

CITY OF WESTMINSTER			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 28 April 2015	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Wards involved</b> Knightsbridge And Belgravia	
<b>Subject of Report</b>	<b>5 Raphael Street, London, SW7 1DL</b>		
<b>Proposal</b>	Removal of Condition 2 of planning permission dated 10 December 2013 (RN:13/07366/FULL ) for extension of the opening hours of the restaurant unit so as to allow it to open between 10.00 to 00.30 hours the following day on Mondays to Saturdays (no change on Sundays) on a permanent basis.		
<b>Agent</b>	Thomas & Thomas Partners LLP		
<b>On behalf of</b>	Azumi Ltd		
<b>Registered Number</b>	14/11396/FULL	<b>TP / PP No</b>	TP/1182
<b>Date of Application</b>	18.11.2014	<b>Date amended/ completed</b>	03.12.2014
<b>Category of Application</b>	Minor		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>			
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Core Central Activities Zone Outside Central Activities Zone		
<b>Stress Area</b>	Outside Stress Area		
<b>Current Licensing Position</b>	Opening hours	10.00-00.30	Monday – Saturday 12.00 – 00.00 Sunday

## 1. RECOMMENDATION

Grant conditional permission.





5 Raphael Street, SW7

## 2. SUMMARY

Planning permission was granted to extend the opening hours of Zuma restaurant by an additional half an hour to allow the restaurant to open between 10.00 hours and 00.30 hours Monday to Saturday in December 2013 for a temporary period of 1 year. The temporary period has now expired and the applicant now seeks permission to extend the opening hours on a permanent basis.

The key issue in this case is:

- The impact of increasing the hours of opening on residential amenity.

Since the extended opening hours have been in operation, there has been no record of complaints to the Council's Environmental Health Noise Team citing noise disturbance during the restaurant opening hours.

The applicant has submitted an Operational Management Statement which states that the maximum number of covers will remain as existing (193), no bookings will be taken beyond 22.00 (as existing) to allow existing customers more time to finish their meal and allow for a more gradual and controlled dispersal of customers during the later hours of trading. It also sets out their operational procedures to protect the amenity of local residents. Provided that the restaurant continues to run as set out in the Operational Management Statement, the extension of the restaurant closing time from midnight to 00.30 on a permanent basis is unlikely to result in any significant loss of amenity to surrounding residents. It is recommended that the Operational Management Statement be secured by condition, with a requirement to seek approval from the Council should any changes be sought in the future.

## 3. CONSULTATIONS

### KNIGHTSBRIDGE ASSOCIATION

Objection. Noise disturbance to residents within 199 Knightsbridge, Lancelot Place and the Trevor's. The planning inspector's decision dated 4 April 2003 remains relevant, namely the noise, disturbance and degradation of resident's amenity that would follow from any extension of opening hours. Since 2003, the number and size of limousines has, if anything, increased bringing with it increased 'potential for significant disturbance after midnight' as referred to in the planning inspectors decision. The parking situation in the Trevor's resulting from chauffer driven cars seeking parking spaces while waiting to collect clientele has also deteriorated over the 12 years since 2003.

### HIGHWAYS PLANNING MANAGER

No objection.

### ENVIRONMENTAL HEALTH

No objection. Since permission was granted for extended opening hours in 2013 there have been no recorded noise complaints which specifically relate to the operation of Zuma during trading hours.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 352; Total No. of Replies: 2

Objections have been received from and on behalf of Knightsbridge Residents Management Company (KRMC), 199 Knightsbridge and Trevor Square on the following grounds:

#### Amenity

- Zuma customers use Trevor Square, Trevor Street and Trevor Place to park their cars and are often noisy, holding loud conversations near their cars. This disturbs the sleep of residents.
- Residents in 199 Knightsbridge experience significant levels of noise from visitors and vehicles to the restaurant and cars collecting patrons.
- The area has a substantial residential population, with 199 Knightsbridge accommodating over 200 households.
- Whilst recognising that the current operator (Zuma) has operated under similar operating hours under a temporary 1 year permission, the permission would relate to 5 Raphael Street and would not be personal to Zuma. Another restaurant could occupy the unit differently and in a way that was more harmful to surrounding residents. A permanent permission could therefore lead to permanent adverse impacts.
- There has been correspondence with the Council about out of hours deliveries to Zuma.
- KRMC would accept a continuation of the extended opening hours on a temporary period of 1 year, to continually review the impact on residents and prevent issues exacerbating.

ADVERTISEMENT/SITE NOTICE: Yes

## 4. BACKGROUND INFORMATION

### 4.1 The Application Site

The restaurant premises are located at ground floor level on the south side of Raphael Street. It has been occupied by a restaurant called Zuma since May 2002.

On the north side of Raphael Street is 199 Knightsbridge, a residential block of 200 flats. Immediately to the west, 70 Brompton Road (known more fully as 68-76 Brompton Road/10 Lancelot Place) comprises 52 residential flats and beyond are residential houses in Lancelot Place and the Trevor's.

The premises fall within the Core Central Activities Zone (Core CAZ), but do not lie within a stress area or a conservation area.

### 4.2 Relevant History

Planning permission was granted on 15 May 2000 for a scheme of alteration and refurbishment of 44-58 Brompton Road, 1 Knightsbridge Green and 1-5 Raphael Street to provide retail, restaurant and office uses. Condition 14 attached to the permission stated that:

'The A3 use on Raphael Street hereby permitted shall not be carried out except between the hours of 10.00 hours and 00.00 hours (midnight) on Monday to Saturday excluding Bank Holidays and 10.00 hours to 23.00 hours on Sundays and Bank Holidays'.

An application to vary Condition 14 of the 2000 permission to extend the opening hours of the restaurant to between 10.00 to 01.00 hours on Mondays to Saturdays excluding Bank Holidays was refused on 26 June 2002, on amenity grounds, by reason of increased pedestrian and vehicular activity and resultant noise late at night, to residents particularly on Lancelot Place, Raphael Street and Knightsbridge Green.

An appeal was lodged against this decision and the Inspector amended the condition to state: 'No customers shall be on the A3 premises at 5 Raphael Street outside the following times: 10.00 hours to 00.00 hours (midnight) on Monday to Saturdays excluding Bank Holidays and 10.00 hours to 23.00 hours Sundays and Bank Holidays.

In considering the appeal the Inspector concluded (based on the current capacity of the restaurant at around 175 customers):

- The character of Raphael Street is changing from being dominated by large scale office blocks to have a strong residential presence. Raphael Street together with Lancelot Place and the Trevor's are in distinct contrast to the main arteries of Knightsbridge and Brompton Road which is reflected in noise levels during the day and at night.
- The opening hours of the appeal premises should respond to their location off the main thoroughfares in a developing residential block.
- At issue is the effect of patrons leaving the restaurant, rather than noise and disturbance from within the building.
- The concentration of activity around the entrance to Zuma and the associated noise events would be in close proximity to a considerable number of habitable rooms in the new residential blocks. There would be potential for significant disturbance after midnight.
- Whilst the development site at 70 Brompton Road has a car park at basement level which will be accessed via a ramp and includes an ancillary health club, this would not be available to the wider public, and any disturbance arising from the scheme would not be comparable in time, type and volume to that associated with Zuma.
- Traffic movements and customers walking to their cars or home between midnight until after 01.00 hours would unduly disturb residents of Lancelot Place and Trevor Street.
- The proposed extension to the hours of opening would lead to a significant reduction in the amenity of existing and new residential accommodation.
- The condition on opening hours is reasonable and necessary to safeguard the living conditions of nearby existing and future residents from undue noise disturbance.

Two further applications to extend the opening hours of the restaurant were subsequently refused. In March 2005 planning permission was refused to extend the opening hours of the restaurant until 01.00 daily. In order to try to overcome objections expressed by the Inspector, the applicant proposed a solution whereby the main front door to the restaurant on to Raphael Street would be closed at midnight and all remaining customers would leave by 01.00 hours from the rear into an existing service yard. However, it was considered that this solution did not address the previous objections raised by the Council or the Inspectorate at appeal, and the application was refused on amenity grounds.

Planning permission was again refused in September 2005 to extend the opening hours of the restaurant until 01.00 hours Monday to Saturday and 10.00 hours and 00.00 hours (midnight) on Sundays, with customers exiting onto Knightsbridge Green between 00.00 (midnight) and 01.00 the following day Mondays to Saturdays. This time the applicant proposed a solution whereby the main front door to the restaurant on Raphael Street would be closed at midnight and all remaining customers would leave by 01.00, through an existing internal corridor route through the building and exit directly onto Knightsbridge Green, thus removing the concentration of activity from around the entrance of Zuma.

Again it was considered that the proposed extension of opening hours would be likely to result in a loss of amenity for occupiers of residential properties in the vicinity, by reason of increased pedestrian and vehicular activity and resultant noise late at night.

In December 2013, planning permission was granted for the extension of the opening hours of the restaurant unit so as to allow it to open between 10.00 to 00.30 hours the following day on Mondays to Saturdays (no change on Sundays) for a temporary period of 1 year.

## 5. THE PROPOSAL

Planning permission is sought for the removal of Condition 2 of planning permission dated 10 December 2013 (RN: 13/07366/FULL) for the extension of the opening hours of the restaurant unit so as to allow it to open between 10.00 to 00.30 hours the following day on Mondays to Saturdays on a permanent basis.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

Zuma is a very popular and successful restaurant. Objections have been received from the Knightsbridge Association and from and on behalf of residential occupiers within 199 Knightsbridge (Knightsbridge Residents Management Company (KRMC) and Trevor Square to the extension of the opening hours on a permanent basis on the grounds that customers outside the premises and associated vehicle/taxis movements cause noise disturbance to residents late at night. KRMC state that they would accept a continuation of the extended opening hours on a temporary period of 1 year, to continually review the impact on residents and prevent issues exacerbating.

As part of the 2013 consent to allow for an extension to the opening hours by half an hour the Council's Environmental Health Noise Team carried out attended noise monitoring outside the premises using a sound level meter and personal observation on 18 November 2013, for a 90 minute period between 23.15 and 00.45 hours.

It was noted that Raphael Street is a relatively quiet, one way street, with cobbled stone. The cobbled stone has an adverse impact on noise levels when there is passing traffic. Some of the high measured noise levels were due to passing vehicles which cannot be attributed to Zuma, but in the majority of instances where high L<sub>Amax</sub> levels were measured, it did appear to be associated with Zuma including noise from vehicles collecting customers and from loud voices and laughter. A number of private hire and chauffer driven cars did leave engines running and this is likely to cause some annoyance to adjacent residents.

However, the dispersal of customers during the monitoring session was fairly well spread from 23.30 until 00.30 and appeared well managed with few customers loitering outside once they had left the restaurant. Many of the customers use pre-booked taxis, private hire cars/minibuses or chauffer driven cars and in this respect dispersal appeared to be managed well. Customers only left the premises when their transport had arrived, and those who left on foot tended to do so quickly and quietly. The Environmental Health officer concluded that the noise impact from the proposed extended opening hours is likely to be minimal and raised no objection to the application.

Since the 2013 consent one complaint has been received to the Council's 24 hour noise team in June 2014 about an early morning delivery (0455hrs) to the restaurant. The applicant states that as a result the supplier who was delivering tofu has been changed. There have been no recent complaints to the Noise Team citing noise disturbance during the restaurant opening hours.

The applicant has submitted an Operational Management Statement in support of their application outlining how the restaurant will continue to operate and sets out a number of commitments including:-

- The existing number of covers of 193 at any one time will not change.
- Reservations will continue to only be taken up to 22.00 hours with the additional half an hour to allow existing customers more time to finish their meal. The additional time will also promote a more gradual and controlled dispersal of customers during the latter hours of trading.
- Extensive employee induction and on-going refresher training covering responsibilities in the local area and towards local residents.
- Responsible management of customers inside and outside the restaurant. The main entrance/exit managed by reception staff at all times. Controlled management of the arrival of customers to avoid queuing on Raphael Street.
- No drinking on Raphael Street. Only customers using the demised external terrace area permitted to drink outside and no drinking outside whatsoever after 22.30 hours.
- Controlling and supervising customer smoking with smokers not permitted to take drinks outside at any time.
- Dispersal policy to ensure quiet, controlled and swift dispersal of customers.
- Customers and drivers reminded not to leave their engines running and to keep noise to a minimum.
- All staff familiar with public transport links so they can advise customers as required.
- The restaurant operates a private car booking service, and customers wait inside until their car arrives.
- Black cabs are readily available in the new Raphael Street taxi ranks. If there are no black cabs available customers are asked to wait inside until a cab becomes available or assist customers booking a car.
- The restaurant operates a car valet service whereby cars are taken by staff from the main entrance to a private car park within the building which enables customers to arrive and leave the restaurant as quickly as possible without using up on street parking spaces.
- Closing procedure ensuring all customers are off the premises by the authorised closing time.

It is therefore considered that provided the restaurant continues to run as set out in the Operational Management Statement, the extension of the restaurant closing time from midnight to 00.30 on a permanent basis is unlikely to result in any significant loss of amenity to surrounding residents. It is recommended that the operational management statement be secured by condition, with a requirement to seek approval from the Council should any changes in the future be sought, which would include any change in ownership.

## **6.2 Townscape and Design**

Not applicable.

## **6.3 Amenity (Sunlight/Daylight/Sense of Enclosure)**

Not applicable (please see Land Use section above).

## **6.4 Transportation/Servicing**

The Highways Planning Manager raises no objection to the proposal.

## **6.5 Economic Considerations**

The proposal is in accordance with the UDP and the economic benefits generated are welcomed.



## **6.6 Access**

Access into and out of the building will remain unchanged.

## **6.7 Other UDP/Westminster Policy Considerations**

Not applicable.

## **6.8 London Plan**

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

## **6.9 Planning Obligations**

Not applicable.

## **6.10 Environmental Assessment including Sustainability and Biodiversity Issues**

The proposal is of an insufficient scale to require an environmental assessment.

## **6.11 Other Issues**

Not applicable.

## **7. Conclusion**

Prior to the December 2013 consent, the Council's Environmental Health Noise Team carried out attended noise monitoring outside the restaurant on 18 November 2013, for a 90 minute period between 23.15 and 00.45 hours and concluded that the noise impact from the restaurant opening for an additional half an hour was likely to be minimal. Since the extended opening hours have been in operation there has been no record of complaints to the Noise Team citing noise disturbance during the restaurant opening hours.

The applicant has submitted an Operational Management Statement which states that the maximum number of covers will remain as existing (193), no bookings will be taken beyond 22.00 (as existing) to allow existing customers more time to finish their meal and allow for a more gradual and controlled dispersal of customers during the later hours of trading. It also sets out their operational procedures to protect the amenity of local residents. Provided the restaurant continues to run as set out in the Operational Management Statement, the extension of the restaurant closing time from midnight to 00.30 on a permanent basis is unlikely to result in any significant loss of amenity to surrounding residents. It is recommended that the Operational Management Statement be secured by condition, with a requirement to seek approval from the Council should any changes in the future be sought.

Whilst objections have been raised on amenity grounds, it is not considered that the impact of the additional half hour is sufficient to justify a reason for refusal on planning grounds. Subject to conditions, approval is therefore recommended.

**BACKGROUND PAPERS**

1. Application form.
2. Memorandum from Environmental Health dated 13 January 2015.
3. Memorandum from Highways Planning Manager dated 9 January 2015.
4. Letter from Knightsbridge Association dated 14 January 2015.
5. Letter from occupier, 1 Trevor Square, SW7 dated 7 January 2015.
6. Letter from Turley Associates, on behalf of The Knightsbridge Residents Management Company Ltd (199 Knightsbridge, SW7) dated 13 January 2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT MATTHEW MASON ON 020 7641 2926 OR BY E-MAIL – [mmason@westminster.gov.uk](mailto:mmason@westminster.gov.uk)

**DRAFT DECISION LETTER**

**Address:** 5 Raphael Street, London, SW7 1DL,

**Proposal:** Removal of Condition 2 of planning permission dated 10 December 2013 (RN:13/07366/FULL ) for extension of the opening hours of the restaurant unit so as to allow it to open between 10.00 to 00.30 hours the following day on Mondays to Saturdays (no change on Sundays) on a permanent basis.

**Plan Nos:** Site location plan; unnumbered floorplan and Operational Management Statement dated October 2014.

**Case Officer:** Julia Asghar

**Direct Tel. No.** 020 7641 2518

**Recommended Condition(s) and Reason(s):**

- 1 Customers shall not be permitted within the restaurant premises before 10.00 or after 00.30 the following day Monday to Saturday and before 10.00 or after 23.00 on Sundays. (C12BD)

**Reason:**

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 2 You must carry out the measures included in your Operational Management Statement dated October 2014 at all times that the restaurant is in use. Should any changes be required you must apply to us for an alternative Operational Management Statement prior to making any changes. If we approve an alternative Operational Management Statement you must then carry out the measures at all times the restaurant 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: Strategic Policies adopted November 2013 and TACE TACE10 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

**Informative(s):**

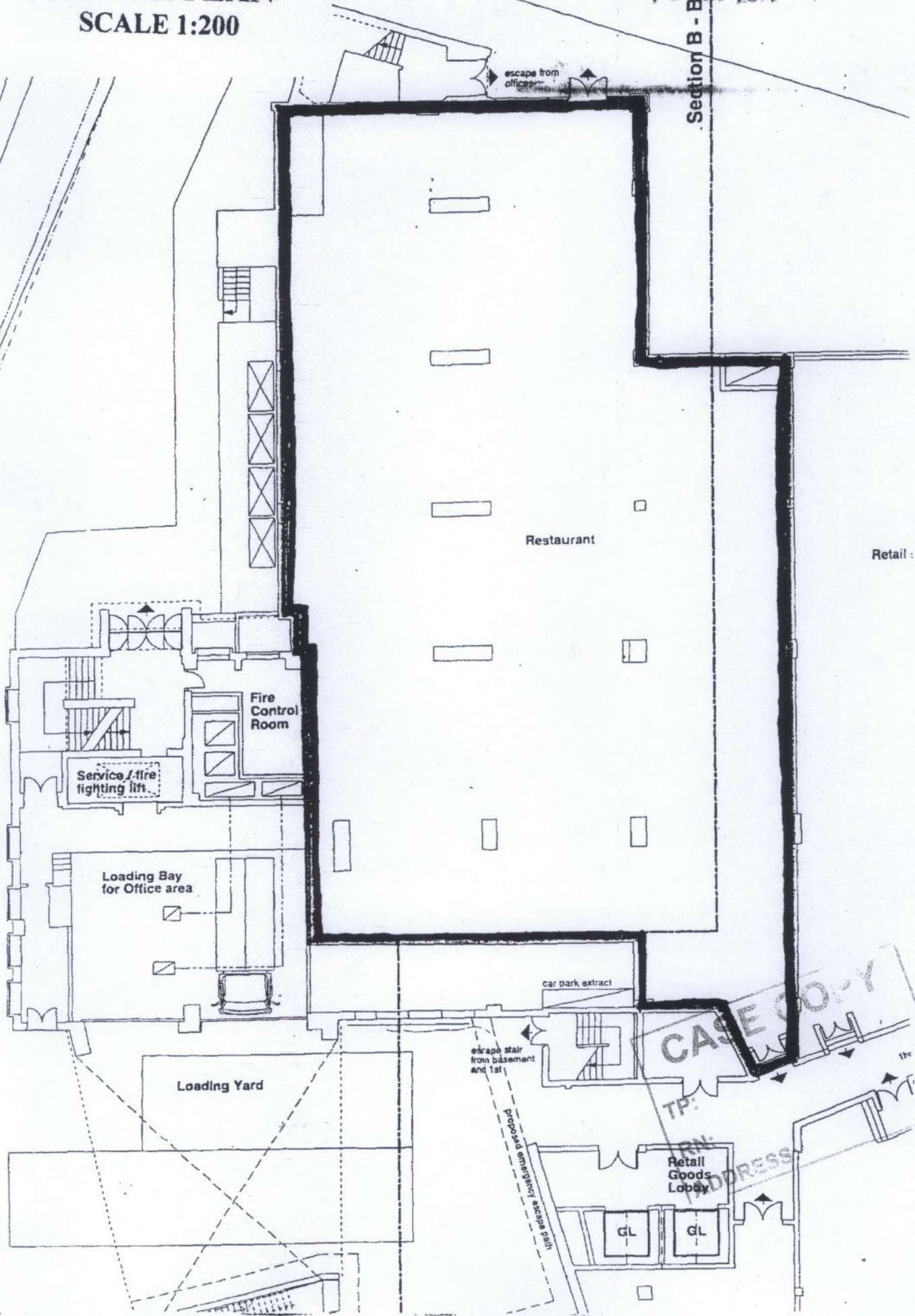
- 1 In dealing with this application the City Council has implemented the requirement in the Nation Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, 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.

CASE COPY

FLOOR PLAN  
SCALE 1:200

18 May 2014

Section B - B



CASE COPY

TP:

RN:

ADDRESS