

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 26 September 2017	Classification For General Release	
Addendum report of Director of Planning		Ward(s) involved West End	
Subject of Report	53 Great Titchfield Street, London, W1W 7PT		
Proposal	Use of ground floor and basement as a restaurant (Class A3), alterations including the installation of full height extract duct and plant at rear basement level, installation of kitchen supply inlet, toilet extract and general extract to ground and first floor rear facade and installation of a cigarette bin to the shopfront on Great Titchfield Street.		
Agent	Caulmert Ltd		
On behalf of	Mr Peter Meadows		
Registered Number	17/02844/FULL	Date amended/ completed	31 March 2017
Date Application Received	31 March 2017		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

This application was reported to the Planning Applications Sub-Committee on 20 June 2017. Consideration of the scheme was deferred for clarification as to whether to any additional air conditioning would be required to ventilate the restaurant basement and for confirmation of the expected noise levels generated both by the operation of any additional plant required and from customers using the rear courtyard area.

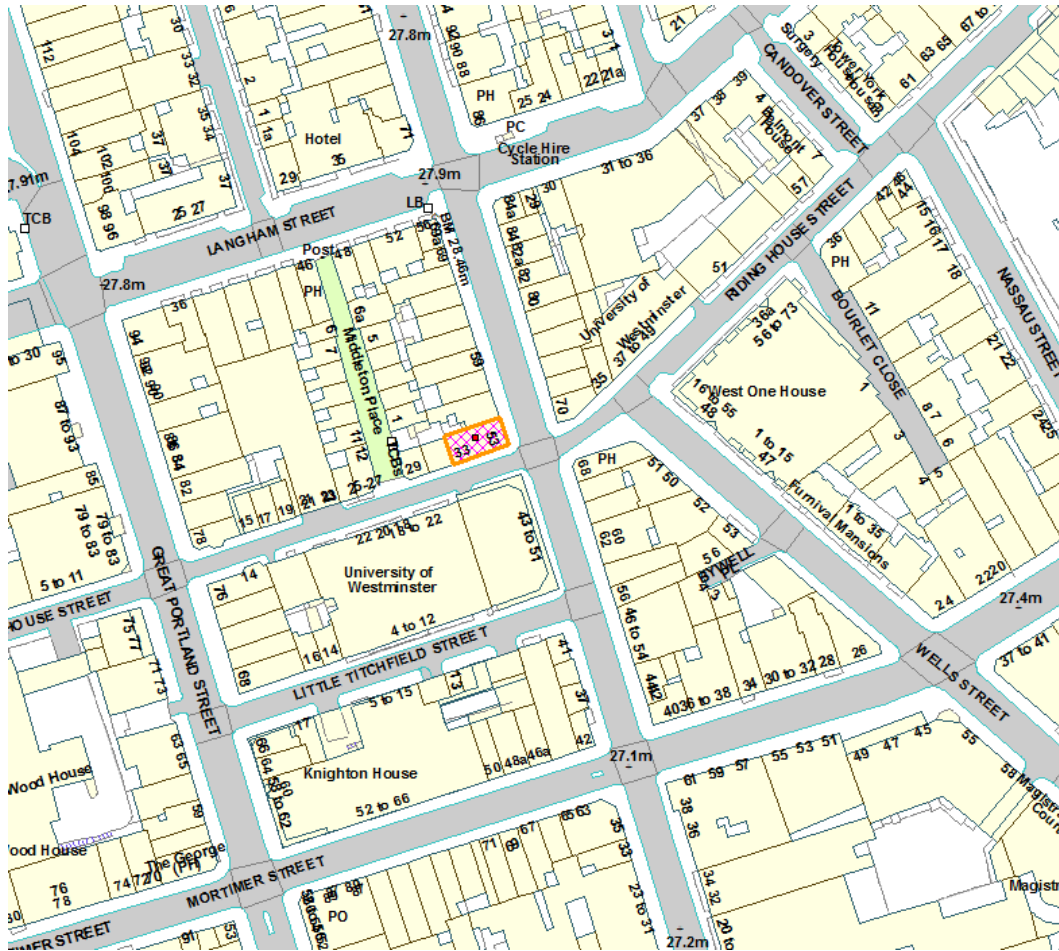
The application has since been amended to include the installation of two additional air conditioning units within the building at rear basement level. These units, which would serve the basement and ground floor accommodation, would be ventilated via a new louvre. An updated acoustic report assesses the impact of this plant operation and also details additional measures to ameliorate potential noise disturbance, including the introduction of an internal entrance lobby and the installation of secondary glazing to restaurant windows. In addition, it is proposed to attach a cigarette bin to the shopfront on Great Titchfield Street. The amendments have been the subject of additional consultations.

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4

A revised Operational Management Plan (OMP) confirms that restaurant customers will not be permitted to access to the rear courtyard and includes further information regarding the management of customers/smokers and undertakings regarding the management of the pavement area outside the premises to prevent littering. The revised details are considered acceptable and, subject to conditions, the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Street view of 53 Great Titchfield Street



Rear courtyard where extract duct is proposed to be located



5. CONSULTATIONS

ADDITIONAL REPRESENTATIONS RECEIVED FOLLOWING THE PUBLICATION OF THE ORIGINAL COMMITTEE REPORT (VERBALLY REPORTED)

4 objections:

- Noise.
- Odour.
- Visual impact of extract vent.
- Cumulative impact of entertainment uses
- Acoustic report fails to identify other residential windows

ADDITIONAL REPRESENTATIONS RECEIVED FOLLOWING AMENDMENTS AND RECONSULTATION

ENVIRONMENTAL HEALTH

No objection subject to conditions.

ADJOINING OWNERS/OCCUPIERS

No. Consulted: 58 Total No. of replies: 1

Re-iteration of previous objections relating to the impact of an additional restaurant, particularly plant noise and smell nuisance.

6. BACKGROUND INFORMATION

6.1 Considerations

This application was reported to the Planning Applications Sub-Committee on 20 June 2017, recommended for approval. The Committee resolved to defer consideration of the proposal, requiring confirmation/clarification as to:

- whether air conditioning would be required for the basement area and, if not, how natural ventilation would be achieved for customers and kitchen staff.
- the expected noise levels generated by any plant equipment and customers using the rear courtyard area

Plant requirements and noise assessment

The application has been amended to include the installation of two air conditioning units within the building at rear basement level. These units, which would serve the basement and ground floor accommodation, would be ventilated via a new external louvre. The applicants have provided an updated acoustic report which assesses the operation of these units. The report also includes a more detailed assessment of potential noise break-out from the restaurant and proposes the installation of an entrance lobby and the provision of secondary glazing to restaurant windows. An updated Operational

Management Plan has been provided which confirms that restaurant customers will not be permitted to access to the rear courtyard.

The Council's Environmental Health Officer has reviewed the revised application and has confirmed that the plant operation would comply with Council standards. Subject to conditions relating to plant noise and vibration and new conditions requiring the creation of an entrance lobby and the installation of secondary glazing inside the existing fixed shopfront, the proposals are considered acceptable on noise grounds and accord with UDP policies ENV6 and ENV7 and City Plan policy S24, S29 and S32.

The basement level windows on the Great Titchfield and Riding House Street frontages are beneath pavement level and derive borrowed light via the pavement lights. Consequently, these windows do not require additional acoustic treatment.

Premises management

The application has been amended to include the provision of a slim-line cigarette bin, attached to the shopfront on Great Titchfield Street. The revised OMP provides further information concerning the management of customers/smokers and includes undertakings concerning the cleansing of the pavement outside the premises to prevent littering.

The OMP undertakes that staff will regularly supervise and monitor customer activity within and outside the premises. The pavement will be maintained clear of cigarette and cigar ends at all times and staff will be contractually discouraged from smoking in the locality. It is considered that the updated OMP includes adequate measures to ameliorate potential nuisance from customers in terms of noise, disturbance and litter generation. Compliance with the terms of the OMP would be secured by condition.

Subject to conditions, it is not considered that the revised proposals would have a material impact on residents' amenities or local environmental quality and the application is accords with policy TACE 8 of the UDP and S24, S29 and S32 of the City Plan.

Design/Townscape

The installation of a cigarette bin to the Great Titchfield shopfront is considered acceptable in terms of its detailed design. As the building, is not listed, the installation of secondary glazing behind the shopfront does not require approval.

Other issues

Whilst some restaurant customers may stand outside the premises to smoke, there is presently nothing to prevent people standing/smoking on this part of the public highway. The proposed cigarette bin will enable customers to dispose of cigarettes in an appropriate manner, reducing the potential for littering. In these circumstances, proposals to provide a cigarette bin are considered acceptable and the Highways Planning Manager has conformed, verbally, that he has no objection to this aspect of the scheme.

Four objections were received following the publication of the original committee report. These objections, on the grounds of loss of amenity due to increased noise disturbance, smell nuisance and the cumulative impact of new entertainment uses in the immediate area, were all addressed as part of the officers' presentation. An additional objection was made on the grounds that the acoustic report did not consider the location of all residential windows neighbouring the site. However, the acoustic report assessed the noise impact upon the nearest noise sensitive window, in accordance with Council requirements, which was considered acceptable, the impact on other neighbouring windows would also satisfy the standard condition.

Following the amendments to the scheme a further objection has been received from a neighbouring resident. This re-iterates previous objections relating to the impact of another restaurant in the area, particularly in respect of disturbance from plant noise and smell nuisance, which were addressed in the original report. As the Council's Environmental Health Officer has reviewed the revised application and has raised no objection to the proposal subject to conditions, it is not considered that these objections could justify a recommendation for refusal.

7. BACKGROUND PAPERS

1. Planning Applications Sub-Committee Report and minutes dated 20 June 2017
2. Response from Environmental Health, dated 09 September 2017
3. Operational Management Plan dated August 2017
4. Letter from occupier of 29A Riding House Street, dated 12 September 2017

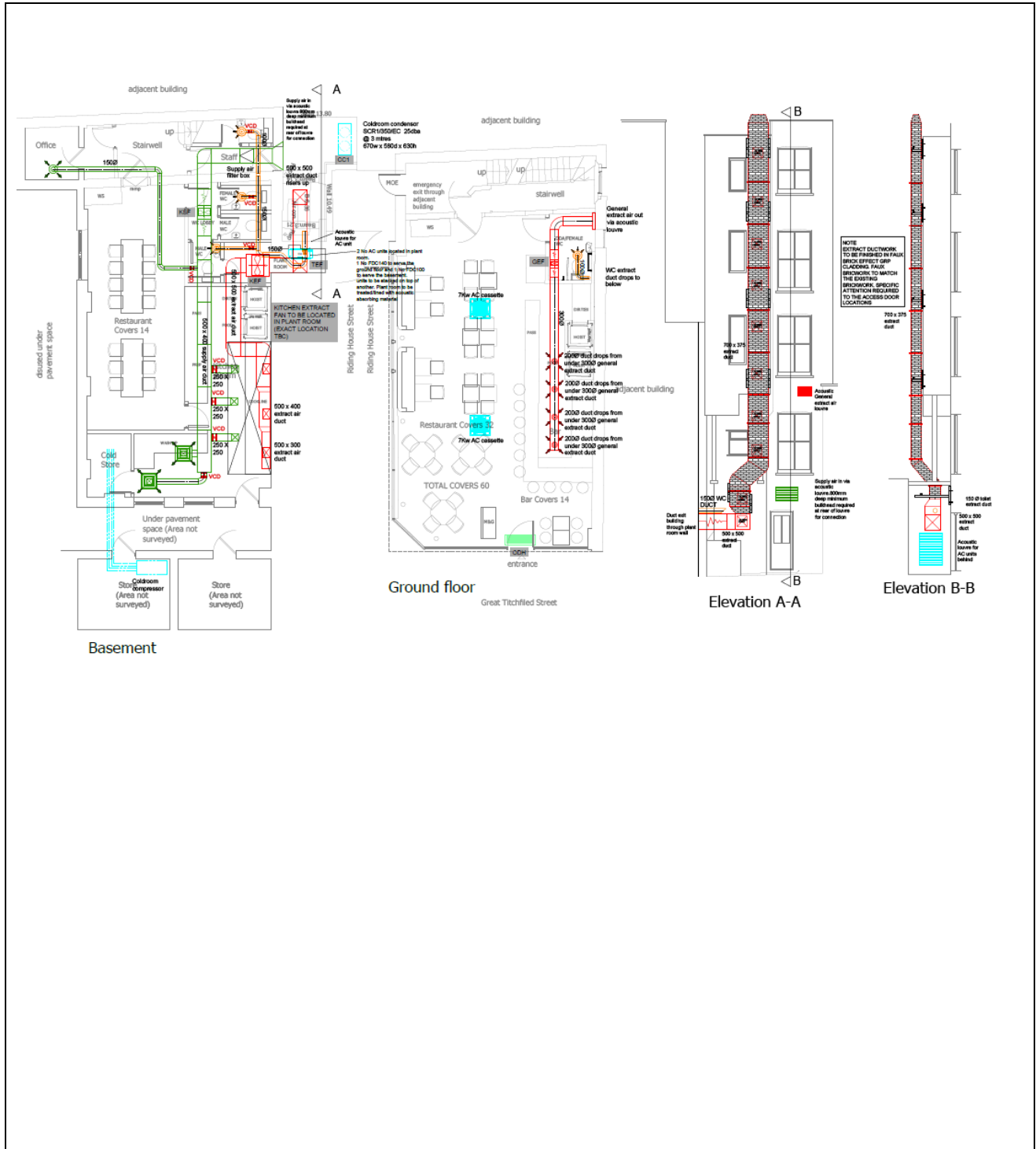
ADDITIONAL REPRESENTATIONS RECEIVED AFTER THE PUBLICATION OF THE PREVIOUS COMMITTEE REPORT

1. Letter from occupier of Flat 1, 55 Great Titchfield St, dated 14 June 2017
2. Letter from occupier of 29 Riding House Street, dated 15 June 2017
3. Letter from occupier of 10 Middleton Place, dated 15 June 2017
4. Letter from occupier of 55 Great Titchfield St, dated 16 June 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: SARA SPURRIER BY EMAIL AT SSPURRIER@WESTMINSTER.GOV.UK.

8. KEY DRAWINGS





DRAFT DECISION LETTER

Address: 53 Great Titchfield Street, London, W1W 7PT,

Proposal: Use of the und floor and basement as a restaurant (Class A3), alterations including the installation of full height extract duct and associated plant at rear basement level, installation of kitchen supply inlet, toilet extract and general extract to ground and first floor rear facade and installation of a cigarette bin to the shopfront on Great Titchfield Street.

Reference: 17/02844/FULL

Plan Nos: Drawings HGT/FWP/001 G, 09-02.2 C (excluding image 3 – Courtyard Reference Plan), 09-02.1 D, Operational Management Plan dated August 2017

Case Officer: Damian Lavelle

Direct Tel. No. 020 7641 5974

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 You must carry out any building work which can be heard at the boundary of the site only:

- * between 08.00 and 18.00 Monday to Friday;
- * between 08.00 and 13.00 on Saturday; and,
- * not at all on Sundays, bank holidays and public holidays.

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

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must not sell any hot-food take-away on the premises, nor operate a delivery service, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use within Class A3 because it would not meet Class TACE 8 of our Unitary Development Plan that we adopted in January 2007, and because of the special circumstances of this case. (R05BB)

- 4 The provision of a bar and bar seating must not take up more than 20% of the floor area of the restaurant premises. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the East Marylebone Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

- 5 You must not allow more than 68 customers into the property at any one time (including any customers waiting at a bar).

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the East Marylebone Conservation Area. This is in line with S24 of Westminster's City Plan adopted November 2016 and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must not play live or recorded music on your property that will be audible externally or in the adjacent properties.

Reason:

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

- 7 Customers shall not be permitted within the restaurant premises before 08:30 or after 23:30 Monday to Friday and before 09:00 or after 23:30 on Saturday and Sunday.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32

of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 8 You must apply to us for approval of a Servicing Management Plan to show how you will ensure deliveries and refuse are not stored on the highway and are carried out in a sensitive manner to ensure noise is minimised within agreed hours. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the approved Servicing Management Plan at all times that the restaurant is in use

Reason:

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

- 9 (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.

- 10 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.

- 11 You must apply to us for approval of details of how waste is going to be stored on the site. You must not commence the use hereby approved start work on the relevant part of the development until we have approved what you have sent us. You must then provide the waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the premises. You must not use the waste store for any other purpose. (C14CD)

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)

- 12 You must apply to us for approval of details of secure cycle storage for the basement and ground floor restaurant unit. You must not commence the use hereby approved start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 13 You must screen the ductwork in a GRP screen so that it matches the colour and appearance of the existing brickwork. You must then keep it in that condition for as long as the duct remains in place. (C26HA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 14 You must apply to us for approval of photographs of the GRP cladding you will use to screen the duct. 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 using the approved materials. (C26BC)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 15 With the exception of the coldroom condenser unit shown on HGT/FWP/001 Rev G, the plant/machinery hereby permitted shall not be operated except between 0700 and 0030 Monday - Friday; 0800 and 0030 on Saturday and Sunday.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 16 No customers or staff shall be permitted access to the rear basement courtyard at any time. This is with the exception of access for maintenance.

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

- 17 The extract duct hereby approved shall be installed in full prior to the commencement of the restaurant (Class A3) use hereby approved and shall be retained in situ for the life of the development.

Reason:

To ensure that cooking odours are adequately dispersed, as required by S29 and S31 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 18 You must apply to us for approval of detailed drawings showing the following alterations to the scheme:

- 1) Creation of an internal entrance lobby to the restaurant entrance on Great Titchfield Street,
- 2) Installation of secondary glazing to the shopfront windows

You must not occupy the premises for restaurant purposes until we have approved what you have sent us. You must then carry out the work according to the approved drawings prior to the commencement of the use and must permanently retain the entrance lobby and secondary glazing. (C26UB)

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 (UDP), 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.

- 19 You must carry out the measures in your management plan dated August 2017 at all times that the restaurant is in use. (C05KA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 8; 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 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.
- 1 Condition 9 controls noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

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.