

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 3 May 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	43 Drury Lane, London, WC2B 5RT		
Proposal	Variation of Condition 3 of planning permission dated 25 August 2015 (RN : 15/04293) for the use of an area of the public highway measuring 2.5m x 7.5m for the placing of four tables, eight chairs, two parasols and four planters in connection with the adjacent ground floor restaurant unit (Class A3). Namely, to extend the time the tables, chairs and planters may remain on the pavement from 21.00 until 23.00, with the tables, chairs and planters to be stacked away after 21.00.		
Agent	GL Hearn		
On behalf of	Barrafina Ltd		
Registered Number	15/09908/FULL	Date amended/ completed	5 November 2015
Date Application Received	23 October 2015		
Historic Building Grade	Grade II		
Conservation Area	Covent Garden		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

This application relates to Barrafina, a restaurant on the western side of Drury Lane on the corner with the pedestrianised Broad Court. The building is Grade II listed and lies within the Covent Garden Conservation Area.

An application was considered by Planning Committee on 25th August 2015 for use of an area of the public highway measuring 2.5m x 7.5m for the placing of four tables, eight chairs, two parasols and four planters in connection with the adjacent ground floor restaurant unit (Class A3) (15/04293/FULL). Committee resolved that conditional permission be granted, subject to an amended condition (condition 3) requiring the tables, chairs and associated furniture to be removed from the pavement after 21.00.

This latest application seeks to vary Condition 3 of planning permission dated 25th August 2015,

namely, to extend the time the tables, chairs, and planters may remain on the pavement from 21:00 until 23.00, with the tables, chairs, and planters to be stacked away and not used by customers after 21:00.

The consented scheme allows the outdoor furniture to be on the pavement between 12.00 and 21.00. The restaurant operator has advised that due to the internal size of the restaurant, there is not sufficient storage space for the tables, chairs, and planters to be stored inside at 21.00 as the restaurant will be full with customers until closing time.

The applicant has advised that there is sufficient space for the parasols to be stored indoors by 21.00. A bespoke hanging system has been designed so that the poles can be stored at high level, whilst their bases can be stored in the basement level storeroom. The only available indoor storage space for the tables, chairs, and planters is within the main restaurant area as there is not sufficient space within either the corridor or basement storage area. The applicant maintains that they would have to wait until customers have left the main restaurant at 23.00 until the remaining furniture can be stored inside.

As such, it is proposed to vary the wording of condition 3 to allow the furniture to be stacked from 21.00 and stored outside until 23.00 when the restaurant closes. The applicant originally requested to store the furniture outside until midnight. However this has been amended to 23.00 at the request of the Highways Planning Manager who advises that the licensed area must revert to highway to facilitate the washing down by the Cleansing Department.

Objections have been received from the Covent Garden Community Association, the Covent Garden Area Trust and three neighbouring residents. The objections are on grounds that the tables and chairs are located in a quiet residential area close to residential windows, and the breaking down and removing of the street furniture after the restaurant has closed would cause noise and disturbance to neighbouring residents. The objectors point out that the 21.00 limit was imposed because of the residential nature of the area. Objectors are also concerned if the tables and chairs are left outside unattended then this may become a gathering place and lead to antisocial behaviour, which happens in other parts of Covent Garden.

It is common in the Covent Garden area and throughout the city for external tables and chairs to be located in close proximity to residential properties. The proposal would not extend the hours that the tables and chairs will be used by customers, which will remain between 12.00 and 21.00 daily.

The applicant has confirmed that the furniture will be stacked at 21.00 at which time it will be chained down to avoid antisocial behaviour. In response to concerns raised regarding potential noise and disturbance from moving the furniture inside the restaurant at 23.00, the applicant is proposing a number of mitigation measures, namely:

- The planters will be on wheels, so do not have to be dragged into the restaurant;
- The chairs will be fitted with nylon glides to their feet to act as buffers, which should limit any noise disturbance even if dragged whilst stacked;
- The tables will also be fitted with nylon glides to limit noise disturbance but are expected to be carried inside.

The applicant advises that if they are unable to stack the furniture outside from 21.00, they would not be able to implement the original permission to use the public highway for tables and chairs as there is not enough storage space within the restaurant to store the furniture, whilst the restaurant is in use.

The applicant intends that the seating will provide a pleasant afternoon and evening seating area for customers and add to the vitality of the local area, without impacting negatively on the amenity of neighbouring residents.

On balance, it is considered that an extension to the time the furniture may remain on the pavement from 21:00 until 23.00, with the furniture stacked away after 21:00, would not be so harmful to neighbouring residents to justify refusing permission. Given that the permission would be granted for a temporary one year period only, this would enable any future applications to be reviewed in light of any complaints which may be received over this period.

Condition 2 has also been amended which requires the tables and chairs to be laid out as shown on the plans. An additional plan has been submitted as part of this application to show where the tables, chairs and planters would be stacked from 21.00.

Condition 5 has also been amended to renew the temporary one year period for use of the public highway for tables and chairs, given that the applicant has yet to implement the original permission dated 25th August 2015.

Subject to conditions, the proposals are considered acceptable and comply with Policies ENV 13 of the UDP and S28 of the City Plan.

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

COVENT GARDEN COMMUNITY ASSOCIATION

Objection raised on the grounds that the tables and chairs are opposite residential properties and breaking down and removing the street furniture harms residential amenity through noise and disturbance from dragging the furniture. The 21.00 limit was imposed because of the residential nature of the area. Also, stacking the tables and chairs will not prevent antisocial behaviour from passers-by using them, which happens in other parts of Covent Garden.

COVENT GARDEN AREA TRUST

Objection raised on the grounds that the tables and chairs are opposite residential properties and breaking down and removing the street furniture harms residential amenity through noise and disturbance from dragging the furniture. The 21.00 limit was imposed because of the residential nature of the area. Also, stacking the tables and chairs will not prevent antisocial behaviour from passers-by using them, which happens in other parts of Covent Garden.

HIGHWAYS PLANNING MANAGER

Object to allowing tables and chairs to remain on the pavement after 23.00 as the licensed area must revert to highway to facilitate the washing down by the Cleansing Department (The application has subsequently been revised to make the terminal time 23.00).

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 43;

Total No. of Replies: 3.

Three objections received from adjacent residents, objecting to any extension to the time limit of 21.00 on grounds of noise and disturbance in a residential area.

ADVERTISEMENT/SITE NOTICE: Yes.

6. BACKGROUND PAPERS

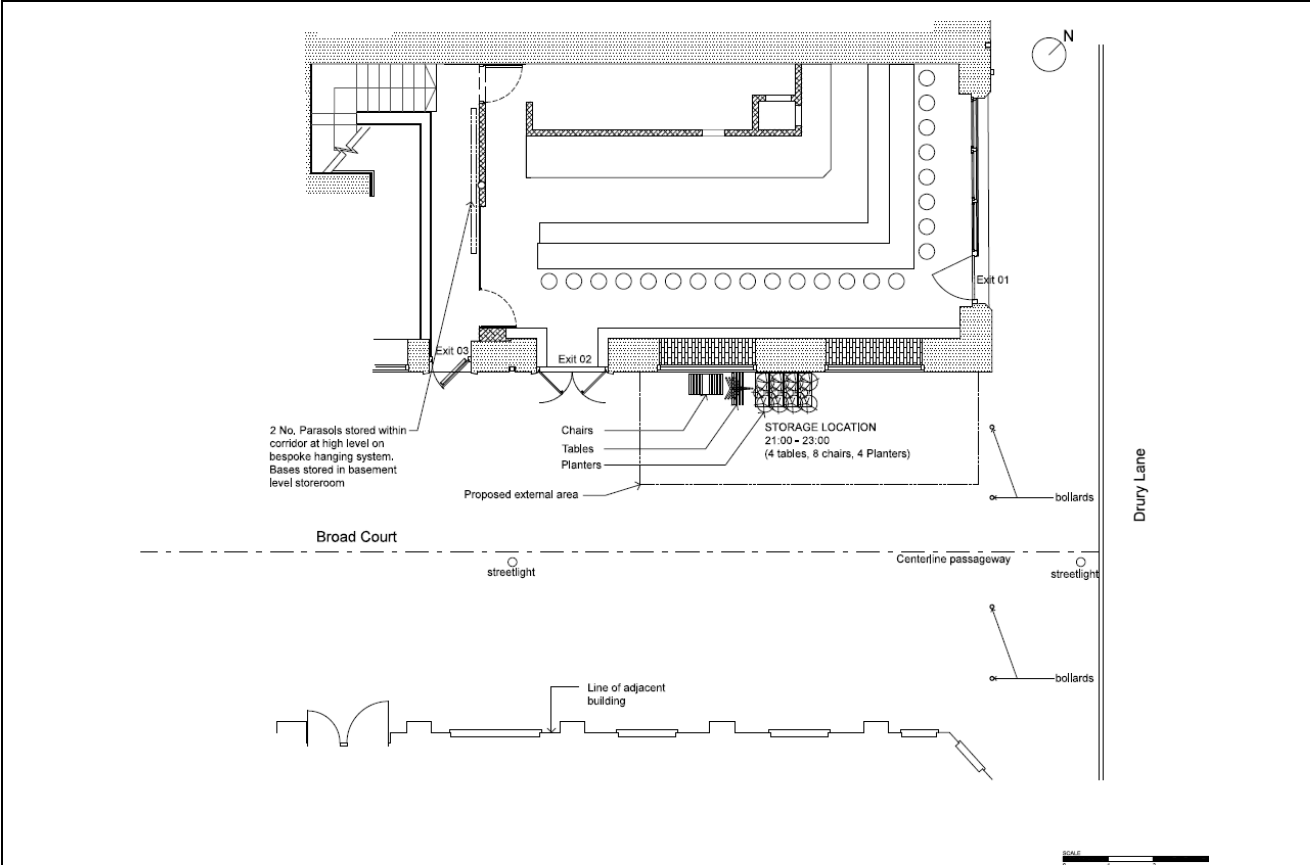
1. Application form
2. Response from Highways Planning – Development Planning, dated 14 December 2015.
3. Responses from Covent Garden Community Association dated 8 February 2016 and 11 December 2015.
4. Responses from Covent Garden Area Trust dated 12 February 2016 and 14 December 2015.
5. Letter from occupier of Flat 11, 44-46 Drury Lane dated 14 December 2015.
6. Letter from occupier of Flat 6, 44-46 Drury Lane dated 6 December 2015.
7. Letters from occupier of Flat 14, 44-46 Drury Lane dated 4 February 2016 and 7 December 2015.

Selected relevant drawings

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

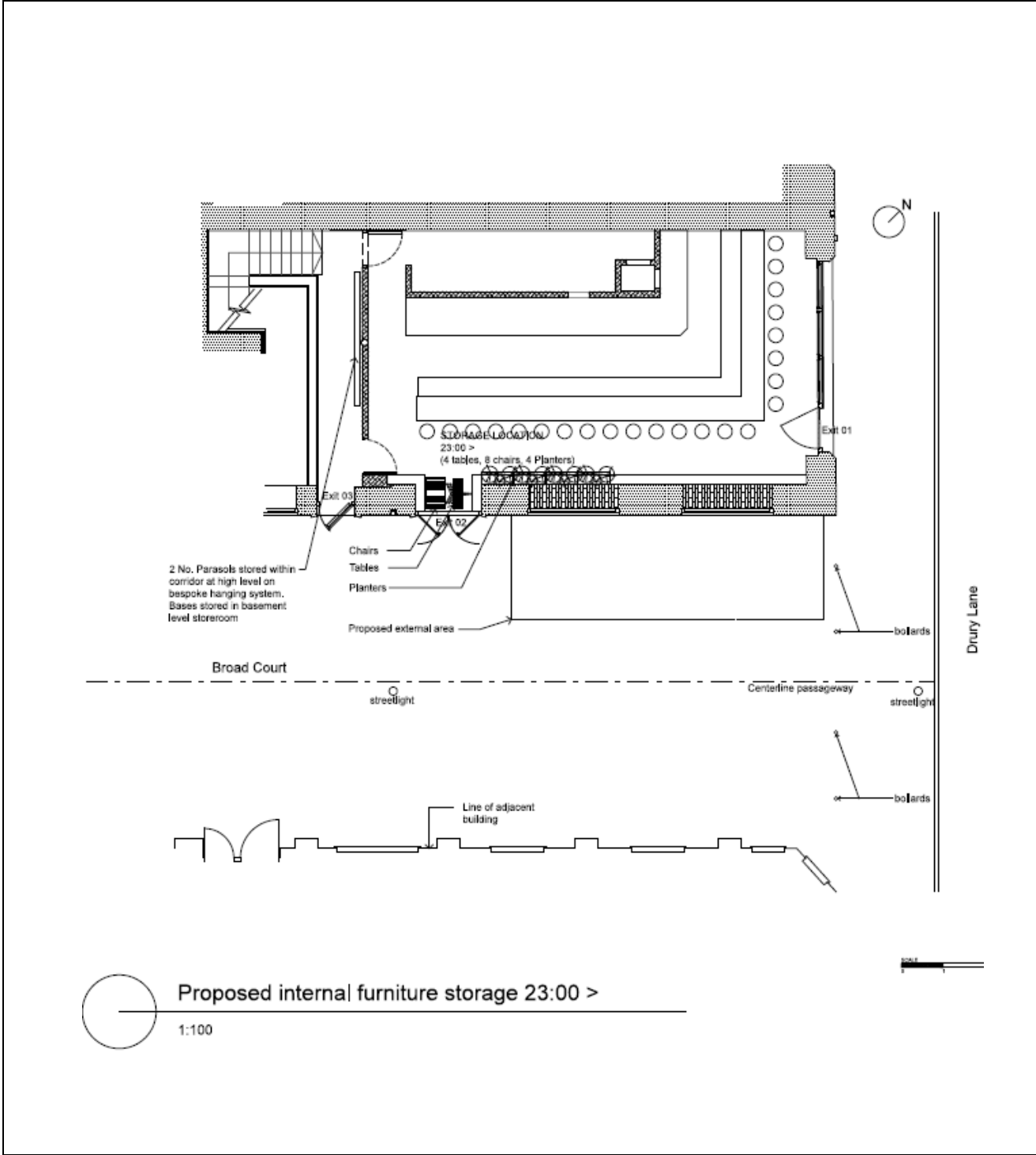
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT SEBASTIAN KNOX ON 020 7641 4208 OR BY EMAIL AT SouthPlanningTeam@westminster.gov.uk

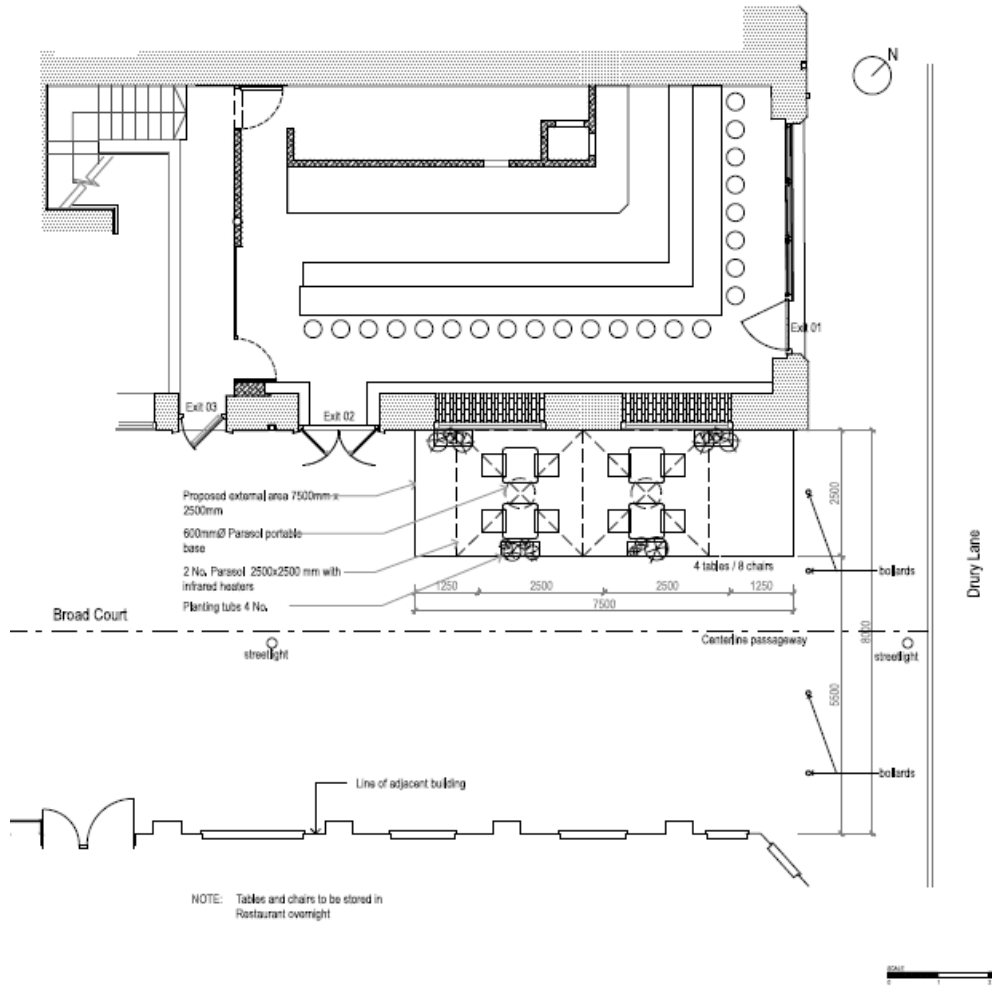
7. KEY DRAWINGS



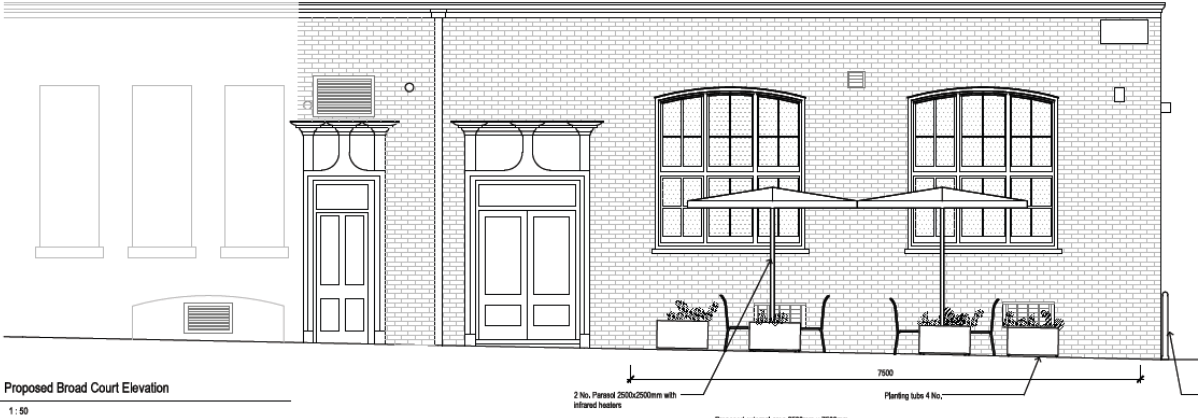
Proposed external furniture storage 21:00 - 23:00
1:100







Approved tables and chairs layout under planning permission 15/04293/FULL



1 Proposed Broad Court Elevation
1:50



2 Proposed Drury Lane Elevation
1:50

Approved tables and chairs elevations under planning permission 15/04293/FULL

DRAFT DECISION LETTER

Address: 43 Drury Lane, London, WC2B 5RT,

Proposal: Variation of Condition 3 of planning permission dated 25 August 2015 (RN : 15/04293) for the use of an area of the public highway measuring 2.5m x 7.5m for the placing of four tables, eight chairs, two parasols and four planters in connection with the adjacent ground floor restaurant unit (Class A3). Namely, to extend the time the tables, chairs and planters may remain on the pavement from 21:00 until 23.00, with the tables, chairs and planters to be stacked away after 21:00.

Reference: 15/09908/FULL

Plan Nos: As previously approved: , BF.D157 P B; BF.D 158 P C; Site location plan; photomontage; Planning, Design and Access Statement dated 14 May 2015; Email from Catherine L'Estrange dated 22 July 2015.

As amended by:, Covering letter from GL Hearn dated 23 October 2015; BF.D 160 P A; BF.D 161 P A; visual of stacked furniture. Email from Catherine L'Estrange dated 20 April 2016.

Case Officer: Sebastian Knox

Direct Tel. No. 020 7641 4208

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 not put the tables and chairs in any other position than that shown on drawing BF.D157 P B and BF.D 158 P C between 12.00 and 21.00 and in any other position than that shown on drawing BF.D 160 P A between 21.00 and 23.00 (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables, chairs, parasols and planters on the pavement between 12.00 and 23.00 Monday to Sunday, with the tables, chairs and planters to be stacked away and not used by customers between 21:00 and 23.00.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 4 The tables and chairs must only be used by customers of the restaurant at 43 Drury Lane. (C25CA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 5 This use of the pavement may continue until 30 April 2017. You must then remove the tables and chairs. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables, chairs and other furniture/equipment shown on drawing BF.D157 P B; BF.D 158 P C and photomontage.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other

furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007.

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: 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.
- 2 You cannot put tables and chairs in the area unless you have a street trading licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 You are reminded that the planters and umbrellas must be removed each night along with the table and chairs.
- 5 For the avoidance of doubt this permission only relates to the proposals set out in the description of development and does not allow for alterations to the shopfront.

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.