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| <b>CITY OF WESTMINSTER</b>                 |  |  |                 |
| <b>PLANNING APPLICATIONS SUB COMMITTEE</b> | <b>Date</b><br>4 July 2017   | <b>Classification</b><br>For General Release |                 |
| <b>Report of</b><br>Director of Planning   |  | <b>Ward(s) involved</b><br>Lancaster Gate    |                 |
| <b>Subject of Report</b>                   | <b>Basement And Ground Floor , 54 Queensway, London, W2 3RY</b>    |  |                 |
| <b>Proposal</b>                            | Use of ground floor and basement as hot food take-away (class A5). |  |                 |
| <b>Agent</b>                               | Mr Adam Beamish  |  |                 |
| <b>On behalf of</b>                        | Mr BEAMISH   |  |                 |
| <b>Registered Number</b>                   | 17/00786/FULL  | <b>Date amended/ completed</b>               | 7 February 2017 |
| <b>Date Application Received</b>           | 1 February 2017  |  |                 |
| <b>Historic Building Grade</b>             | Unlisted   |  |                 |
| <b>Conservation Area</b>                   | Queensway  |  |                 |

## 1. RECOMMENDATION

Further to any response from the Lancaster Gate Safer Neighbourhoods Team, grant conditional permission.

## 2. SUMMARY

The application relates to the 'Tuk Tuk Thai Noodle bar' (Use Class A3) on Queensway. It is situated within the Queensway District Centre and Queensway Stress Area. It occupies the ground floor with a kitchen located in the basement. The upper floors are in use as offices (use Class B1). Permission is sought for a conversion to a hot food takeaway (Use Class A5).

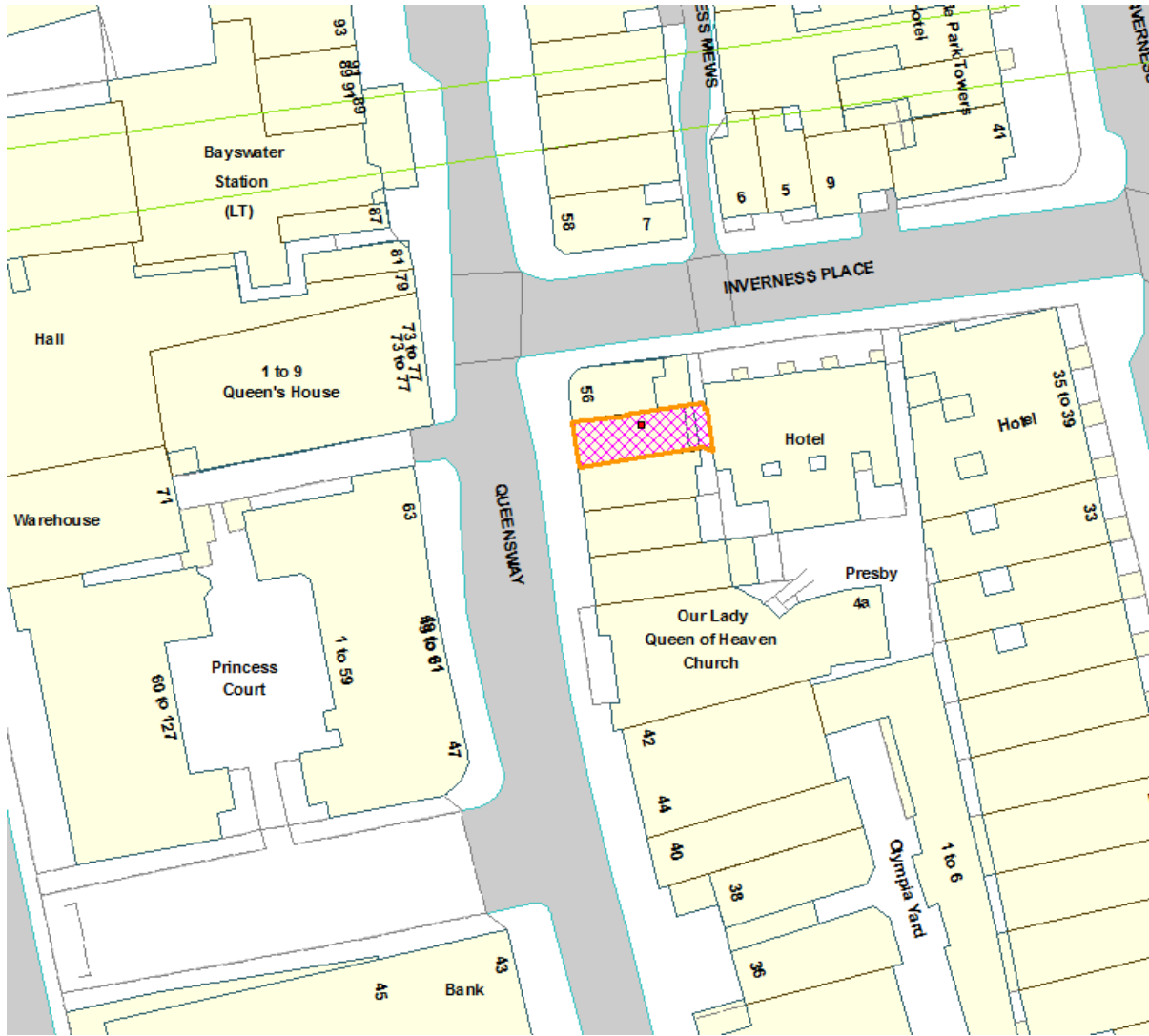
Objections have been received from neighbouring residents and the South East Bayswater Residents Association (SEBRA) on grounds of the proposed A5 use unduly impacting the local environment, whilst letters of support have also been received.

The main issues in the consideration of this application are:

- \* The impact of the use upon character and function of the area.
- \* The impact of the use upon the neighbouring residents and local environment.

Notwithstanding the objections received, the proposed takeaway use is not considered to unduly impact the amenity of the locality and complies with the relevant policies within the City Plan and UDP and is therefore recommended favourably, subject to conditions.

### 3. LOCATION PLAN



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#### 4. PHOTOGRAPHS

Front of application site 'Tuk Tuk noodle bar



**Basement Kitchen and ground floor interior**



**Existing rear service entrance from Inverness Place**



## 5. CONSULTATIONS

### ENVIRONMENTAL HEALTH

No objections.

### SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

\* Takeaway use not appropriate for location.

\* Noise and disturbances from increased comings and goings.

### BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally.

### LANCASTER GATE SAFER NEIGHBOURHOODS TEAM

Any response to be reported verbally.

### DESIGNING OUT CRIME

No objections, defer to local policing team.

### HIGHWAYS PLANNING MANAGER

No objection

### CLEANSING MANAGER

No objection subject to details of refuse storage.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 99

Total No. of replies: 6

No. of objections: 3

No. in support: 3

Three objections received on the following grounds:

#### Land Use:

- New A5 use does not provide retail use pursuant to policy S13 of City Plan.

#### Amenity:

- Increased comings and goings late at night.
- Disturbances to neighbouring residents.
- Impact from late night servicing.

#### *Support*

\* Use would be welcome to the area.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

## 6.1 The Application Site

This application relates to the 'Tuk Tuk Thai Noodle Bar' (Use Class A3) occupying the ground and basement floors of No. 54 Queensway, a four storey building, the upper floors are in office use (Use Class B1). The premises is located within the designated Queensway District Shopping Centre (Core Frontage) and the Bayswater Queensway Stress Area, as identified in the UDP and the Major Shopping Area of the City Plan. The property lies outside of the Central Activities Zone (CAZ) and the North Westminster Economic Development Area (NWEDA). The adjacent premises are in use as a currency exchange at No. 56 and a souvenir shop at No.52.

## 6.2 Recent Relevant History

There is no relevant history to this site.

## 7. THE PROPOSAL

This application seeks permission for change of use from a restaurant to hot food takeaway (Use Class A5). The premises has a gross internal floor area of 85sqm.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

The premises comprises an A3 restaurant use (Tuk Tuk Noodle Bar) with a gross internal floor area of 85sqm. The upper floors of the building are in office use. Policy S13 of the City Plan (November 2016) advises that the priority for the core frontage outside of the CAZ and NWEDA will be for retail and other appropriate town centre uses whilst policy SS6 of the UDP seeks to safeguard an appropriate proportion of retail uses within the core frontage of designated District Centres, in this case the Queensway District Centre. The conversion from a restaurant (Use Class A3) to hot food takeaway (Use Class A5) would not result in the loss of retail floor area so would not directly impact the overall proportion of retail uses within the centre.

Notwithstanding this, the above policies advise that new entertainment uses such as a takeaway use will only be allowed within the designated Stress Area where the Council considers that they are low-impact, would not result in an increased concentration of late-night uses and would not compromise the retail character and functioning of the Shopping Centre either individually or cumulatively. This aim is also supported by policies TACE 8-10 of the UDP which seeks to ensure uses classified as 'entertainment uses', such as a hot food takeaway, maintain the established character and function of the various parts of the city and safeguard the amenity of local residents and the local environment.

Pursuant to this, there are a mixture of various restaurants, retail and other town centre use along the Queensway frontage. The most recent Town centre health checks (2013) record A5 uses occupying 1.8% of the frontage as a whole. The premises sits in between a currency exchange and a souvenir shop, whilst in the immediate vicinity the uses are a mixture of retail uses and restaurant uses that appear predominantly oriented

to dining in. There are no other hot food takeaway uses within the immediate vicinity. It is not therefore considered the proposed use would harm the character and function of the locality or result in an over concentration of hot food takeaways.

In terms of safeguarding residential amenity, UDP policy TACE 9, which relates to uses with a floor area of 150sqm or less, stipulates that within the stress area, permission will only be granted where it can be demonstrated that it will have no adverse impacts. The application appears to be speculative given it is not related to a particular operator. In the absence of this detail, a detailed operational management statement (OMS) would be required by way of condition in order to provide details of the operator and arrangements for avoiding any adverse impacts on the local environment. Subject to this, and the conclusions arrived at in the following paragraphs of this report it is considered the conversion satisfies the City Councils landuse policies with regards to character and function and safeguarding the local environment.

## 8.2 Residential Amenity

With regards to the impacts of the operation on the locality, SEBRA and neighbours have objected to the increased comings and goings, particularly late at night that the conversion to an A5 use would result in. Originally the proposed operating hours were to be between 12:00pm until 00:00 Monday to Saturday and 12:00pm until 23:30pm Sunday. This would have been consistent with the current opening hours, and the hours permitted through their premises licence. It is acknowledged that, consistent with the character of hot food takeaway uses, the volume of customers may increase as a result of the conversion, as reflected by the uplift in staff members as listed on the application forms, of between 8 – 10 staff on site at any one time. The Designing out crime Officers have not objected to the proposals and any comments from the Lancaster Gate Safer Neighbourhoods Team will be reported verbally to members. Given the nature of the change the agent was asked to agree to earlier closing times, 11pm rather than midnight sought. Written confirmation of this has been provided by the agent and a condition is recommended securing these earlier closing times.

In terms of operating a delivery service, the Highways Planning Manager has advised that this aspect of a takeaway use is often contentious given that delivery vehicles can reduce the availability of parking for other uses and increase fumes and vehicular activity in the area. In this instance the application has not set out their intention is to operate a delivery service nor provided any details of how one would operate. Following a request for clarification from Officers, the agent has supplied written confirmation that it is not intended to operate a delivery service. This will therefore be secured through planning condition.

The premises benefits from an existing extraction system serving the lower ground floor kitchen, which utilises a duct terminating at roof level above the eaves. The City Council's Environmental Health Officers have no objection to the proposals on grounds of potential odour nuisance. With regards noise and vibration, Environmental Health confirm that there are no registered complaints in this respect. However given the nature of the existing operation will change to accommodate the takeaway use, with different demands potentially placed on the extraction system, it is recommended a condition is attached requiring a supplementary acoustic report; to demonstrate compliance with the Councils standard conditions with regards to noise and vibration.

As such, whilst applications for hot food takeaway uses within the designated stress areas are treated with caution to avoid the over concentration of such uses, in this instance taking the circumstances of this site into account including the use of the upper floors as offices rather than residential, it is not considered the proposals would result in harm to local amenity. This is due to; the premises already being in A3 use with the extraction equipment to operate in this way already established, the opening hours being restricted to 11pm which are earlier than the existing hours, no uplift in floor area, confirmation from agent that it is not intended to operate a delivery service and details of an OMS to be provided prior to the occupation of the premises. Subject to the above the proposals are considered acceptable in amenity terms.

### **8.3 Townscape and Design**

Given the proposals are not accompanied by any elevation details, pertaining to the shop front for example, there are no townscape and design considerations in this application, although an informative is recommended to advise that a full application and potentially advertisement consent will be required for future alterations and signage.

### **8.4 Transportation/Parking**

No car parking is provided for the proposed use. The site is within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls (the areas Residential Bays are restricted from 08:30 to 22:00, seven days a week. The impact of the change of use on residential bays parking levels is likely to be minimal due to the hours of restriction.

In terms of servicing, given the location, the proposals size and the proposed use it is considered that there is unlikely to be a significant change in the servicing generated by the site and any change can be accommodated without significant impact on the operation of the highway network. Double yellow lines in the vicinity of the site allow loading and unloading to occur. Notwithstanding this it is recommended details of servicing are provided in the operational management plan, to ensure servicing takes place during reasonable hours to coincide with other existing operators to minimise disruption.

The agreement from the applicant that the premises does not intend on operating a delivery service is welcomed.

Concern is raised that the proposed change of use does not include provision for cycle parking. This would be for staff use and encourage sustainable travel modes. The London Plan would require 2 spaces for the 1st 100m<sup>2</sup> and an additional space for every 175m<sup>2</sup>. Given the floor area of the proposal no cycle parking provision is required under the London Plan.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size.



## 8.6 Access

The entrance to the premises is via a short set of steps on the left hand side of the shop front. This does not facilitate wheelchair access, however given that it is an existing situation, it is not sustainable to withhold permission on these grounds. An informative will be included to advise that the inclusion of step free access would be a welcome part of any application to make alterations to the shop front.

## 8.7 London Plan

This application raises no strategic issues.

## 8.8 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.

## 8.9 Planning Obligations

Planning obligations are not relevant in the determination of this application. The application is not liable to pay CIL given application involves a change of use from its existing lawful use with no change in floor area.

## 8.10 Other Issues

### Waste:

In terms of waste storage, Officers site visit confirmed the existing provisions for waste storage are to the rear of the premises with access to Inverness Place provided. Notwithstanding this, no details of proposed waste arrangement are included although it is expected it will utilise the same location. A condition is therefore recommended to secure this facility.

## 9. BACKGROUND PAPERS

1. Application form
2. Response from Environmental Health Consultation (x2), dated 7 March 2017 and 21 June 2017.
3. Letter from South East Bayswater Association, dated 13 March 2017.
4. Response from Waste Planning, dated 14 February 2017.
5. Response from Highways Planning, dated 15 February 2017.
6. Response from Designing out Crime, dated 20 June 2017.
7. Letter from occupier of 35 Princess Court, London, dated 12 February 2017.
8. Letter from occupier of First floor, 54 Queensway, dated 13 February 2017.
9. Letter from occupier of 53 Queensway, London, dated 13 February 2017.
10. Letter from occupier of 80 Princess Court, London, dated 23 February 2017.
11. Letter from occupier of 56 Queensway, 2nd Floor, dated 1 March 2017.
12. Letter from occupier of 238 Gloucester Terrace, London, dated 21 March 2017.

13. Letter from occupier of 56 Queensway, 2nd Floor, dated 1 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: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@westminster.gov.uk](mailto:kdavies1@westminster.gov.uk)



**DRAFT DECISION LETTER**

**Address:** Basement And Ground Floor , 54 Queensway, London, W2 3RY

**Proposal:** Use of ground floor and basement as hot food take-away (class a5).

**Plan Nos:** Planning cover letter dated 1 February 2017, Site location plan, 2670/G100, 2670/G099, email from agent dated 21 June 2017

**Case Officer:** Samuel Gerstein

**Direct Tel. No.** 020 7641 4273

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 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 Customers shall not be permitted within the takeaway premises before midday or after 11:00pm on any day of the week.

**Reason:**

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 4 The plant/machinery in connection with the takeaway use shall not be operated except between the hours of midday to 11:00pm on any day of the week.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 5 (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.

- 6 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.

- 7 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 5 and 6 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

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.

- 8 The door to the premises shall be fitted and permanently maintained within a self closing door.

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)

- 9 You must not operate a delivery service for the takeaway use hereby approved.

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)

- 10 You must apply to us for approval of an operational management plan for the proposed takeaway use which provides details of the following;
1. How the takeaway use will operate.
  2. How customers leaving premises will be prevented from causing nuisance for people in the area, including people who live in nearby buildings.
  3. General procedures to prevent noise and nuisance.
  4. Waste, recycling storage and collections provision.
  5. Staff welfare facilities provision.
  6. How daily deliveries to and from the premises are managed effectively.

You must not occupy the premises until we have approved what you have sent us. You must then operate the use in accordance with the details approved at all times.

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)

- 11 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the premises.

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)

**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 advised that full planning permission and advertisement consent are likely to be required to undertake alterations to the shopfront or install signage associated with the conversion. Please seek additional information from the City Councils Planning department if you are intending on carrying out these works. You are encouraged to incorporate step free access if you are considering making shop front alterations.