

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 11 April 2019	<b>Classification</b> For General Release	
<b>Report of</b> Director of Place Shaping and Town Planning		<b>Ward(s) involved</b> St James's	
<b>Subject of Report</b>	<b>6 Dansey Place, London, W1D 6EZ</b>		
<b>Proposal</b>	Use of the ground floor as a substation (sui generis) and installation of new ground floor frontage.		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	Shaftesbury Chinatown Plc		
<b>Registered Number</b>	18/06928/FULL	<b>Date amended/ completed</b>	16 August 2018
<b>Date Application Received</b>	16 August 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Chinatown		

## 1. RECOMMENDATION

Grant conditional planning permission.

## 2. SUMMARY

The application site is located within the Chinatown Conservation Area, the Core Central Activities Zone (Core CAZ) and the Creative Industries Special Policy Area (CISPA). The property comprises ground and four upper floors. The whole building is currently occupied by Lo's Noodle Factory, a mix of light industrial, wholesale retail and ancillary activities (sui generis). Permission is sought to allow the use of the ground floor as a substation (also sui generis) and the installation of new ground floor frontage. The key issues for consideration are:

- The impact of the loss of the existing Sui generis use on the character and function of the area, and
- The acceptability of the new ground floor frontage upon the appearance of the building and the character and appearance of the conservation area.

While the importance of the existing sui generis use and its contribution to China Town is noted, it is considered possible to protect such a use under existing policies. The proposed electrical substation is considered to bring significant benefits to the area by addressing current power supply issues in the area. The change to the frontage would be acceptable if its appearance is improved with the application of some public art.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### SOHO SOCIETY

No objection provided the existing tenant is relocated to suitable alternative premises and any consent is conditioned in this way later.

### CROSSRAIL 1

Do not wish to comment

### CROSSRAIL 2

No comment

### ENVIRONMENTAL HEALTH

No objection subject to conditions

### HIGHWAYS PLANNING

Objection – doors opening over the highway

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 14; No. of objections: 1 -

One objection has been received from the current occupier on the following grounds:

- Loss of business in Chinatown,
- Loss of employment,
- Loss of employment floorspace, and
- Disruption to the supply chain of fresh food within London.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an unlisted building located within the Chinatown Conservation Area, the Core Central Activities Zone (Core CAZ) and the Creative Industries Special Policy Area (CISPA). The property comprises ground and four upper floors. It is located at the western end of Dansey Place, on the south side.

The whole building is currently occupied by Lo's Noodle Factory. The applicant advises that they produce and distribute noodles for approximately 95% of Chinatown's restaurants and have been operating since the late 1970s. The operation comprises a mix of light industrial activities (the production of the noodles at the ground floor) and wholesale retail activities and staff areas on the upper floors. It is considered that the use of the premises is therefore a one-off 'sui generis' use.

### 6.2 Recent Relevant History

#### The Application Site

There is no planning history at the application site.

Other Relevant Permissions

Planning permission was granted at 4 Dansey Place on 31 January 2019 (RN: 18/09688/FULL) to allow the use of first floor as a retail wholesale use (sui generis), to enlarge the existing retail wholesale use at ground floor level, use of the second and third floor for a flexible/alternative use of either retail wholesale (sui generis), office (B1) or residential (C3) comprising 2 x 1 bedroom units. External alterations to the front and rear were also permitted. The applicant has indicated that this is a potential site for the noodle factory to relocate to, although further permission would be required to enable part light industrial use.

Planning permission was granted at 3 Horse and Dolphin Yard on 06 June 2018 (RN: 18/03093/FULL) for use of part of the ground floor as an electrical sub-station (sui generis) with associated external alterations, including the installation of a louvered door.

**7. THE PROPOSAL**

Planning permission is sought to allow the use of the ground floor as a substation (also a sui generis type of use) and the installation of new ground floor frontage. The land use figures for the proposed development are shown in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Light Industrial/Wholesale Retail (sui generis) Use (ground floor only)	29	0	-29
Substation (sui generis) Use (ground floor only)	0	29	+29
Total	29	29	0

The applicant advises that power supply is a recurring issue within Chinatown and, with a long term interest in the area, the applicant is looking to allow UKPN to install the substation in this location. A secondary substation has already been approved in Horse and Dolphin Yard nearby (RN: 18/03093/FULL) which, together with the substation in this application, would help address the power supply issues in the area.

The upper floors would remain unchanged as part of the existing sui generis use.

**8. DETAILED CONSIDERATIONS**

**8.1 Land Use**

**Loss of Light Industrial/Wholesale Retail (sui generis) Use**

The site lies within the Creative Industries Special Policy Area (CISPA) as defined within the Unitary Development Plan (UDP) where light industrial uses are protected. Policy COM8 states that “proposals for redevelopment, rehabilitation or other development affecting premises containing light industrial floorspace will not be granted planning permission where:

1. the site is located within the Creative Industries Special Policy Area
2. this would result in the loss of industrial activities which contribute to the character and function of the area.”



Paragraph 2.78 of the UDP recognises the important contribution that “...*certain industrial activities make to the strength and diversity of the economic and employment base of Westminster...*” and notes that these should be protected as “...*they are important to the character of the City and its economic life, well in excess of their actual size.*” Such uses are grouped into two basic categories:

*“(a) those that are long established, that offer unique or specialist goods or services to national and international markets and which are dependent on their location in central London such as bespoke tailoring, haute couture and other fashion design, jewellery manufacture and repair.*

*“(b) those that provide essential supportive or ancillary services to other important economic and cultural activities, such as film/image processing laboratories associated with the media industry in Soho and clothing workshops associated with the clothing industry in East Marylebone”*

Although the site is located within the CISPAs as defined in the UDP, this SPA designation has not been included within the City Plan. In discussing the importance of Business and Employment, the City Plan recognises that protecting and enhancing the Creative Industries is a priority. However, it also acknowledges that such uses do not fall within a specific use class and they therefore require a customised approach. There is an emphasis on ‘creative industries’ rather than ‘light industry’ and the ‘clustering’ of such uses, and the importance of wider ‘creative hubs’, rather than protection of particular uses. Policy S18 ‘Commercial Development’ refers to encouraging commercial development within the Core Central Activities Zone; S20 states that where appropriate the Council will request a range of business floorspace including workshops and studio.

One objection has been received from the current occupier of the premises on the grounds of the loss of a business in Chinatown, the loss of employment, the loss of employment floorspace, and disruption to the supply chain of fresh food (noodles) within London. The objector also advises that, while the applicant advised at submission of the application that there had been close communication regarding the application prior to submission, this was not actually the case. The applicant claims that discussions have taken place, and are ongoing, with the current occupier in an effort to enable the current use to relocate. The applicant has advised that it may be possible to relocate the existing use at nearby 4 Dansey Place. However, the objector advises that they have been offered the first and second floors of these premises [the ground floor is occupied by another tenant] and does not consider these premises appropriate due to the nature of their operation, which involves large heavy machinery and large amounts of water, creating a wet environment that is best suited to being located at ground floor level. The objector claims that there would be significant costs involved in undertaking the necessary structural works required to operate from the alternative premises offered.

Council officers are sympathetic to the arguments of the existing tenant, and recognise that the current use of the premises as a noodle factory makes a contribution to the character and economy of China Town. However, it is considered that the changing nature of the planning policies, reflecting the move from light industrial ‘manufacturing’ to the ‘creative industries’, makes it difficult to resist the loss of this very specific, one-off

activity. Although conveniently located, the process could be carried out elsewhere and as with most other foodstuffs for Chinatown, it could be brought in.

The applicant has also highlighted the fact that the planning process should not be used to protect a particular user or tenant. The issue of the existing tenant being offered a suitable place to relocate is, in this case, largely a private matter which must be resolved outside of the planning system. The request of the Soho society that the existing tenant be relocated (and this be secured by condition or similar) cannot therefore be upheld.

The other comments from the objector in relation to the disruption of the supply chain of fresh food, mainly noodles, is not considered to be a planning consideration as they could be delivered from elsewhere. The other aspects raised by the objector, with regards to the loss of employment and employment floorspace (both of which are small), are considered to be outweighed by the benefits that the provision of an electrical substation will bring to the area. As a result, the objections from the current occupier are not considered to be sustainable.

With regard to the partial wholesale retail function, City Plan Policy S21 protects retail floorspace through the Westminster except where the Council considers the unit is not viable, as demonstrated by long-term vacancy (18 months) despite reasonable attempts to let. UDP Policy SS5 seeks an appropriate balance of town centre uses on CAZ Frontages and states that *“A1 uses at ground, basement and first floor level in the CAZ and CAZ frontages will be protected.”* It goes on to state that the introduction of non-A1 town centre uses at these floors will only be granted where it would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality. Non-A1 uses also must not lead to, or add to, a concentration of three or more consecutive non-A1 uses.

While the existing unit provides a wholesale retail function, it is not considered that the partial loss of this activity in this location would have a detrimental impact on the character and function of the area. Dansey Place has a strong servicing character, with a prevalence of back entrances to the larger units fronting onto Gerrard Street and Shaftesbury Avenue and is not somewhere frequented by the general public. The existing unit is already a non-A1 use, and it is not considered it's loss or the proposed use would lead to, or add to, a concentration of three or more consecutive non-A1 uses. The upper floors of the property could continue to be used for wholesale retail purposes.

### **Proposed Substation (Sui generis) Use**

There is no policy in the City Plan or saved sections of the UDP which directly concern the use of premises as electrical substations. However, the proposed new sui generis use is considered acceptable in land use terms. The provision of a new sub-station in this area will provide the benefit of reliable power distribution to this area of the city, which is welcomed.

## **8.2 Townscape and Design**

Dansey place is a secondary street with a strongly service character. Elevations here tend to feature rear entrances to buildings on Shaftesbury Avenue and Gerrard Street,

rather than active frontages. Bins, ducts and air conditioning dominate the environment. There are three retail-type outlets on the street, including the application site, none of which have an intact traditional shopfront.

At 6 Dansey Place, the shopfront consists of a brick stallriser, an infilled shop window opening containing some small vents and fixed windows, and a blank fascia above. The stallriser appears to be in stock brick, and a recessed entrance contains a door of no particular merit. A large downpipe descends between the door and shopfront. Above the shopfront the building is traditionally proportioned, though the building is in red brick, rather than the prevailing stock. While the proportions of the building and the shopfront are typical of the wider area, the fabric itself is poor, and the cumulative changes have resulted in a building which makes a neutral contribution to the character and appearance of the conservation area.

The proposal replaces the existing altered shopfront in its entirety with louvred panels and doors, obliterating all detail and features at ground floor level, including fascia and stall riser. A brick soldier course is introduced above the louvres. The complete loss of a shopfront, even one as altered as the existing, is still harmful to the character of the area where the replacement detracts from its character or appearance.

However if a decorative treatment were applied to the louvres, which reduced its deadening impact on the street, it could be considered acceptable. Therefore a condition is recommended requiring a scheme of public art to be applied to the louvres. Other examples in the city show how a decorative scheme can improve the appearance of street level louvres. The applicant has agreed to this.

On the basis that the existing shopfront is of poor quality, that Dansey Place has a strongly service character, and if the proposed louvres are improved with an artistic treatment, the proposal is considered acceptable in design and conservation terms.

### **8.3 Residential Amenity**

Not applicable.

### **8.4 Transportation/Parking**

The Highways Planning Manager has assessed the application and raised an objection on the grounds that the proposed doors open outwards over the public highway, which would be contrary to policies TRANS2, TRANS3 and the Highways Act (s153). The applicant has subsequently amended the design of the door accessing the upper parts of the property so that this opens inwards.

The two new doors which provide access to the substation (one being a single door and one pair of double doors) both still open outwards. The agent advises that it is a requirement of UKPN that the doors open outwards in case of an emergency. They have also advised that these doors in question are only opened from the outside, and not the inside, so there is full visibility along the public realm when these are opened. Although not ideal, given that Dansey Place does not experience high levels of pedestrian use due to its service nature, and that the doors in question will not be opened over the



highway on a regular basis or from the inside, an exception can be made in this instance and these doors may be allowed to open over the highway.

### **8.5 Economic Considerations**

The potential loss of a small established business are noted but are not considered sufficient to outweigh the wider benefits to the local economy of having a reliable electricity supply.

### **8.6 Access**

There will be no change in access arrangements to the upper parts of the property. New access doors will be provided to the ground floor part of the property to be used as an electrical sub-station.

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

#### **Mechanical Plant**

An acoustic report has been submitted in support of the proposed plant at ground level, which has been assessed by Environmental Health. They have confirmed that the proposed installation is likely to comply with the relevant criterion within UDP Policy ENV 7. No further mitigation to reduce the noise levels (such as screening or limiting hours of operation) are required to enable this. Subject to the Council's standard noise and vibration conditions. The application is considered acceptable in amenity terms.

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, any representations received are being considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

### **8.9 Neighbourhood Plans**

A Soho Neighbourhood Plan is in development and not applicable at the current time.

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council. There are no such conditions in this case.

### **8.12 Planning Obligations**

Planning obligations are not relevant in the determination of this application.

### **8.13 Environmental Impact Assessment**

Environmental Impact issues have been covered in section 8.7 above.

### **8.14 Other Issues**

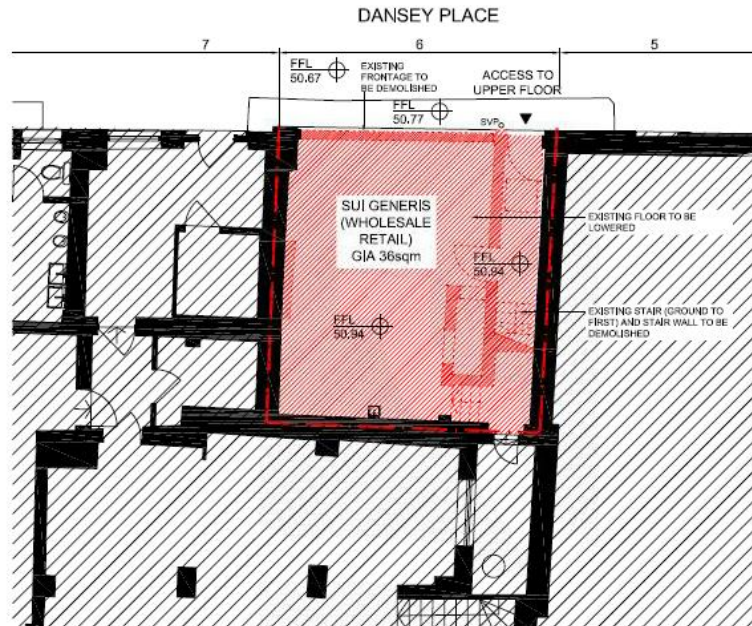
None applicable

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

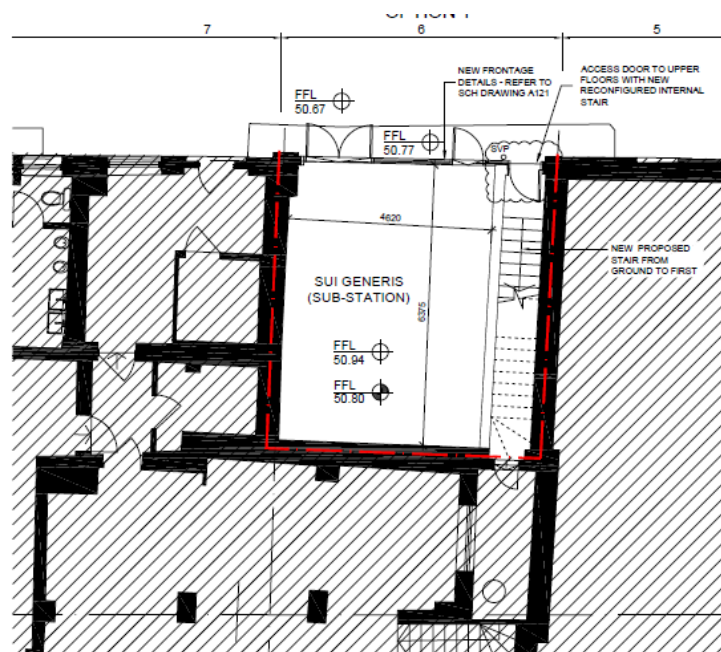
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT [pquayle@westminster.gov.uk](mailto:pquayle@westminster.gov.uk)

9. KEY DRAWINGS

Existing Ground Floor Plan (with demolition)



Proposed Ground Floor Plan



**Existing Front Elevation (with demolition)**



**Proposed Front Elevation**



**DRAFT DECISION LETTER**

**Address:** 6 Dansey Place, London, W1D 6EZ

**Proposal:** Use of the ground floor as a substation (sui generis). Installation of new ground floor frontage.

**Reference:** 18/06928/FULL

**Plan Nos:** A101 Rev. A ; A111 ; A121

**Case Officer:** Adam Jones

**Direct Tel. No.** 020 7641 1446

**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 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

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 Chinatown 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)

- 4 (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. (R46AB)

- 5 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. (R48AA)

- 6 You must apply to us for approval of a scheme of public art applied to the substation louvres. Before the substation use is commenced you must install the public art in accordance with the details approved by the Council. You must then maintain the approved public art and keep it on this site and you must not remove it without the written consent of the Council as Local Planning Authority.

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 Chinatown 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)

#### **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, neighbourhood plan (where relevant), 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 Conditions 4 and 5 control 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)

- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
  
- 4 Please note that substation equipment can contain high energy within low frequency content of sound. Low frequency can be easily transferred within building structures. It is strongly recommended that Residential use should not be introduced above the substation at First Floor level. The applicant is also advised that to limit structural borne sound the equipment must be sufficiently isolated and mounted to minimise sound and vibration transmission.

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.