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CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	**Date** **14 April 2020**	**Classification** For General Release	
Report of Director of Place Shaping and Town Planning		**Ward(s) involved** Hyde Park	
Subject of Report	**45-49 Edgware Road, London, W2 2HZ,**		
Proposal	Use of ground and part basement floors as a mixed delicatessen and restaurant use (Sui Generis) and the installation of full height kitchen extract duct within rear lightwell.		
Agent	Bidwells		
On behalf of	Maroush Bakehouse		
Registered Number	17/09157/FULL	**Date amended/ completed**	13 November 2017
Date Application Received	16 October 2017		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises a ground and basement retail unit located on the west side of Edgware Road at the junction with Connaught Street. The building is not listed and it is not within a conservation area, although the boundary of the Bayswater Conservation Area is located a short distance to the west along Connaught Street. The site is located within the Central Activities Zone Frontage/ Named Street Frontage along Edgware Road and is within the Edgware Road Stress Area.

The application proposes the use of ground floor and part basement floor as a mixed delicatessen and restaurant use (Sui Generis) and the installation of a full height kitchen extract duct within rear lightwell.

Objections have been received from residents raising concerns in relation to land use, amenity and other concerns in relation to the existing and proposed use.

The key issues in this case are:

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- The acceptability of the proposed mixed restaurant and retail shop use within the Central Activities Zone Frontage/ Named Street Frontage.
- The impact of the proposed entertainment use within the Edgware Road Stress Area on the amenity of neighbouring residents.
- The impact of the proposed kitchen extract duct on the amenity of neighbouring residents.
- The impact of the proposed kitchen extract duct on the appearance of the building.

For the detailed reasons set out in this report, the proposed development is considered to be acceptable in land use, design, amenity and highways terms and would accord with the relevant policies in the Unitary Development Plan (UDP) adopted in January 2007 and Westminster's City Plan (the City Plan) adopted in November 2016.

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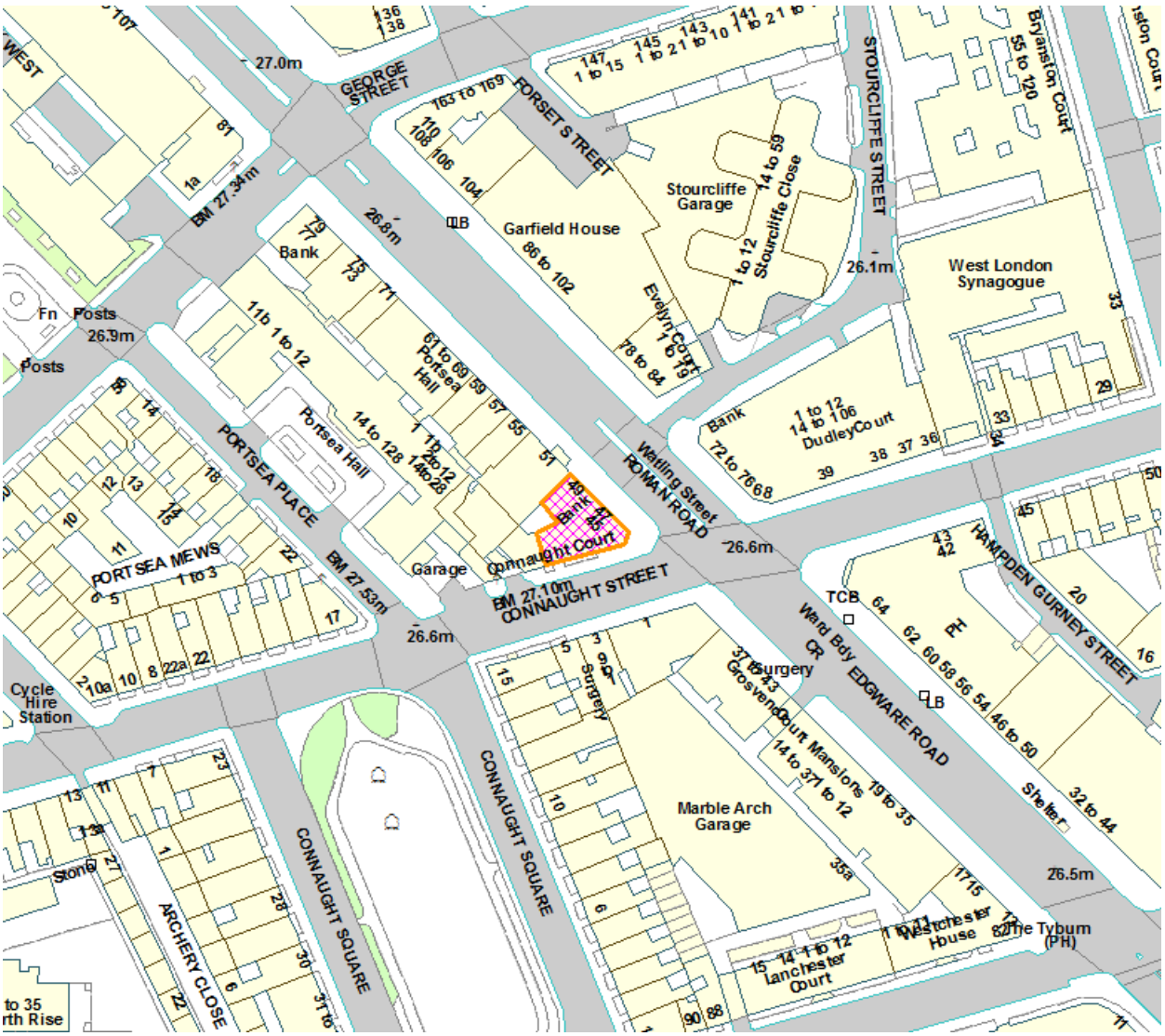
3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation

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Rear Lightwell

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Ground floor

Basement

5. CONSULTATIONS

A number of consultations have been undertaken on this application following the receipt of additional information in relation to the ventilation flue and to correct errors on the plans. The consultation responses are summarised as follows:

HYDE PARK ESTATE ASSOCIATION:
Any response to be reported verbally.

TRANSPORT FOR LONDON:
Raise no objection.

HIGHWAYS PLANNING MANAGER:
Request that no delivery service is provided, which could reduce the availability of parking. Request for two cycle parking spaces. Request for waste storage to be indicated.

Following the receipt of a revised plan showing a goods lift to the street, an objection was raised due to the negative impact on highway.

WASTE PROJECTS OFFICER:
No objection subject to a condition to require the submission of a revised plan to show the waste and recycling storage be submitted.

ENVIRONMENTAL HEALTH:
Originally raised objection on the grounds on the grounds of insufficient information. Following the receipt of additional information, no objection subject to conditions.

BUILDING CONTROL:
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED
No. Consulted: 160
Total No. of replies: 12
No. of objections: 11 objections raising some or all of the following points:

Land Use:
- Fast food outlet would have unacceptable impact on neighbours, with associated traffic, litter, noise and parking issues
- Over concentration of food outlets
- Loss of A1 contrary to policy
- Proposed use contrary to policy and within stress area
- Insufficient information in relation to operation of proposed use such as servicing and number of customers

Amenity:
- Disturbance from cooking smells
- Noise disturbance from ventilation and cooking fans
- Noise disturbance from staff sitting within rear lightwell
- Noise from tables and chairs being brought in from the highway
- Concerns that should permission be granted, that the use will have negative impact on

neighbouring amenity and environmental quality, particularly given complaints which arose as a result of the temporary flexible restaurant use
- Disturbance from general operation of many of the uses in area

Other:
- Bins to rear lightwell hinder escape in an emergency
- Issues in relation to ownership of narrow pavement to side of the site
- Staff remain on site long hours, sometimes from 6am to 5am the following day
- Concerns in relation to tables and chairs and shisha smoking
- Current operator blocks the highway due to deliveries
- Operators seeking to increase commercial operation
- Not consulted in relation to proposals
- Since Maroush moved in there has been an increase in vermin

One representation from the Marble Arch Partnership in Support of the application:
- Temporary flexible use did not cause additional noise or disturbance (to their knowledge)
- Due to loss of other A3 in area, proposals acceptable in policy terms
- There are other examples of tables and chairs in the area, to refuse this premises would not be commercially fair
- Maroush part of BID and responsible operator

PRESS ADVERTISEMENT / SITE NOTICE:
Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The lawful use of the ground and part basement is for Class A1 (retail), permission having been granted on 17 March 2005 for the conversion of the former bank premises. Part of the basement was granted permission for an office use in December 2013, in connection with the management of this and other Maroush premises.

The unit has been occupied since 2004 by Maroush, which operated as a delicatessen up to June 2013, when the ground floor was converted to a restaurant, as ‘permitted’ by the Government’s introduction of temporary flexible uses without the need for planning permission. Temporary flexible uses are for a fixed two year period, after which the land must return to its former use, the lawful use is therefore considered to have fallen back to A1 retail.

The unit sits on a prominent corner of Edgware Road (a TfL red route) and Connaught Street, which is on a Central Activities (CAZ) Frontage and within the Edgware Road Stress Area. The building is not listed or located within or conservation area. The upper floors of the building are in use as residential flats, known as Connaught Court.

6.2 Recent Relevant History

89/00238/FULL, Change of use of ground floor retail shop to A2 use (No.49 only). Application Permitted 28.09.1989.

09/04497/CLOPUD, Use of ground floor and basement as a delicatessen containing two areas of tables and chairs at ground floor level, within the A1 (retail) Use Class. Application Permitted 25.08.2009.

09/10229/FULL, Retention of mixed Class A1/A3 use at basement and ground floor involving the placing of 15 tables and 45 chairs on the private forecourt. Application Refused 08.03.2010 on grounds of creation of large entertainment use contrary to TACE10, loss of retail shop within the CAZ Frontage and adverse impact from external tables and chairs.

11/01594/TCH, Use of the forecourt on the highway for the placing of 6 tables and 12 chairs on the Edgware Road frontage in an area measuring 10.5m x 1.5m in connection with approved use of the ground floor unit as a delicatessen (Class A1). Application Refused 12.10.2011 on basis it would intensify the Class A3 element of the use resulting in loss of A1 use and loss of amenity from use of noise and smells from tables and chairs.

13/01639/FULL, Use of part of basement as offices in connection with the running of the delicatessen and other associated businesses at other addresses. Application Permitted 17.12.2013.

13/05482/TFU, Use of ground floor level from retail (Class A1) use to restaurant (Class A3) use for a temporary period of two years commencing on 18 June 2013. Two Year Temporary Flexible Change of Use issued 03.07.2013.

13/05969/TCH, Use of an area of the public highway measuring 1.5m x10m (between 08.00-23.00 Mon-Sat and 10.00-22.30 on Sundays) for placing six tables and 12 chairs in connection with the ground floor restaurant. Application Permitted 17.12.2013.

14/01892/FULL, Creation of additional entrance on Edgware Road elevation of shop at 45-49 Edgware Road. Application Permitted 02.06.2014.

14/09580/FULL, Variation of Condition 5 of planning permission dated 17 December 2013 (RN: 13/05969) for use of an area of the public highway measuring 1.5m x10m (between 08.00-23.00 Mon-Sat and 10.00-22.30 on Sundays) for placing six tables and 12 chairs in connection with the ground floor restaurant; namely to allow the furniture to be placed on the highway until 3 November 2015. Application Refused 21.05.2015 on the basis that the TFU had expired and the use should revert to Class A1 use and tables and chairs would take it out of the lawful use.

15/04173/FULL, Installation of full height kitchen extract duct (black painted metal) to rear of site in connection with ground floor premises (Maroush) on corner of Connaught Street. Application Under Consideration.

7. THE PROPOSAL

Permission is sought for the change of use of the ground and part basement as a delicatessen and restaurant (a mixed A1/A3, Sui Generis Use) and for the installation of a ventilation flue within the rear lightwell to serve the new use.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Following the end of the temporary flexible restaurant use, the lawful use of the site is as A1 retail. City Plan Policy S21 seeks to protect Class A1 retail floorspace except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. The policy justification add that's concentrations of non-A1 floorspace can harm the appearance, character and retail function of a shopping centre by breaking up its frontage. City Plan Policy S8, which relates to Marylebone and Fitzrovia (which this site bounds), reflects Policy S21 in relation to seeking an appropriate mix of uses.

UDP Policy SS5 seeks an appropriate balance of town centre uses within CAZ frontages. Part (A) of the policy states A1 uses at ground, basement and first floor level will be protected. Part (B) states, non-A1 uses at basement, ground and first floor level will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality. Part (C) adds that proposals must not (i) lead to, or add to, a concentration of three or more consecutive non-A1 uses; and (ii) cause or intensify an existing over-concentration of Class A3 and entertainment uses in a street. These policies seek to ensure that shopping frontages retain their primary function as shopping streets and to ensure that complementary uses, such as cafes and restaurant, are not over-concentrated and do not harm a street character, function or viability and vitality. The applicant has not submitted any evidence such as marketing information to justify that the A1 use is not viable.

This unit has frontages onto both Connaught Street and Edgware Road. Within this stretch of the shopping frontage (between Connaught Street and Kendal Street) there is:
- Shishawi (A3 restaurant)
- HNB fx / bureaux de change (A1/A2 retail)
- Riteway (A1 retail)
- Iran (A3 restaurant)
- Gulf (A3 restaurant)
- HBL (A2 bank)
- Sannin (A3 restaurant)
- Bin-Seena (A1 pharmacy)
- Telfoni (A1 retail)
- Al Rayan (A2 bank)

It is apparent that there are a large number of restaurants within the area with 4 of the 11 units above in use as restaurants. Objections have been received in relation to the proposed use, particularly given the location of the site within a stress area. The UDP states that within Stress Areas, the number of entertainment uses such as bars and restaurants has reached a level of saturation. It states in such areas additional entertainment premises, in most instances, will add to problems, and therefore only proposals for small premises of under 150sqm will generally be permitted and will be expected to meet the requirements of TACE 8. From the plans submitted, the floor area of the basement and ground would appear to be around 335sqm (135sqm at ground and 200sqm at basement). Policy TACE 9 applies for uses between 150 and 500sqm within Stress Areas. The policy does allow for such uses where the City Council is satisfied that the proposed development has no adverse or cumulative adverse effect on residential amenity or local environmental quality as a result of

noise, vibration, smells, increased late night activity or increased parking and traffic. The policy also requires development to have no adverse effect on the character or function of its area. In order to minimise adverse effects conditions and controls will be used, such as limiting opening hours and capacity.

While it is noted that there are a considerable number of restaurants within this stretch of the CAZ frontage, the proposals would not lead to three or more consecutive non A1 uses. In this instance, the principle of a change of use to a mixed A1/A3 use could be considered acceptable, subject to it being demonstrated that the proposals would not have an adverse impact as set out in TACE 9.

a) Noise:
In relation to the proposed operation of the premises, it is not proposed for the hours of use to change from the hours of operation of the existing delicatessen, namely Monday to Saturday: 08:00 to 23:00 and Sunday: 10:00 to 22:30. A condition is recommended to limit the opening hours to reflect this to ensure that comings and goings are restricted outside of these hours. Subject to this condition it is considered that the proposed use would not be significantly different to the existing use and is acceptable in these terms. As the existing use is not restricted in terms of its opening hours, this would have the added benefit of allowing additional controls of its operation.

Environmental Health have also commented in relation to the proposed kitchen ventilation flue to be installed within the rear lightwell. They have not objected to the proposals, subject to conditions in relation to noise, vibration and for a supplementary report to be submitted to confirm that noise levels will be acceptable for residential occupiers. Subject to these conditions the proposals are considered to be acceptable in terms of the impact from the mechanical plant and ventilation.

b) Vibration
The main potential impact in terms of vibration is from the proposed new flue to the rear and from internal activity. Environmental Health Officers have requested conditions to ensure that vibration is kept to an acceptable level.

c) Smells
The new flue within a rear lightwell is to run up an existing emergency escape stair up to main roof level. The Environmental Health Officer has not objected to the proposals, given the termination of the flue above main roof level.

d) Increased late night activity
The proposed use as a mixed restaurant and deli is not expected to increase late night activity markedly from the existing situation. The proposed hours of use are to be controlled by condition to ensure that the premises are not open past 11pm, which will help to alleviate any late night activity from the current unrestricted use.

e) Increased parking and traffic
Objection has been received from neighbouring residents on the grounds that the proposals will result in increased traffic. No objection has been raised by the Highways Planning Manager on these grounds, as any visitors to the site will need to abide by the on street parking restrictions. It is also not likely that the proposed use would generate considerably more traffic above existing. A condition is however recommended to ensure that no delivery

service is provided to ensure that there is no impact in terms of delivery vehicles coming and leaving from the site.

2. No adverse effect on the character or function of the area
As noted by the location of the site within the Edgware Road Stress Area, the area is characterised by restaurants. While additional restaurants are sought to be restricted, subject to the controls recommended, given the existing delicatessen use of the site, which has some café like characteristics, it is not considered that the proposed use, which would retain a delicatessen as well as incorporating a café element, will have such a negative impact on the character of the area as to justify a recommendation for refusal in this instance.

8.2 Townscape and Design

The site is located outside of a designated conservation area and the proposed alterations to the building are limited to the rear of the site, with the new flue to be installed within the lightwell. The flue will only be visible from private views, from the flats on the upper levels, which have an outlook into this lightwell. Subject to a condition for the flue to be painted black to match the existing metalwork of the existing emergency escape stairs, it is not considered that the proposed works will have any significant impact on the character and appearance of the building or wider townscape.

8.3 Residential Amenity

The proposed flue will run up adjacent to the existing emergency escape stairs. There are windows which look out onto this lightwell and will therefore be affected in terms of increased sense of enclosure and loss of light, however, most windows serve no-habitable rooms, circulation spaces. Notwithstanding this, the flue has been located so that it is not directly in front of windows and it is not considered that it will result in such a significant impact that it would justify a refusal, particularly given the existing bulk and impact of the escape stair.

The impacts in terms of noise and other amenity implications of the proposals have been discussed in the land use section of this report.

8.4 Transportation/Parking

Concerns have been raised by the Highways Planning Manager in relation to the provision of a hatch within the footway. During the course of the application the proposals have been amended as it was apparent from the officer site visit that the hatch within the footway was existing and appears to have been in place for a considerable length of time. It is proposed to use this hatch for servicing, following concerns from both residents and officers in relation to the use of a rear exit / parking area, which may impede emergency exit from the building. There were also dispute in relation to the applicants right to access these areas to the rear of the building. Given that the hatch is existing, it is not considered the objection from the Highways Planning Manager can be sustained. A condition is however recommended requiring the submission of an operation management plan to include how the unit will be serviced, to limit its impact in both highways and amenity terms.

A condition is recommended to secure the cycle parking spaces within the basement.

Objections in relation to tables and chairs have been received. An informative is

recommended that a separate application for the placement of tables and chairs on the pavement will be required.

8.5 Economic Considerations

Any economic benefits are welcomed.

8.6 Access

No change to existing access arrangements.

8.7 Other UDP/Westminster Policy Considerations

A condition is recommended for the submission of details of where waste and recyclable materials will be stored, in accordance with the recommendations of the Waste Projects Officer. It is however noted that this will be in the front vaults, accessed via the existing street service lift.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Formal consultation on Westminster's City Plan 2019-2040 was carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31 July 2019 and on the 19 November 2019 the plan was submitted to the Secretary of State for independent examination. In the case of a draft local plan that has been submitted to the Secretary of State for Examination in Public, under Regulation 22(3) of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

The site is not within an area with an adopted or draft neighbourhood plan.

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. No pre-commencement conditions are recommended.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment (EIA)

The development is of insufficient scale to require the submission of an EIA.

8.14 Other Issues

None.

(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: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk

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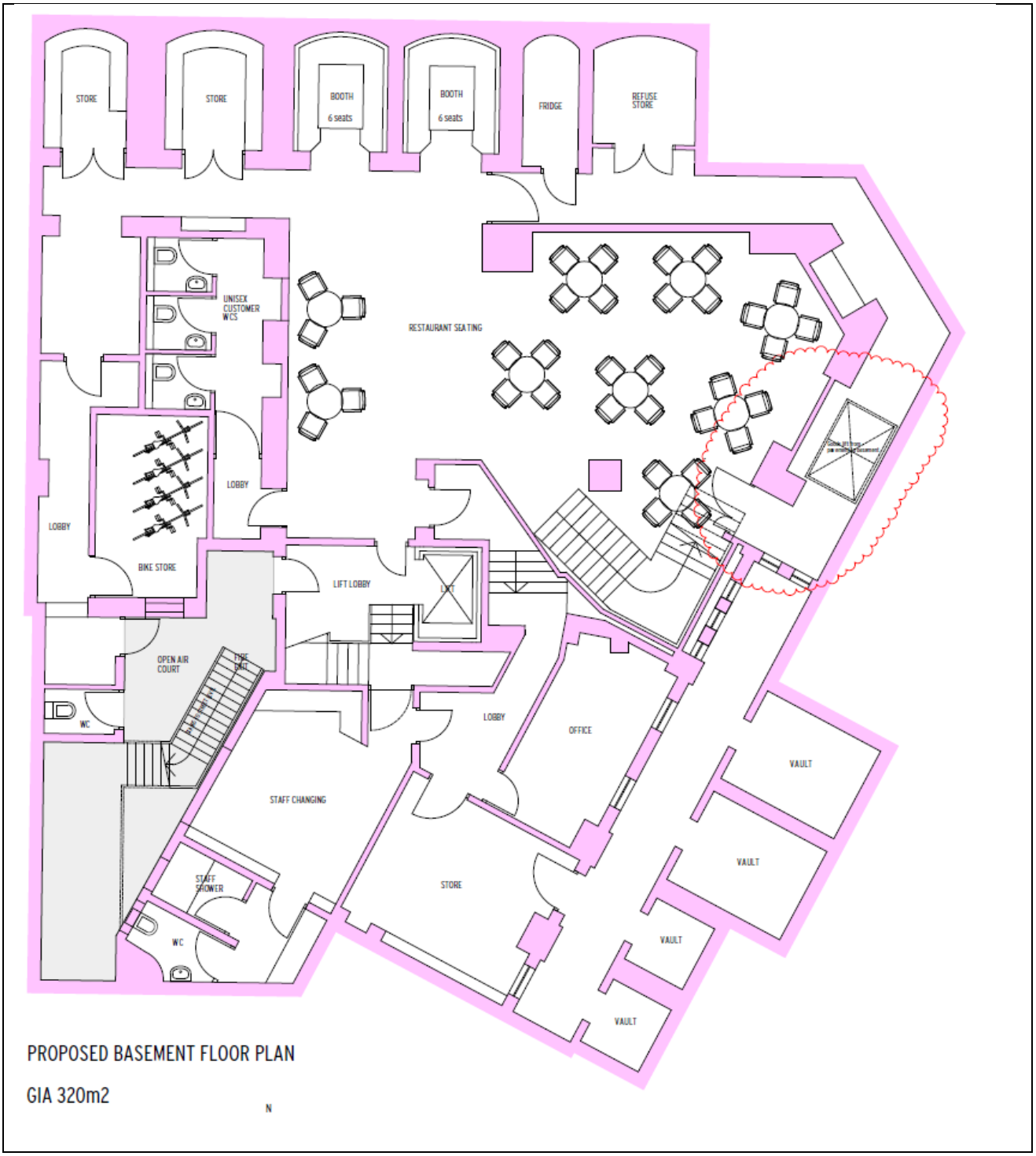
9. KEY DRAWINGS



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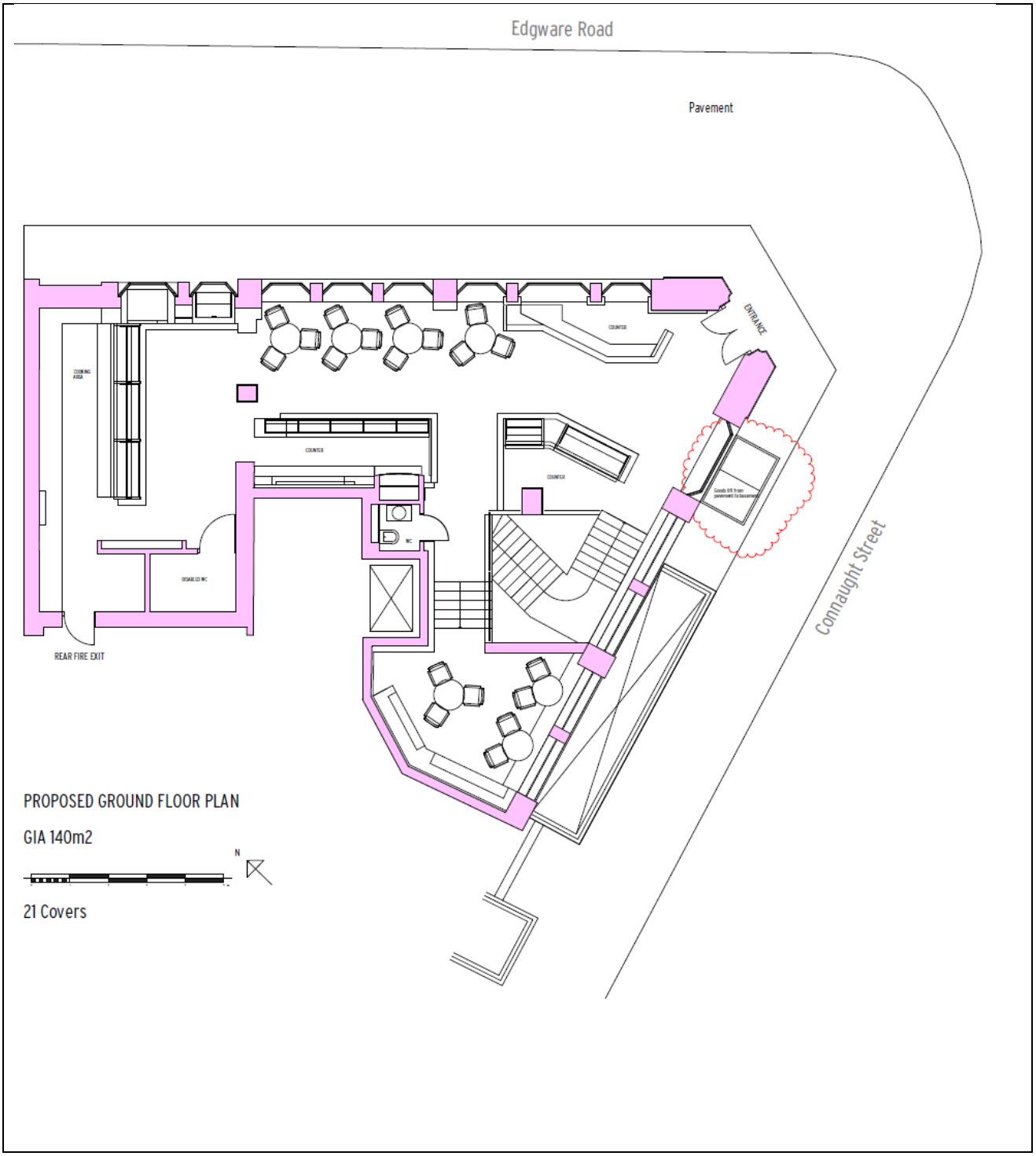
Edgware Road
Pavement
ENTRANCE
COUNTER
COOKING AREA
COUNTER
COUNTER
WC
DISABLED WC
REAR FIRE EXIT
Connaught Street
PROPOSED GROUND FLOOR PLAN
GIA 140m2
N
21 Covers

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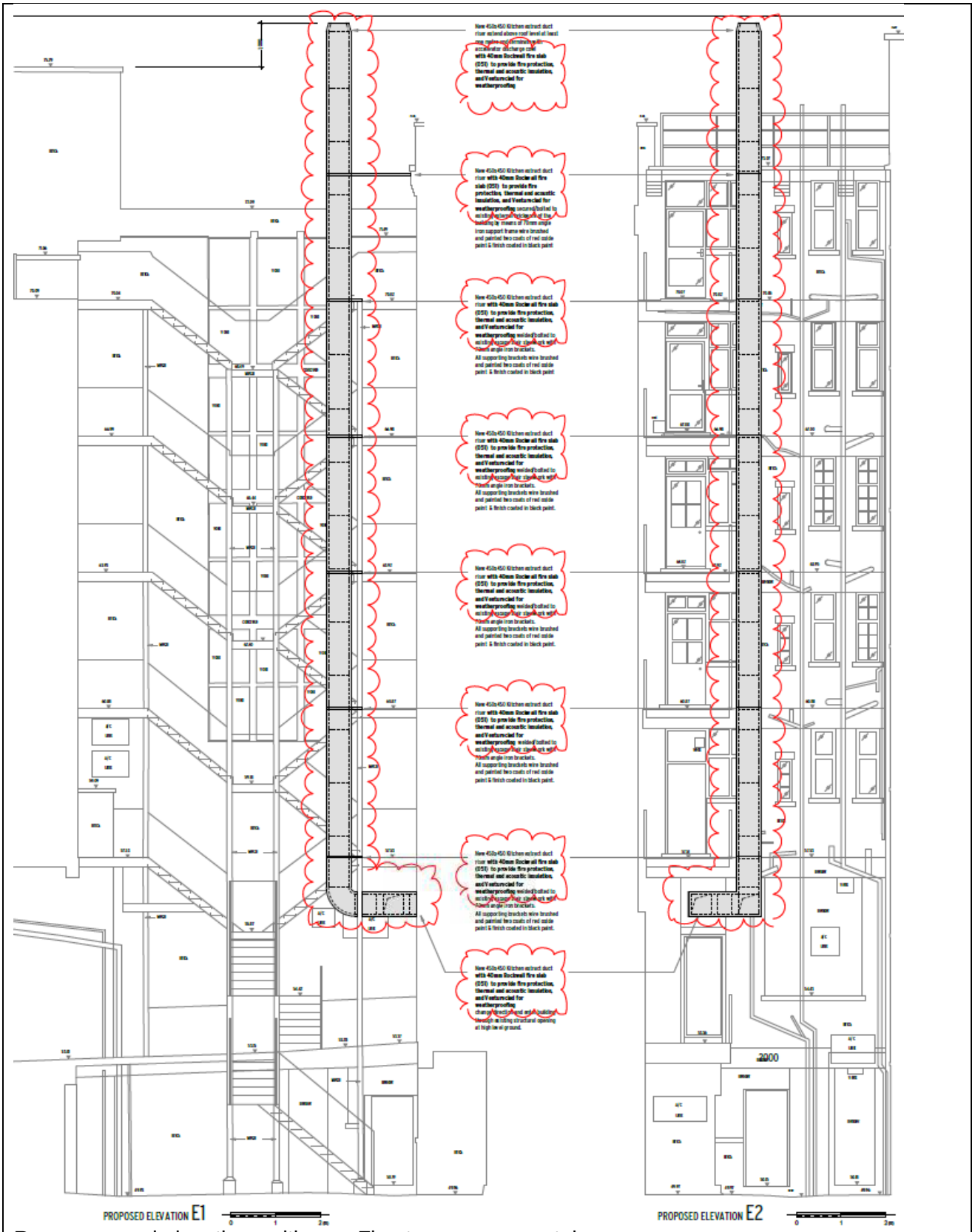

Rear proposed elevations with new Flue to emergency stair

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DRAFT DECISION LETTER

Address: **45-49 Edgware Road, London, W2 2HZ,**

Proposal: Use of ground and basement floors as a mixed delicatessen and restaurant use (Sui Generis) and the installation of external full height kitchen extract duct within rear lightwell.

Plan Nos: 1001 Revision 2; 1002 Revision 1; 1003 Revision 1; 2000 Revision 2; 2001 Revision 2; 2002 Revision 0; 4011 Revision 3; 4012-A Revision 1; 4014 Revision 1; 4015 Revision 1; 4016 Revision 3; 4017 Revision 2; Details of Rockwool Forepro Fire Duct Systems; Katecarb active carbon filter units; VentureClad 1577CW Jacketing system; Noise Report dated August 2017 from Michael Sugiura.

Case Officer: Rupert Handley **Direct Tel. No.** 07866036401

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 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:
- 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.

You must carry out piling, excavation and demolition work only:
- between 08.00 and 18.00 Monday to Friday; and
- 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

4 The new flue shall be coloured black and maintained that colour.

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

5 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the premises. (C14EC)

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)

6 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

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 2016 (R22FA)

7 You must not operate a delivery service, nor shall the premises utilise a delivery and collections service operated by third parties for the use hereby permitted.

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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

8 (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)

9 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the restaurant use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, 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 including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
(a) The location of most affected noise sensitive receptor location and the most affected window of it;
(b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
(c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
(d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
(e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
(f) The proposed maximum noise level to be emitted by the activity.

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. (R47AB)

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. (R48AA)

11 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition 8 and 9 of this permission. You must not start work on this part of the development until we have approved what you have sent us. You must then carry out the work according to the details approved before the residential units are occupied and thereafter retain and maintain.

Reason:
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. (R51BB)

12 The plant/machinery hereby permitted shall not be operated except between 08:00 hours and 23:00 hours daily.

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. (R46CB)

13 Customers shall not be permitted within the ground and basement premises before 08:00 or after 23:00 on Monday to Saturday (not including bank holidays and public holidays) and before 10:00 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 (November 2016) and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

14 Prior to the occupation of the mixed use, you must apply for approval of a servicing and management plan to show how the premises will operate. You must not start the use until the Local Planning Authority has approved what has been submitted and the premises must operate in accordance with these details thereafter.

Reason:
To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S24, S29, S42 and S32 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20, TRANS 21, ENV 6, ENV 7 and TACE 9 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 (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 HIGHWAYS LICENSING:
Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at www.westminster.gov.uk/guide-temporary-structures.

CONSIDERATE CONSTRUCTORS:
You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

BUILDING REGULATIONS:
You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

3 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible

Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you (www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide (www.cae.org.uk). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk.

It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

4 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please email AskHighways@westminster.gov.uk. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority).

5 You are advised that you will need to apply for the placement of tables and chairs on the highway separately.