

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 4 April 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	66 Victoria Street, London, SW1E 6SQ,		
Proposal	Variation of condition 12 and removal of condition 15 of planning permission dated 02 September 2014 (RN: 13/12543) for use of part ground and part first floor of the east building as restaurant (Class A3) use and the setting out of external tables and chairs, namely to manage the restaurant use according to the new Operation Management Plan and remove the requirement to provide external produce display.		
Agent	Ms Jane Gleeson		
On behalf of	Jamie's Italian Ltd		
Registered Number	16/04465/FULL	Date amended/ completed	12 May 2016
Date Application Received	12 May 2016		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

Application site

The application site comprises Jamie's Italian restaurant located at part ground and part first floors of the Kings Gate development on Victoria Street. The upper floors of the building are in use as residential flats.

Permission was granted for Class A3 use at the application site in September 2014. The permission was subject to a number of conditions including:

Condition 12

'You must manage the restaurant use hereby approved in accordance with the approved Operation Management Plan (July 2014).'

Condition 15

When the premises are trading, you must put out external food produce displays between the hours of 0700 to 1900 as shown on drawing part titled 'Early morning and lunch configuration' within Martin Brudnizki Design Studio document.

Proposal

This application seeks to vary the approved Operation Management Plan (OMP) set out in condition 12 to allow the front part of the restaurant facing onto Victoria Street to be used as a pizzeria rather than as a delicatessen. The application also seeks to remove condition 15 to remove the requirement to provide an external produce display outside the front entrance.

Condition 12 - Operation Management Plan

When permission was granted in 2014 for use of the application site for entirely Class A3 restaurant purposes (it was previously a Class A1 shop use at part ground and part first floors), condition 12 was attached to ensure that the front part of the restaurant had a retail character during daytime trading hours. This was to maintain the retail character and function of this part of Victoria Street.

The Operation Management Plan (OMP) secured through condition 12 and approved by committee set out how the front part of the unit (the delicatessen) was to be managed. The OMP states that the delicatessen operates between the hours of 07.00 and 19.00 and that a number of tables and chairs are removed from inside and outside the unit to allow the provision of large retail tables to display sandwiches, bread, cakes and salads to take-away. In addition the Victoria Street elevation would display an array of produce for sale across the entire width of the unit including adjacent to the entrance lobby. There would also be a fresh produce display outside the premises by the entrance door. By way of background, the approved version of the OMP secured by condition 12 followed negotiations between the council and the applicant to provide more retail display area on the Victoria Street frontage and remove the external tables and chairs along the Victoria Street frontage.

The applicant advises that the delicatessen has not been a success commercially and that changes to the OMP are required to reflect this. The main change to the OMP is the removal of the delicatessen counter, the food display areas and chilled food and drink fridges. These areas will be replaced with additional seating. The removal of the delicatessen will also allow for the provision of an all-day pizzeria. The OMP states that customers will still be able to buy a range of delicatessen items such as dried pasta, oils, sauces, wines and beers and other goods from retail display areas in the window but this will be reduced compared to existing.

Condition 15 -external food produce displays

The applicant is seeking to remove the condition that requires the display of food produce outside the store. The justification given for this is the same as above. That the delicatessen has not been a commercial success and with the changes sought to the OMP to change its function to a pizzeria it no longer makes sense to display external food produce.

Assessment

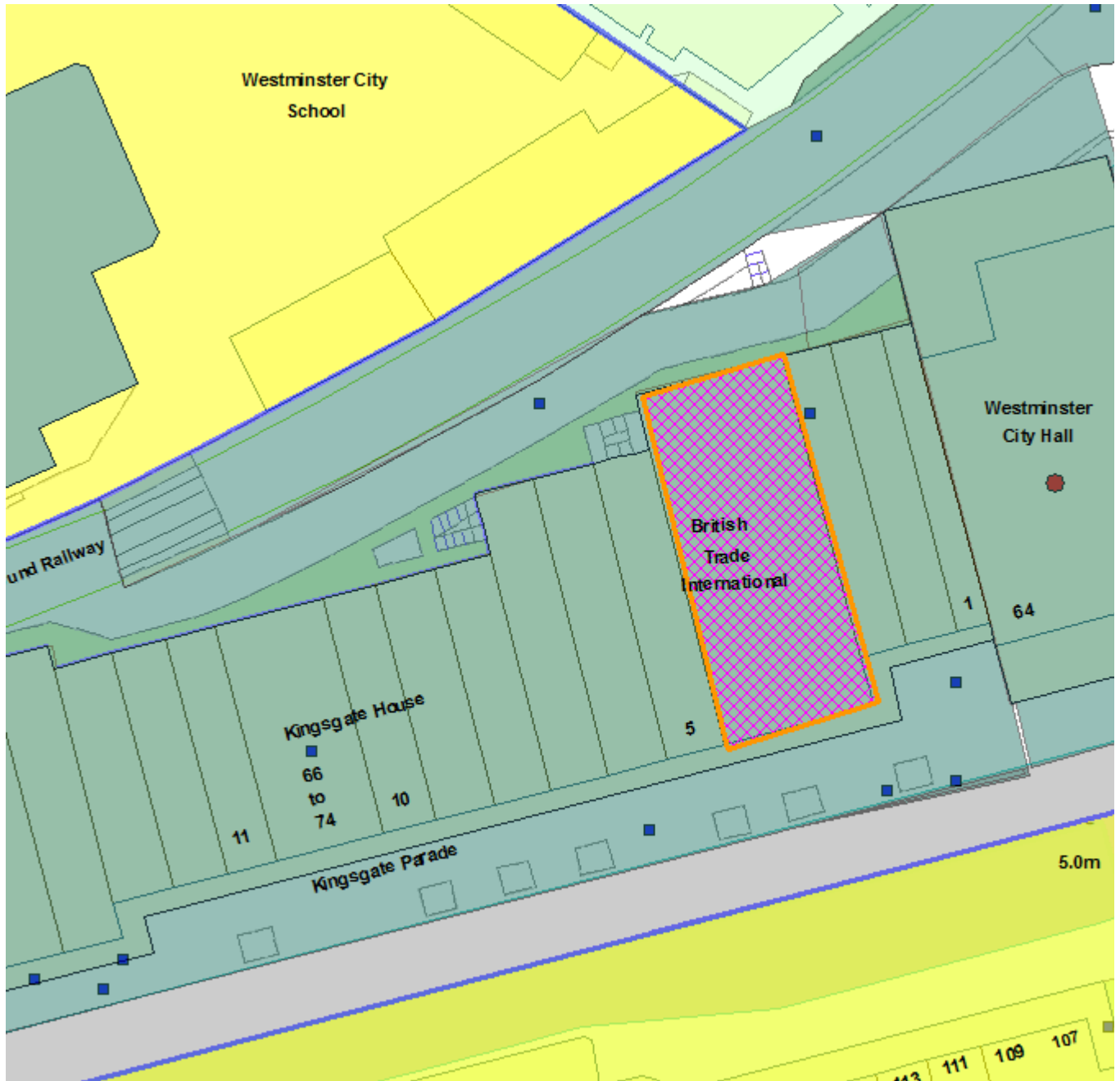
The changes proposed by the applicant will dilute the retail function of the front part of the Class A3 restaurant unit. However, other than the removal of the external food produce displays, the impact on the external character and appearance of the premises will be minimal. This is because the applicant proposes to maintain retail display areas in the window of the premises. The loss of the delicatessen from the front of the premises is regretted but the applicant's justification for its removal, that it has not been a commercial success, is accepted. The provision of an informal pizzeria in place of the delicatessen will add vitality to the unit and it is not considered this will unduly harm the retail function

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and character of this part of Victoria Street. The variation to condition 12 is therefore considered acceptable in land use terms. For the same reason, the removal of condition 15 is also considered acceptable.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

WESTMINSTER SOCIETY
No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 100
Total No. of replies: 0
No. of objections: 0
No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 Recent Relevant History

13/12543/FULL

Use of part ground and part first floor of the east building as restaurant (Class A3) use and the setting out of external tables and chairs.

Application Permitted 2 September 2014

11/03854/FULL

Demolition of existing building and redevelopment of the site to provide a new building of 4 basement levels, ground and 14 upper floors comprising 102 residential units with roof gardens at main roof level; dual/alternative retail or restaurant (Class A1/A3) at ground and first floor levels. New area of public realm including shared surface servicing arrangements and landscaping, basement car and cycle parking.

Application Permitted 13 February 2012

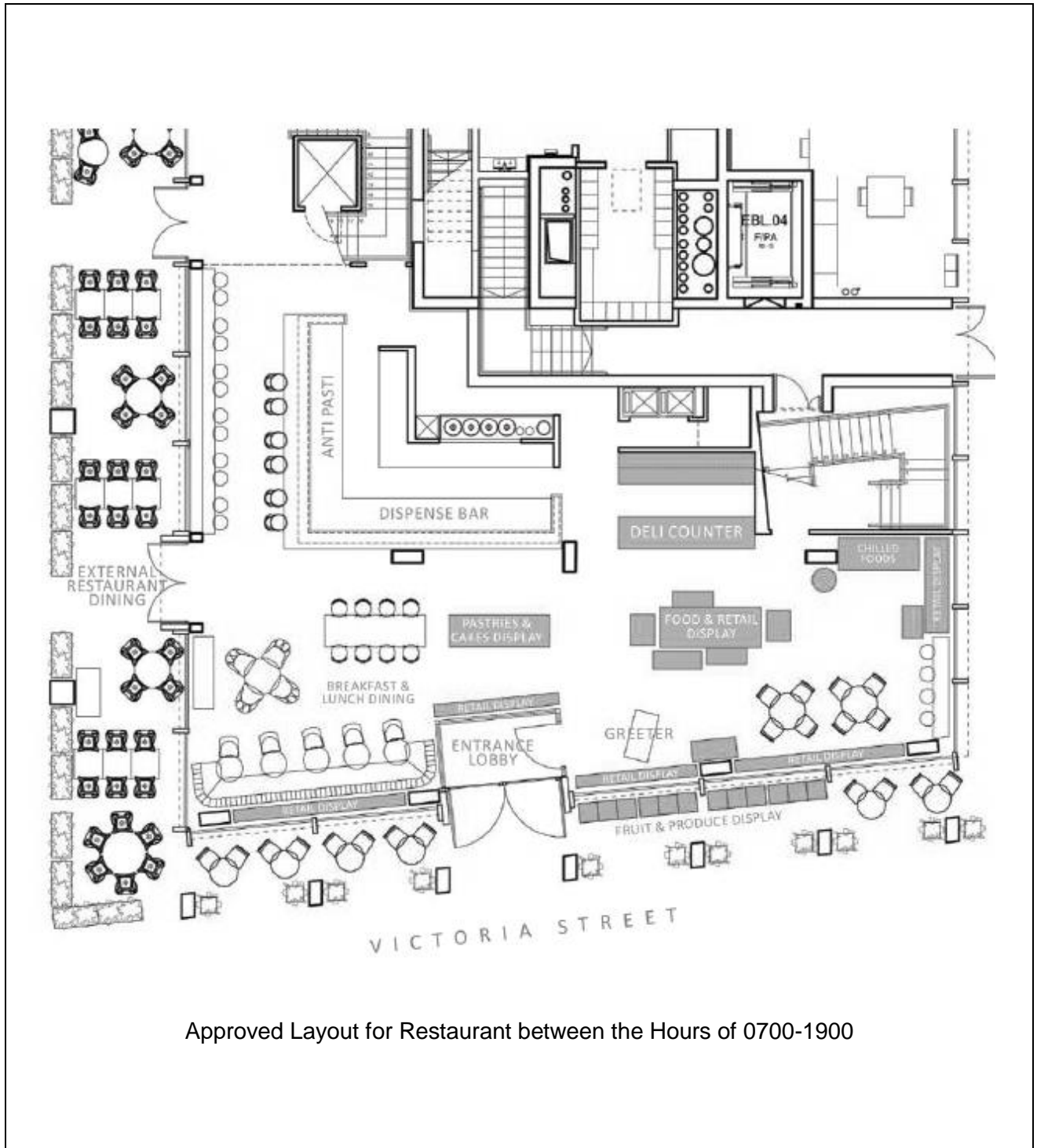
7. BACKGROUND PAPERS

1. Application form
2. Response from Westminster Society, dated 7 June 2016

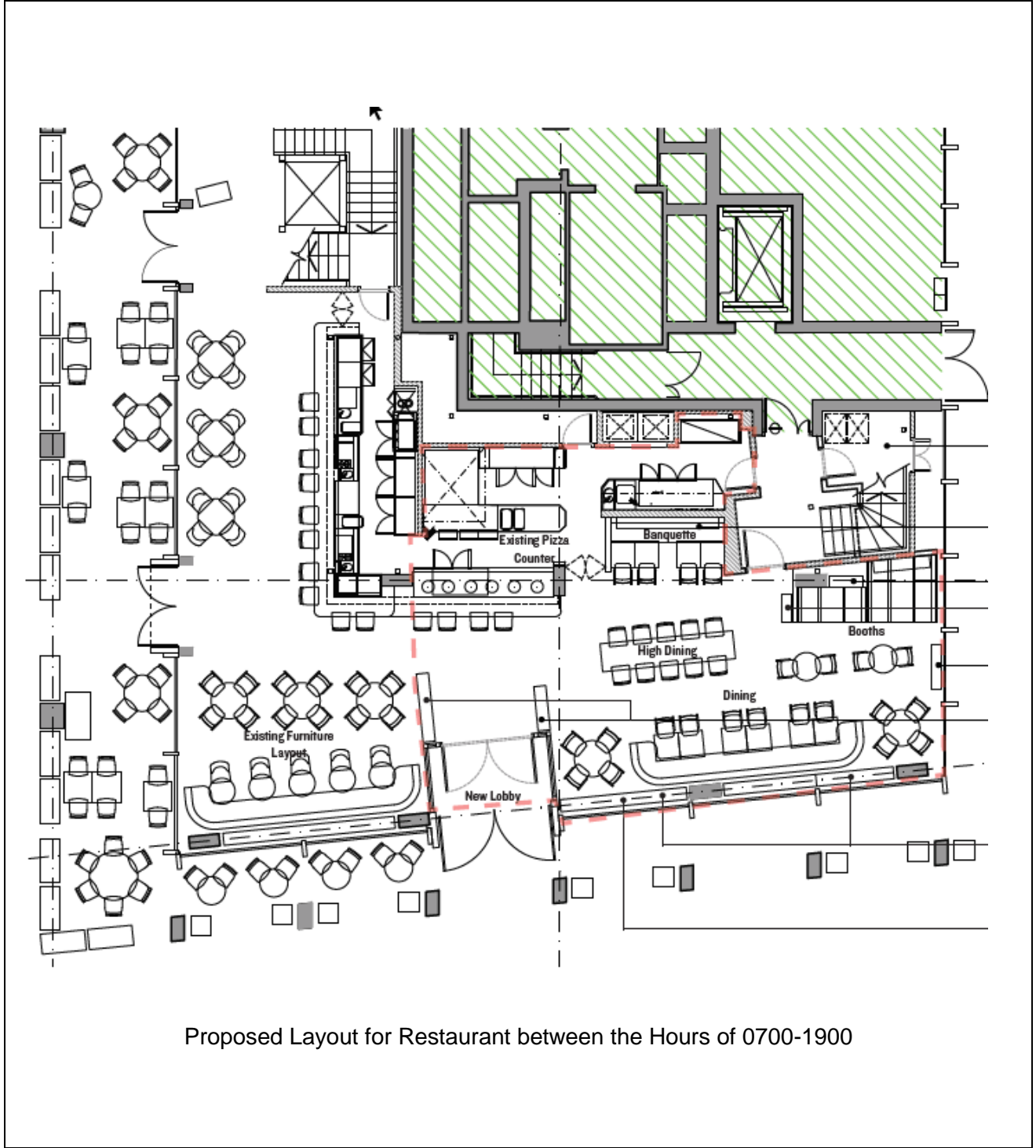
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT mmason@westminster.gov.uk.

8. KEY DRAWINGS



Approved Layout for Restaurant between the Hours of 0700-1900



Proposed Layout for Restaurant between the Hours of 0700-1900

DRAFT DECISION LETTER

Address: 66 Victoria Street, London, SW1E 6SQ,

Proposal: Variation of condition 12 and removal of condition 15 of planning permission dated 02 September 2014 (RN: 13/12543) for use of part ground and part first floor of the east building as restaurant (Class A3) use and the setting out of external tables and chairs, namely to manage the restaurant use according to the new Operation Management Plan and remove the requirement to provide external produce display.

Reference: 16/04465/FULL

Plan Nos: 045KGGH_TP_204, 045KGGH_TP_209, 045KGGH_TP_212 04, 045KGGH_TP_215, 045KGGH_TP_216 02, 045KGGH_TP_236, 045KGGH_TP_237, GA-G-01 Rev C (x2), GA-F-01 Rev C. Letter from Gerald Eve dated 28 July 2014. Operation Management Strategy (July 2014). Martin Brudnizki Design Studio document including drawing titled 'Victoria Street Deli - Layout Configurations.' (June 2014)

As varied by
 Operation Management Strategy March 2017
 Letter from First Plan dated 12 May 2016.
 Pizzeria Concept Presentation (February 2017) including layout drawings.

Case Officer: Matthew Mason

Direct Tel. No. 020 7641 2926

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 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., , Noisy work must not take place outside these hours. (C11AA)

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 Customers shall not be permitted within the Class A3 restaurant premises before 07.00 to 0000 midnight Sunday to Thursday, bank holidays and public holidays and 07.00 to 00.30 the next day on Friday and Saturdays.

Reason:

To protect the environment of the future occupiers of the residential building above as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 You can only put the tables and chairs in the area shown on drawing GA-G-01 Rev C between 0730 and 2300 Monday to Saturday and between 0900 and 2230 on Sundays, bank holidays and public holidays.

Reason:

To protect the environment of the future occupiers of the residential building above as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 5 You must not put external tables and chairs in any other location than that shown on drawing GA-G-01 Rev C.

Reason:

In order to ensure that courtyard space remains uncluttered and provides space for pedestrians and public seating 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)

- 6 The tables and chairs referred to in Conditions 4 and 5 of this permission must only be used by customers of the Class A3 restaurant hereby approved.

Reason:

To protect the environment of the future occupiers of the residential building above as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 7 You must provide the waste store shown on drawing 045KGH_TP_212 rev 04 prior to the use of the restaurant by customers. You must clearly mark it and make it available at all times. 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.

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)

- 8 You must provide and maintain the kitchen ventilation system in accordance with the details approved under 15/02356/ADFULL dated 01.05.2015 for as long as the Class A3 unit is in place.

Reason:

The use of the Class A3 unit without any kitchen ventilation would cause harm to occupiers of neighbouring properties from cooking smells. This is as set out in S29 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007

- 9 You must provide and retain the secure cyler parking in accordance with the details approved under 15/02356/ADFULL dated 01.05.2015 and make the cycle parking available to staff of the restaurant at all times.

Reason:

To ensure that the cycle parking complies with the Council's adopted standards as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 10 You must not allow more than 262 customers into the property 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)

- 11 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 12 You must manage the restaurant use hereby approved in accordance with the approved Operation Management Plan (March 2017).

Reason:

To make sure that the use will not cause nuisance for people in the area in terms noise from customers or from deliveries and to ensure that the front part of the ground floor is used to provide a deli, shop and cafe. This is as set out in S21, S24, S29, S32 and S42 of Westminster's City Plan (November 2016) and TACE 10, ENV 6, TRANS 20 and SS4 of our Unitary Development Plan that we adopted in January 2007.

- 13 (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 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.

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.

- 14 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.

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.

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.