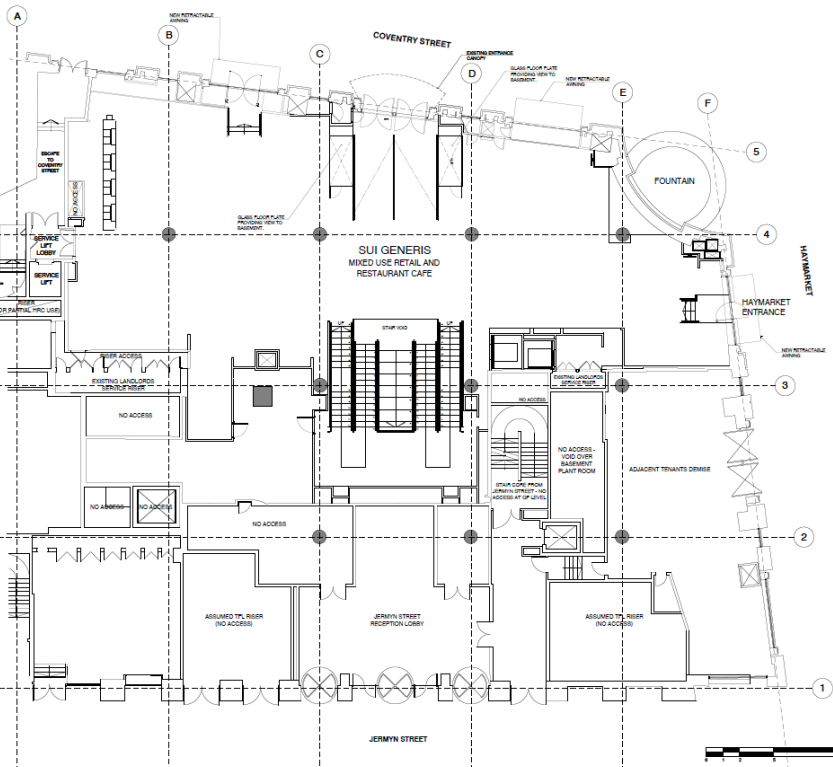
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: HELEN MACKENZIE, BY EMAIL AT hmackenzie@westminster.gov.uk

Existing (top) and proposed (bottom) ground floor plan



00 Ground Floor Plan - Existing
Scale - 1:100@A1



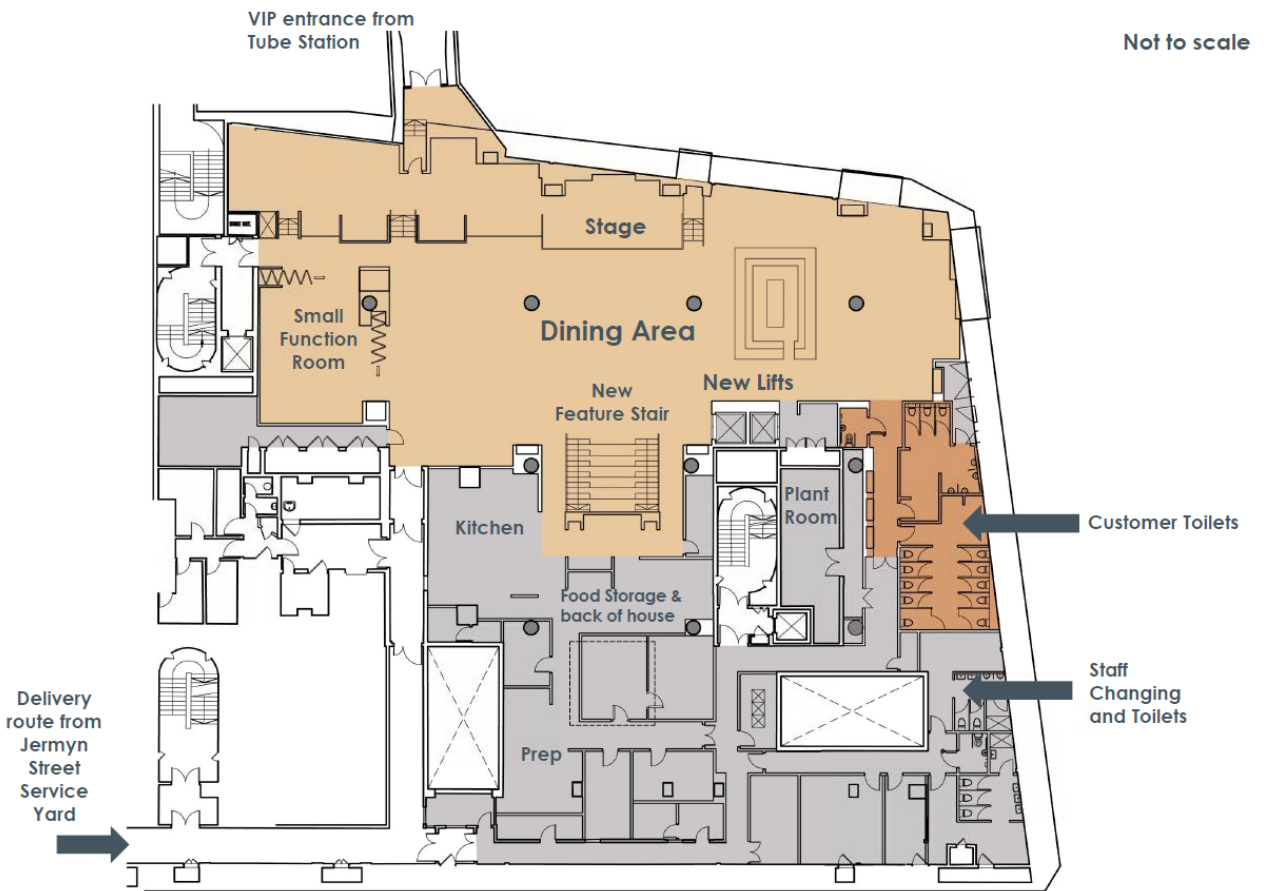
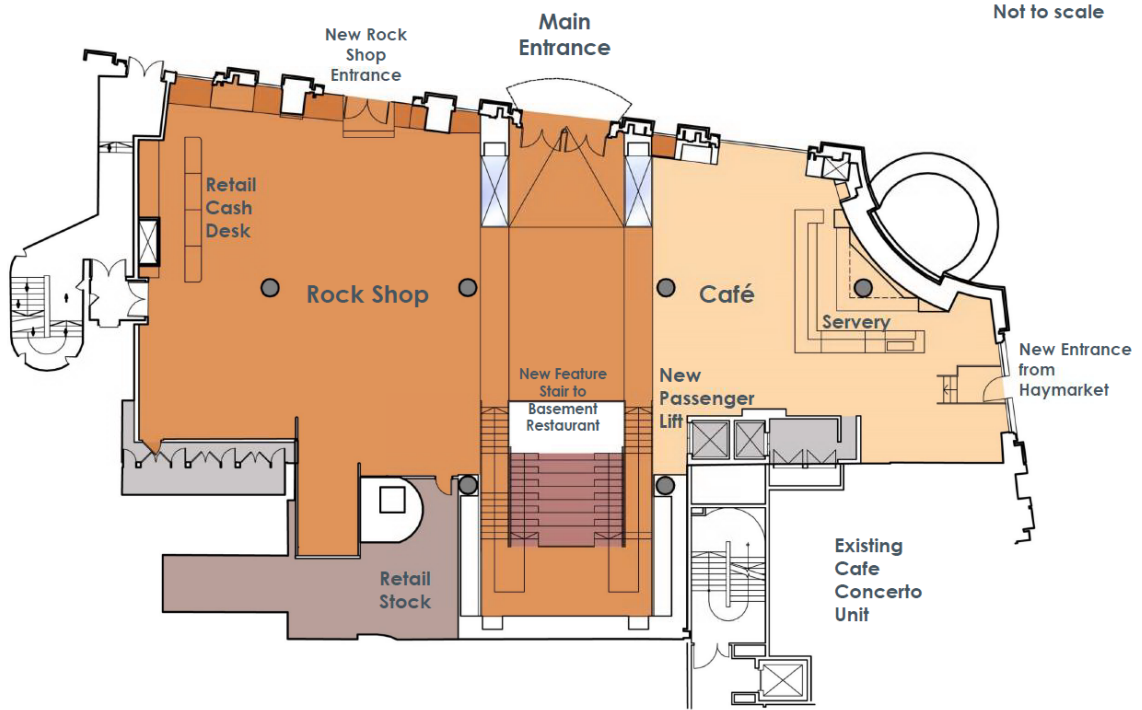
4 no. 360 ltr. bins
2 for glass
2 for cardboard awaiting baling

NOTE:
Landlord to provide dedicated space for HRC waste storage within service bay, area TBC.

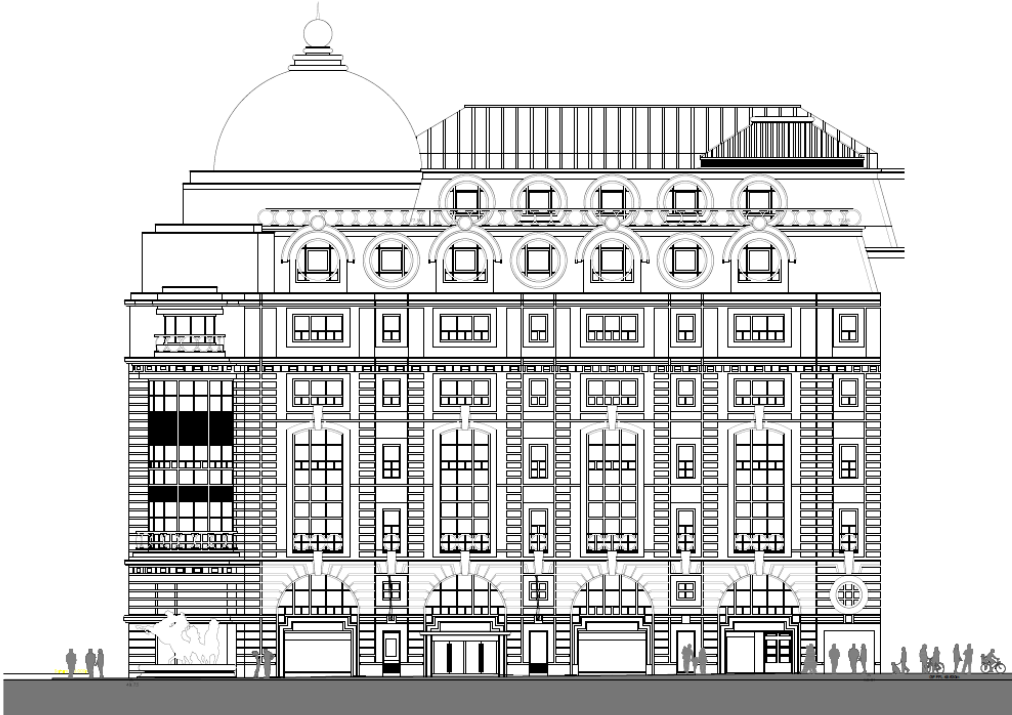
04 Ground - Proposed Plan
Scale - 1:100@A1



Proposed indicative areas of nature of use at ground (top) and basement (bottom) floors



Existing (top) and proposed (bottom) Coventry Street elevation



Existing (top) and proposed (bottom) Haymarket elevation



DRAFT DECISION LETTER

Address: Lower Ground Floor, Basement And Part Ground Floor Criterion Building , 225-229 Piccadilly, London, W1J 9HR

Proposal: Change of use of part ground and part lower ground floors to mixed retail and restaurant/cafe use (Sui Generis), creation of additional entrances and new shopfronts on both Coventry Street and Haymarket frontages and associated works

Reference: 17/00354/FULL

Plan Nos: 16_023_(20)_102 Rev. A ; 16_023_(20)_103 Rev. A ; 16_023_(32)_203 Rev. A ; 16_023_(32)_206 Rev. A ; 16_023_(20)_101 Rev. B ; 16_023_(04)_003 Rev. B ; 16_023_(04)_004 Rev. C ; 16_023_(32)_201 Rev. A

Case Officer: Adam Jones

Direct Tel. No. 020 7641 1446

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 S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 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 Regent Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 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 ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 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:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 6 Prior to the use of the basement dining area, you must apply to us for approval of details of the following parts of the development: - to set the dB levels for the sound limiter device for the electronic music amplification system. You must not use the basement dining area until we have approved what you have sent us., , You must then carry out the work according to these details and ensure that all electronic musical amplification systems are routed through a sound limiter.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 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 sui generis 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 sui generis 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 ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 8 The two glass floor plates shown on the approved drawing number 16_023_(04)_004 Revision C shall be installed prior to the commencement of the approved use and maintained in situ for the duration of the development.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of

Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 9 Any queuing associated with the use must be contained within the building and should not extend over the public highway.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 10 You must provide the waste store shown on drawing 16_023_(04)_003 Rev. B before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the premises. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 11 If you provide a bar and bar seating at basement level, it must not take up more than 15% of the basement floor area. You must use the bar to serve customers dining at basement level only, before, during or after their meals.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 12 You must not open the retail and restaurant/cafe use (sui generis) premises to customers, and you must not allow customers on the premises, outside the following hours: - 09.00 - 01:00 Sunday to Thursday, and, - 09:00 - 02:00 Friday and Saturday.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan adopted November 2016 and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007.

- 13 You must not allow more than 419 customers into the basement restaurant at any one time and 85 customers into the ground floor cafe at any one time. (C05HA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 14 You must not sell any hot-food take-away or drink on the premises, nor operate a delivery service, even as an ancillary part of the retail and restaurant/cafe use (Sui Generis).

Reason:

We cannot grant planning permission for unrestricted use because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case.

- 15 The basement area used for dining must only provide a sit-down dining with waiter service.

Reason:

We cannot grant planning permission for unrestricted use because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case.

- 16 The area of the ground floor used as a cafe shall not exceed more than 23% (GIA) of the ground floor area.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 17 You must carry out the measures included in your management plan titled "Operational Management Statement, Hard Rock, 225-229 Piccadilly. Prepared by: Hard Rock International. Dated January 2017" at all times that the retail and restaurant/cafe use (Sui Generis) is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 18 All servicing for the proposed use must occur off-street, from within the existing service yard accessed from Jermyn Street, and not from the public highway.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 19 You must provide details of an updated and finalised Servicing Management Plan to be approved by the City Council prior to the hereby approved use commencing. The use must then be carried out in accordance with the approved plan at all times.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 20 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 S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 21 You must provide access for your staff to at least 12 secure cycle spaces within the building prior to occupation. Thereafter, access to these spaces must be retained and available for staff.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table

6.3) of the London Plan 2015.

- 22 Coloured LED external lighting must be limited to the ground and first floors of the Coventry Street elevation only, in accordance with the approved "Hard Rock, Piccadilly Circus Lighting Strategy, Revised 16 March 2017" by fuse.

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 Regent Street Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 23 All specifications in relation to Lighting/Brightness of the advertisements should be in accordance with the Technical Report, Number 5 (Third Edition) Brightness of Illuminated Advertisements, The Institution of Lighting Engineers and no illumination should resemble any traffic sign or signal

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 24 The development must provide at least 447sqm of retail floorspace at ground floor level.

Reason:

To ensure that an element of retail floorspace is maintained at the site in accordance with policies S7 and S21 of Westminster's City Plan adopted November 2016 and SS4 of our Unitary Development Plan that we adopted in January 2007

- 25 Customers entering or leaving the retail/cafe/restaurant use after 23.00, must use the main entrance on Coventry Street and must not use the entrance on Haymarket.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

Informative(s)

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, sitenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.
- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 Conditions 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. (I82AA)
- 5 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public.
Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm

The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>:

BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances
BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 6 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise,

smells or other types of nuisance. (I06AA)

7 Licensing - West End Cumulative Impact Area:

The applicant is advised that the proposed premises are in the West End Cumulative Impact Area as defined in Westminster's Statement of Licensing policy. This policy has specific requirements for the hours for licensing activities and capacities are determined by whichever gives the lowest figure from an assessment under the District Surveyor's Technical Standards for Places of Entertainment and the provision of sanitary accommodation being in line with BS6465.

8 Kitchen Extract:

All kitchen extract ducts must be fitted with doors/hatches for cleaning, at approximately 3 metre intervals, complying with the H & S safe access standards (Informative 180CB).

9 The term 'clearly mark' in condition 10 means marked by a permanent wall notice or floor markings, or both. (I88AA)

10 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

11 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)

12 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

13 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)

- 14 Any structure (including awnings, canopies and signage) over the footway (highway) must maintain 2.6 metres vertical clearance from the footway surface at all times and not extend closer than 1 metre to the existing kerb edge.
- 15 The advertisements shown on the approved drawings are not permitted under this permission. These advertisements require separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and are being considered by the Council under separate applications.
- 16 With regards to Condition 20; a robust SMP must identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users, including vehicles and pedestrians.

The SMP should be responding to the physical layout of the site and provide robust procedures for any future occupant to follow, to ensure servicing occurs in an efficient manner, minimising impact on the highway. This will also ensure any future occupant is clearly aware of their responsibilities.

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.