

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 18 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Hyde Park	
Subject of Report	Moorings Opposite Hammersmith And City Line Station Adjacent To, Bishop's Bridge Road, London		
Proposal	Use of two moorings opposite the Hammersmith and City line entrance to Paddington Station to provide one boat as a cafe/exhibition space (Use Class Sui Generis) and one boat as dual retail/restaurant (Class A1/A3). Associated installation of additional seating and railings on the roof of both vessels.		
Agent	Mr Adam Kindred		
On behalf of	Miss Isabel Jeans		
Registered Number	16/02946/FULL	Date amended/ completed	1 April 2016
Date Application Received	1 April 2016		
Historic Building Grade	Unlisted		
Conservation Area	Outside of a designated conservation area		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

Permission is sought to permanently moor two boats on the canal opposite the Hammersmith and City line station exit to the London Underground. One of the boats is to be used as a café with exhibition space with informal tables and chairs internally and further seating located on the roof. The second boat is to be used for either retail or a restaurant with formal seating and ancillary kitchen, bar and further seating located on the roof. The restaurant is proposed to be open between the hours of 07:00-23:00 Monday to Saturday and 08:00-22:30 on Sundays and Bank Holidays.

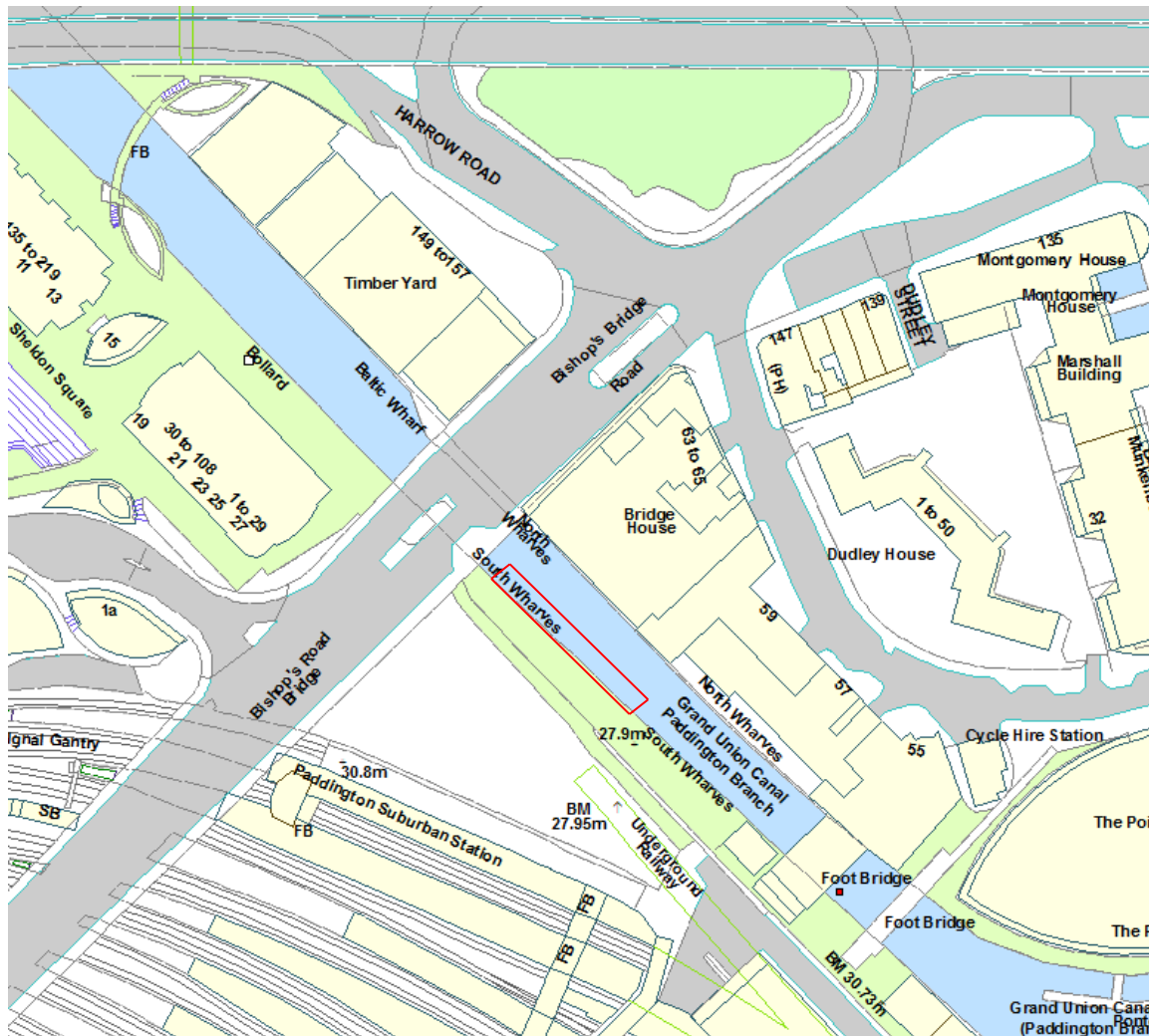
Objections have been received from residents of Sheldon Square, located on the other side of Bishops Bridge Road on the grounds of noise and increased late night activity.

The key issues are:

- * the acceptability of a restaurant mooring in this location in land use terms;
- * the impact of the proposal upon the amenities of neighbouring residents;
- * whether the servicing arrangements for this mooring are satisfactory;
- * the impact of this proposal on the canal side environment and townscape.

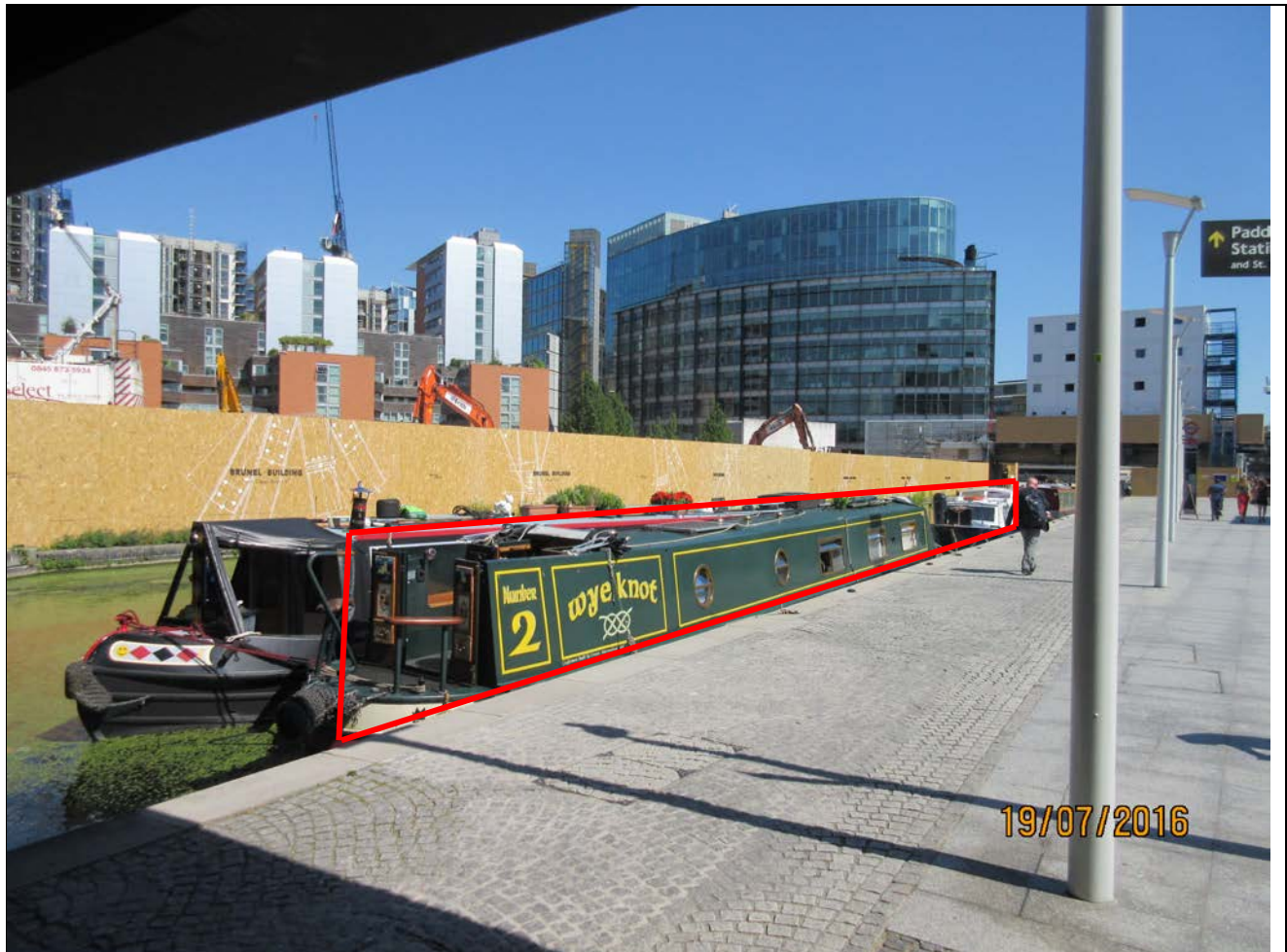
Subject to conditions, the proposals are considered to comply with the Council's policies in relation to land use, design and amenity as set out in Westminster's City Plan and the Unitary Development Plan (UDP) and the application is accordingly recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



View from under Bishops Bridge Road looking South East along the canal
(Hammersmith and City line exit to the Underground located out of shot to the right)

5. CONSULTATIONS

HYDE PARK ESTATE ASSOCIATION:

Support the proposals, which will be beneficial to improving viability of the area.

PADDINGTON AND MAIDA VALE SOCIETY:

Comment that the utility box is large and a smaller one would be preferable. Request for neighbours' views to be taken into consideration.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Any response to be reported verbally.

INLAND WATERWAYS ASSOCIATION:

Support principle of commercial use. Comment that the design of the crafts should be of the type which traditionally navigated the canal.

CANALS AND RIVERS TRUST:

No objection, subject to informative in relation to code of consents for works on the canal.

PADDINGTON BID:

Any response to be reported verbally

CLEANSING:

No objection raised.

HIGHWAYS PLANNING MANAGER:

No objection subject to conditions to ensure that the works do not cause obstruction to pedestrians and to limit the capacity of the restaurant.

ENVIRONMENTAL HEALTH:

No objection but comment that the applicant should be aware that unauthorised fuels or unauthorised appliances may constitute an offence under the Clean Air Act.

ADJOINING OWNERS/OCCUPIERS:

No. consulted: 141

No. of replies: 2 objections: One from a local resident and one on behalf of the Sheldon Square Residents Association on the grounds of noise in relation to plant equipment, music and increased late night activity.

ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application relates to two moorings located at Paddington Central directly opposite the Hammersmith and City Line exit to the Paddington Tube station, known as South Wharves. The site is located outside of a conservation area and the Central Activities Zone (CAZ), but is within

the North Westminster Economic Development Area (NWEDA) and the Paddington Opportunity Area. There are currently traditional narrow boats which are moored along the canal side on a temporary basis.

On the northern side of the canal works are currently underway to build a large development, which includes 100 residential units as well as additional office, retail and restaurants floorspace.

6.2 Recent Relevant History

Permission was granted at Planning Committee on 02 April 2013 for a restaurant mooring with 42 covers on the other side of Bishops Bridge Road, at Baltic Wharf.

Permission was subsequently granted on 25 April 2016 for the dual/alternative use of the same boat for either a marketing suite (sui generis) or A3 (restaurant) use [adjacent to towpath at Paddington Central]. The boat is currently operating as a marketing suite for an office development within Paddington Central.

7. THE PROPOSAL

This application is for the permanent mooring of two boats on the canal. One is to be used as a cafe with ancillary exhibition space and additional seating on the roof, and one is proposed to have a dual retail/restaurant use with tables and chairs proposed on the roof. Associated railings and planters are proposed around the perimeter of the roof of both vessels. The proposed boats each measure 19.9m long by 3.8m wide.

The boat located in the western position would comprise a conventional more restaurant, with the plans indicating 54 covers as well as a small bar and kitchen at the rear. The eastern boat has a less formal seating arrangement with a number of benches and some seating (10 covers) within the bow of the boat, and is proposed to operate more akin to a café, with a salad and coffee station.

The proposals originally included the installation of a utility box on the towpath. Following officer comment this has been removed, with services now to be provided within an enclosure under the towpath.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Policy S3 of the City Plan relates to Paddington Opportunity Area and promotes a range of uses including retail, social and community facilities, entertainment and arts/cultural uses. The proposals are considered to be in accordance with this policy.

Policy DES 13 (B) 3) of the UDP relates to the provision of canal moorings and encourages their provision where they provide facilities for visitors and boaters, as long as such facilities will not hinder the navigation of the canal. As the proposals provide an additional facility in the form of a café/exhibition space and restaurant/retail space, and as sufficient canal is left clear for the navigation of the canal, the proposals are considered in accordance with this part of the policy.

The western boat is proposed as a café / exhibition boat, which the applicant has indicated as an A1 use. The plans indicate bench seating along the side of the boat and seats within the bow of the boat totalling approximately 28 covers. While only cold food and hot drinks are on offer, which could be considered as an A1 use, when combined with the rooftop seating (an additional 18 seats), the use is considered to be a mixed A1/A3 use and is therefore considered as a Sui Generis use. The eastern boat is proposed as a dual alternative A1/A3 use, with the plans submitted with the application indicating the proposed A3 use. No details of an A1 use have been provided, however A1 uses are generally promoted across Westminster and such this use is considered to be acceptable, providing vitality to this part of Paddington.

Policies S24 of the City Plan and TACE 8 within the UDP relate to new entertainment uses under 150sqm and are relevant here should both boats be used as a café and a restaurant.

S24 states that Planning Permission will generally be granted for such uses where the Council is satisfied that the proposed development is appropriate in terms of 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.

Policy TACE 8 specifically seeks to ensure that developments will have no adverse impact on both residential amenity and the local environmental quality as result of noise, vibration, smells, late night activity or increased parking/traffic. In order to mitigate such issues, the Council will take account of the need for conditions to control the new use, where appropriate.

The nearest residential accommodation to the site is located at Sheldon Square, on the other side of Bishops Bridge Road, two objections have been received from residents of this building. Once construction works are complete, there will also be residential accommodation on the other side of canal. However and as this development is still at a relatively early stage of construction, it can be afforded limited protection.

Sheldon Square, on the other side of Bishops Bridge Road, is characterised by restaurants on the ground floor, with outside seating on the canal side frontage, with residential flats on the upper floors. The terminating hour for the existing ground floor entertainment uses is 23:00. This part of the canal currently does not have any permanent commercial operators.

The use of the boats as a café and a restaurant is considered to provide vitality to this part of Paddington, and is considered to be acceptable subject to conditions in relation to ventilation, noise, covers, servicing and opening hours as set out on the draft decision letter.

During the application process officers raised concerns in relation to the proposed rooftop seating, which would usually be resisted (both in terms of their appearance and amenity). The design implication of the seating is discussed in section 8.2 of this report. In land use and amenity terms, it is considered that in this particular instance, given the benefits of the proposals to enliven this part of Paddington and provide a new facility for visitors, workers and residents an exception can be made. This is due to the separation of the site from the nearest residential accommodation and subject to conditions to restrict the proposed use in terms of the number of covers and the opening hours to align with the other entertainment uses.

8.2 Townscape and Design

The site is located outside of a conservation area, but is on the canal which is part of the Blue Ribbon Network, and therefore policies S37 of the City Plan and DES13 of the UDP apply. Policy TACE 8 (B) 2) of the UDP also seeks to ensure that developments do not have an adverse effect on the character or function of its area.

The proposals are for relatively wide berth boats, measuring 3.8m in width. Traditional narrow boats have a maximum width of around 2m. Officers raised concerns in relation to the size and appearance of the proposed boats, which included a large amount of glazing along the side elevations and rooftop seating. The appearance of the boats was subsequently amended so that they have a more traditional appearance, with a greater proportion of timber panelling along their side elevations, and the stair compartments reduced in size and made more solid in appearance. The applicant has also offered for the railings and seating on the roof of the barges to be removed during the winter months (October-March).

Officers remain of the opinion that the proposed boats are overly large and are not as appropriate as traditional narrow boats. Furthermore, the use of the roof of the boats as terraces for additional seating is an uncharacteristic feature, resulting in additional rooftop clutter. The applicant has stated that narrow boats with no outside seating would not provide adequate floorspace to viably operate.

Given the particular character of the site, located adjacent to the underground station exit and away from residential accommodation, and the benefits of providing a new use to this part of Paddington which will help to enliven the towpath, as aforementioned it is considered that the proposals could be considered acceptable in this particular instance. This is however subject to the offered condition for the removal of the rooftop railings and furniture during the winter months and an additional condition to ensure that no additional clutter such as canopies or umbrellas are installed on the roof. These conditions will help to maintain the character of the area for at least part of the year. Subject to these conditions the proposals are considered to be acceptable in design and townscape terms in accordance with Policies S37, DES13 and TACE 8.

It is noted that the plans do not include details of how the roof of the boats would be accessed. The applicant has confirmed that this is to be decided once the final occupier of the boats has been agreed. While largely internal, this may have an impact on the external appearance of the boats. A condition is recommended for further details of this access arrangement once it has been decided.

The applicant has also put forward an offer for the side of the boats to include public art. It is however considered that a simple and restrained colour to the boats would be more appropriate.

8.3 Residential Amenity

Please refer to the Land Use section of this report (section 8.1).

8.4 Transportation/Serviceing

The applicant has submitted an Operational Management Plan with the application, which confirms that servicing will take place from 2 loading bays under Paddington Central, which will be controlled by a management clause within the new operators lease. Goods would then be taken by lift up to ground floor level and taken to the boat by trolley. In order to limit the impact of

deliveries on pedestrian movement, the applicant has confirmed that they will not be allowed across the Paddington Central estate during peak hours when footfall is high.

The Highways Planning Manager has not raised objection to the proposals but comment that Policies S42 of the City Plan and TRANS20 of the UDP require off street servicing. They note that while off-street servicing is proposed, little detail of the links to the application site is provided and thereby may cause disruption to pedestrians. However, given that the site is within a managed estate environment and the relatively small floorspace of the combined barges, no objection is raised.

Alike the boat at Baltic Wharf a condition is recommended for the servicing of the boats still only take place between the hours of 08:00 and 18:00 and that the trolleys are fitted with rubber wheels to ensure that servicing does not have a negative impact on the residents.

8.5 Economic Considerations

No applicable for a development of this size.

8.6 Access

The boats indicate that they will include disabled access via a lift within the main entrance to each boat, which is welcomed.

8.7 Other UDP/Westminster Policy Considerations

8.7.1 Plant

The plans submitted with the application indicate that a flue is proposed on the restaurant boat. Environmental Health has raised no objections to the proposals (subject to the correct fuels being used within a smoke control area), however a condition is recommended for the submission of details of a ventilation system to show how cooking smells will be dealt with, including details of how it will be built and how it will look. Westminster's standard noise condition is also recommended to ensure that the mechanical ventilation does not result in any noise disturbance.

An informative is also recommended to advise the applicant that the installation of any mechanical heating/cooling equipment is likely to require a separate application for planning permission. Subject to these conditions and informative the proposals are considered acceptable in terms of odour.

8.7.2 Refuse /Recycling

Additional information has been provided by the applicant following an objection from the Cleansing Officer that waste could not be stored in a residential waste store on the estate as originally submitted. A revised Operational Management Strategy has been provided which is now considered to be acceptable by the Cleansing Manager. A condition is recommended to ensure that this strategy is utilised.

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 (EIA)

The development is of insufficient scale to trigger the requirement for an EIA.

8.12 Other Issues

None

9. BACKGROUND PAPERS

1. Application form
2. Response from Canal & River Trust, dated 13 June 2016
3. Response from Inland Waterways Association, dated 25 June 2016
4. Response from Paddington Waterways & Maida Vale Society, dated 16 June 2016
5. Response from Hyde Park Estate Association, dated 18 May 2016
6. Response from Highways Planning Manager, dated 31 May 2016
7. Response from Cleansing, dated 27 May 2016
8. Response from Environmental Health, dated 1 June 2016
9. Letter from occupier of 'Apartments, London', dated 23 May 2016
10. Letter from occupier of Apartment 14, 27 Sheldon Square, dated 23 May 2016

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 THE PRESENTING OFFICER: NATHAN BARRETT BY EMAIL AT nbarrett@westminster.gov.uk.

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DRAFT DECISION LETTER

Address: Moorings Opposite Hammersmith And City Line Station Adjacent To, Bishop's Bridge Road, London,

Proposal: Use of two moorings opposite the Hammersmith and City line entrance to Paddington Station to provide one boat as a cafe/exhibition space (Use Class Sui Generis) and one boat as dual retail/restaurant (Class A1/A3). Associated installation of additional seating and railings on the roof of both vessels.

Plan Nos: Operational Management Strategy - Revision A; Letter dated 22 September 2016 from CBRE; 161.01.001 Revision K; 161.01.002 Revision K; 161.01.003 Revision K; BLPB-113; 001 Water Chariot Plans.

Case Officer: Rupert Handley

Direct Tel. No. 020 7641 2497

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 Customers shall not be permitted within the boat premises before 07:00 or after 23:00 on Monday to Saturday (not including bank holidays and public holidays) and before 08:00 or after 22:30 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 3 You must not play live or recorded music which can be heard when outside the boats.

Reason:

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

- 4 You must apply to us for approval of details of the ventilation system to get rid of cooking smells, including details of how it will be built and how it will look. You must not begin the A3 use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14AB)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 5 A maximum of 54 covers within the restaurant boat and 28 covers within the cafe boat and a further 18 covers externally to each boat (total of 36 external covers) will be provided. In addition to this maximum capacity, an additional 10% will be allowed within the restaurant boat for patrons to wait within a designated bar/waiting area until their table within the main dining areas becomes available.

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 (July 2016) and TACE 8 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 You must not put structures such as canopies or umbrellas on the roof terrace.

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 7 You must apply to us for approval of detailed drawings of the following parts of the development:
- how the roof of the boats will be accessed.

You must not start any work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to these drawings. (C26DB)

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 (July 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 8 Between 1 October and 1 March each year, the roof of the boats shall not be used for external seating or any other purpose incidental to the uses hereby approved. All associated furniture and railings shall also be removed during this period.

Reason:

To protect the environment of people in neighbouring properties and to make sure that the appearance of the boats is suitable and that it contributes to the character and appearance of the area. This is as set out in S28, S29 and S32 of Westminster's City Plan (July 2016) and DES1,

DES 5, DES 6, DES 13, ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

- 9 You shall service the moorings and manage waste disposal and storage in accordance with the Operational Management Strategy - Revision A. Trolleys used to transport goods and waste shall be fitted with rubber wheels. All servicing must take place between 08:00 and 18:00 Monday to Sunday.

Reason:

To avoid blocking the surrounding streets and highway and to protect the local environment as set out in S42, S44 of Westminster's City Plan (July 2016) and STRA 25, ENV 12, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 10 (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 (July 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.

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 (July 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 The applicant/developer should refer to the current "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained (<https://canalrivertrust.org.uk/business-and-trade/undertaking-works-on-our-property-and-our-code-of-practice>).

The applicant/developer is advised that the proposed development requires written consent from the Canal & River Trust, and they should contact the Canal & River Trust's Estates Surveyor, Martin Hime (martin.hime@canalrivertrust.org.uk) regarding the required agreement.

- 3 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)
- 4 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)

- 5 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 6 You are reminded that this permission does not authorise the placing of tables and chairs on the canal towpath. Any proposal to place tables and chairs will require a separate application for planning permission.
- 7 The installation of any heating/cooling plant will require a further application for planning permission.
- 8 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 9 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the eastern boat can change between the A1/A3 uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change. (I62A)
- 10 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)