

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 26 May 2020	<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>	40-42 William IV Street, London, WC2N 4DD,		
<b>Proposal</b>	Variation of conditions 5 and 6 of planning permission dated 9th April 2019 (RN:18/03910/FULL) for the 'Use of part ground and basement floors as drinking establishment (Class A4).' Namely, to amend the approved Operational Management Plan to allow increase in number of customers permitted on site from 90 to 135.		
<b>Agent</b>	Rolf Judd Planning		
<b>On behalf of</b>	Shaftesbury Ltd		
<b>Registered Number</b>	19/09681/FULL	<b>Date amended/ completed</b>	12 December 2019
<b>Date Application Received</b>	12 December 2019		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Trafalgar Square		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

40-42 William IV Street is an unlisted building of merit within the Trafalgar Square Conservation Area, Core Central Activities Zone and the West End Stress Area. The building comprises 7 storeys with a vacant restaurant at basement, ground and first floor levels and residential flats on the upper floors.

In April 2019 planning permission was granted for the use of the basement as a drinking establishment (Class A4) with a new entrance at ground floor level. This application seeks to vary conditions 5 and 6 of that permission to allow an increase in the number of customers permitted in the bar from 90 to 135.

The applicant states that the increase in numbers is reflective of the licence approved by the council on 5 September 2019 and it is their intention to secure an operator with a good track record to provide a high-end cocktail / wine bar, providing primarily table service.

Objectors state that, when the building was previously in use as a drinking establishment, residents suffered late night disturbance from customers smoking, music and anti-social behaviour and that

increasing the number of patrons will intensify these problems. It is also suggested that the structure of the building is not suitable for the proposed use, with poor sound proofing and a lightwell which captures noise, and that the increase in customers will lead to a requirement for more plant machinery, which they state has previously caused disturbance to residents.

The applicant has updated the approved Draft Operational Management Plan so that it clearly states no more than 135 customers will be allowed on site at any one time. As with the previous application the document sets out the following guidelines that any future tenant will be required to follow, including:

- The bar will be open to customers between 12:00 – 23:30 hours Monday to Thursday, 12:00 – 00:00 Friday to Saturday and 12:00 to 22:00 on Sunday.
- There will be no external drinking permitted whatsoever;
- Notices will be prominently displayed at exists requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- Any patrons smoking outside the premises will do so in an orderly manner and will be supervised by staff so as to ensure that there is no public nuisance or obstruction to the public highway.

In terms of internal noise transfer, the proposed drinking establishment would be separated from the residential flats above by the ground and first floors. As with the previous application, Environmental Health have raised no objections on noise nuisance grounds subject to a condition requiring a noise limiter to be fitted to any musical amplification system and the Council's standard conditions to prevent internal noise transfer.

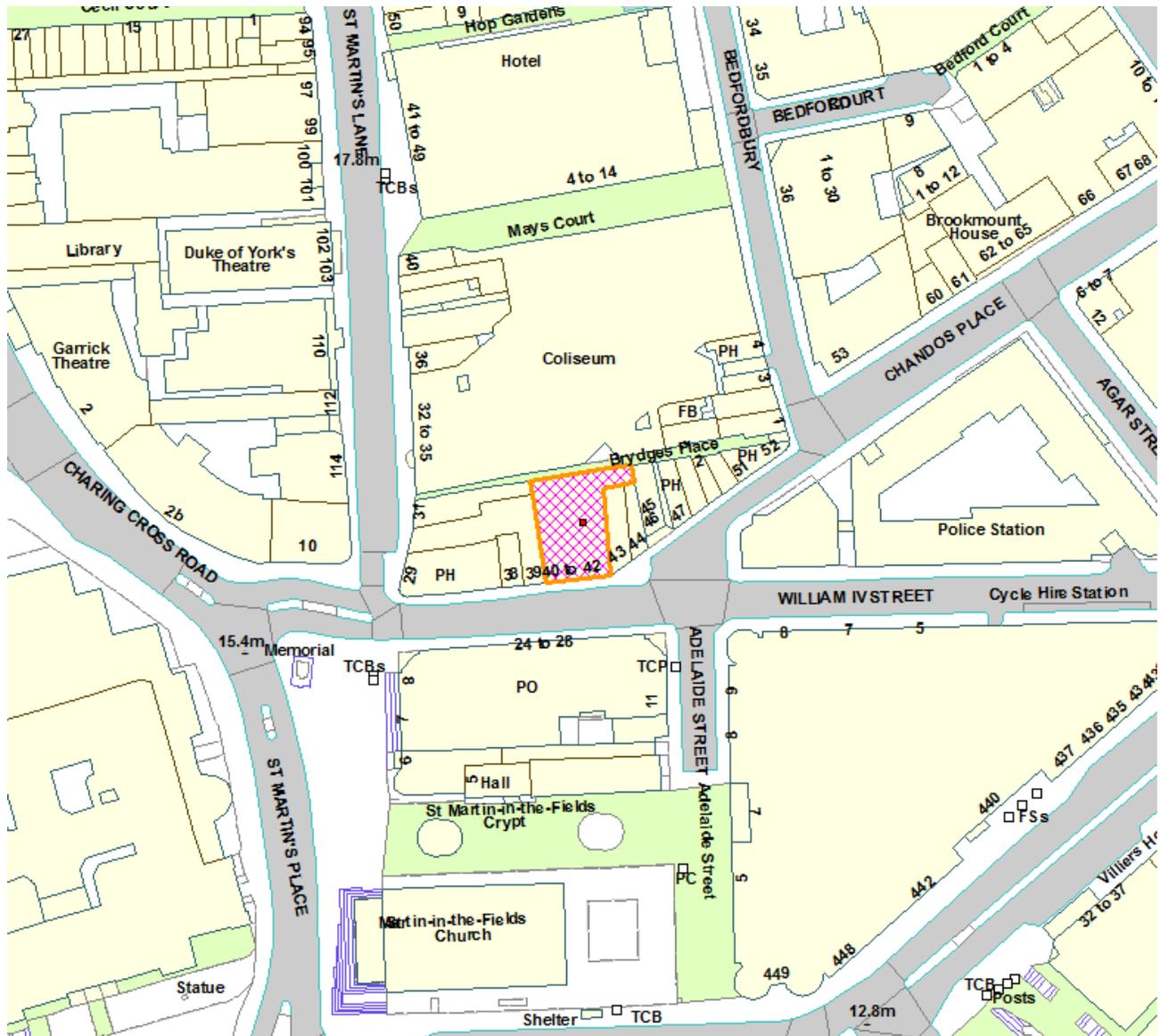
Again, the proposals do not include the installation of plant machinery and this would be subject to a further application. The applicant has already provided an indicative ventilation strategy plus Environmental Noise Survey and Plant Noise Assessment Report, which demonstrates that, if plant machinery is required, it should be capable of meeting the Council's standard noise and vibration conditions. The building remains vacant and the existing plant and machinery for the premises is not currently in use, however if this situation changes and results in nuisance, the Council's Planning Enforcement Team can take action.

Objectors also state that an increase in the number of customers allowed on site will increase the amount of servicing required (waste and deliveries), which will cause disturbance to residents, increase congestion and pressure on parking. The site is within a Controlled Parking Zone and has a good level of public transport accessibility. The Highways Planning Manager has raised no objection to the proposed increase, as it is not expected to generate a significant increase in servicing trips or parking pressure over that which could be generated by the existing number of customers.

The Covent Garden Community Association have requested that servicing be limited to 08:00 to 20:00 daily. The servicing hours are to remain as approved, 08:00 to 23:00 daily, which is considered acceptable in this location.

All other conditions will remain unchanged and it is considered that the proposed increase in the number of customers permitted on site would not result an adverse impact on residential amenity, highways or local environmental quality and it is recommended that permission is granted.

LOCATION PLAN



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3. PHOTOGRAPHS



Photograph from William IV Street

## CONSULTATIONS

### COVENT GARDEN COMMUNITY ASSOCIATION

Objection, support the local residents objections to the increase in the number of drinkers on the site as there appear to be numerous historic issues associated with the use of this site as a place of entertainment and the sale of alcohol that were not addressed by the previous occupant and not addressed now by the applicant. These include noise from air handling and extraction devises, antisocial behaviour and servicing. The increase in numbers is likely to cause disturbance and distress to the residents above.

Should consent be given, the following should be taken in account: plant should be tested prior to the occupation and measures put in place to prevent noise and vibration from the building; servicing should be between 08:00 to 20:00 and refuse kept onsite until half an hour before collection; there should be a bottle crusher on-site; and the smoking should be away from the building.

### PROJECT OFFICER (WASTE)

No objection.

### HIGHWAYS PLANNING MANAGER

No objection, the increase in capacity does not raise any significant highway or transport concerns.

### ENVIRONMENTAL HEALTH

No objection, subject to previous conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 38

Total No. of replies: 4

(Neighbours re-notified on 14 April 2020 regarding updates to the description of development and maximum number of customers specified in Operational Management Plan).

Four letters of objection have been received from residents on the upper floors of the building on the following grounds:

### AMENITY

- The existing plant machinery on site causes noise and odour nuisance, is in breach of conditions and has previously led to many complaints from residents.
- Increasing the number of people allowed on site will require more plant machinery.
- The structure of the building is not suitable for the proposed use, with poor sound proofing and a lightwell which captures noise, leading to noise disturbance for residents.
- When the building was previously in use as a drinking establishment residents suffered late night disturbance from smokers, servicing/customers/music and anti-social behaviour.

#### HIGHWAYS

- The increase in numbers will increase the amount of servicing required (waste and deliveries), which will cause disturbance to residents, increase congestion and pressure on parking.

#### OTHER

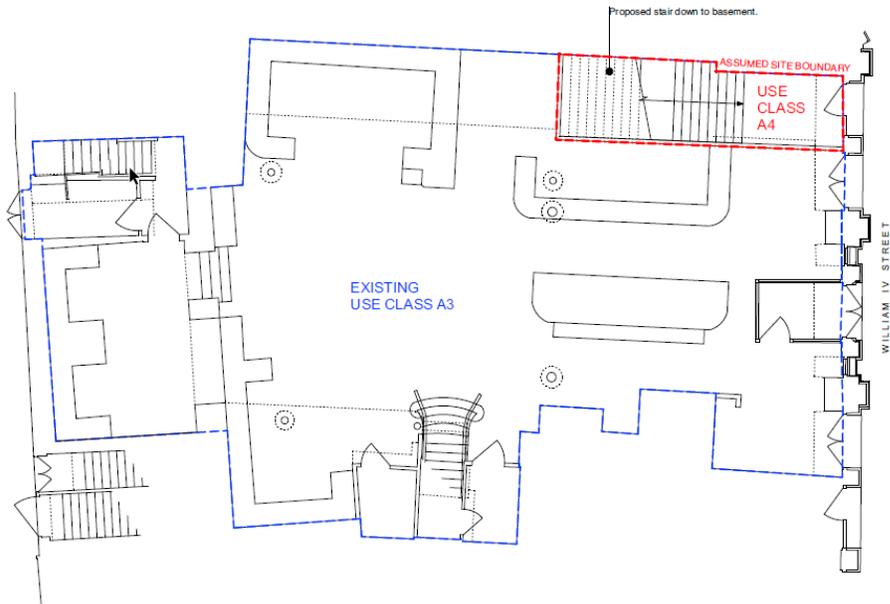
- Amending the proposals so soon is a waste of time and money.
- During the building works, residents have been subject to dust, vermin, water and electricity cuts;
- This application was strategically made before the Christmas holidays, when some of the residents are away and will not have an opportunity to comment or seek legal advice.
- The drawings are incomplete as they do not show the mezzanine level.
- Requests from residents to the applicant for copies of the plans/ diagrams of the H-VAC / Ducting to be put in place for the project and sound insulation have not been met.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

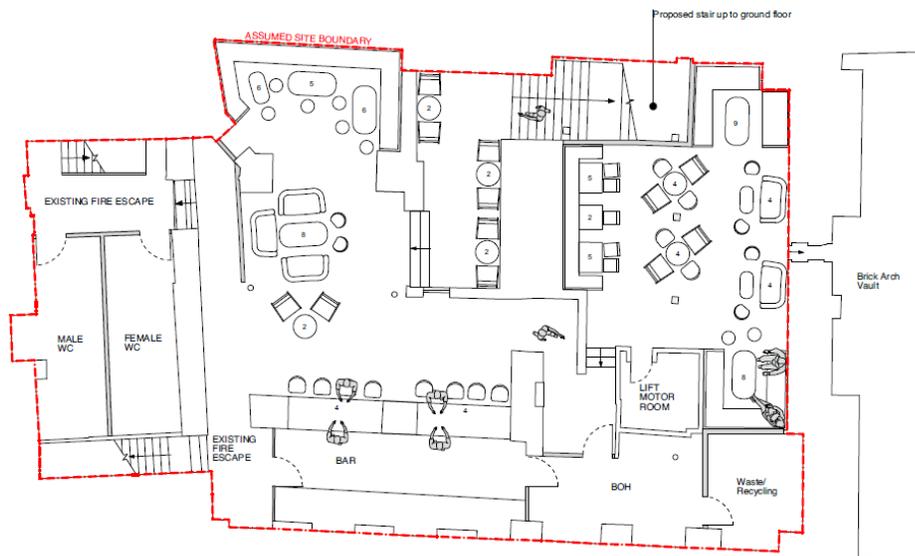
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: IAN CORRIE BY EMAIL AT [icorrie@westminster.gov.uk](mailto:icorrie@westminster.gov.uk)

4. KEY DRAWINGS

Proposed Ground Floor Plan



Proposed Basement Plan



**DRAFT DECISION LETTER**

**Address:** 40-42 William IV Street, London, WC2N 4DD,

**Proposal:** Variation of conditions 5 and 6 of planning permission dated 9th April 2019 (RN:18/03910/FULL) for the 'Use of part ground and basement floors as drinking establishment (Class A4).' Namely, to amend the approved Operational Management Plan to allow increase in number of customers permitted on site from 90 to 135.

**Reference:** 19/09681/FULL

**Plan Nos:** Approved under 18/03910/FULL:  
000; 101 Rev. D; 102 Rev. D; 201; Draft Operational Management Plan dated March 2019.

For information:

Cover Letter dated 11 May 2018; Design and Access Statement dated May 2018; 25992/PNA1.Rev 1 dated 18 October 2018; Supplementary Planning Note dated February 2019; 103 Rev. D; 104 Rev. D; 105 Rev. D; 106 Rev. D; 107 Rev. D; 108 Rev. D.

As amended by:

Draft Operational Management Plan dated February 2020.

For information:, Cover Letter dated 11 December 2019; 150, 151, 152.

**Case Officer:** Ian Corrie

**Direct Tel. No.** 07866038370

**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 Customers shall not be permitted within the drinking establishment premises before 12:00 hours or after 23:30 hours Monday to Thursday, before 12:00 hours or after 00:00 hours Friday to Saturday and before 12:00 hours or after 22:00 hours on a 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 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 All servicing must take place between 08:00 and 23:00 on Monday to Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 5 You must carry out the measures included in the approved Draft Operational Management Plan dated February 2020 at all times that the drinking establishment is in use, unless a revised Operational Management Plan is submitted for approval by the City Council. The approved Operational Management Statement must thereafter be followed by the occupants for the life of the development.

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 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 6 You must not allow more than 135 customers into the property at any one time. (C05HA)

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 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 7 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. For music noise, the indices of Leq and LFmax in the octave bands 31.5 Hz, 63 Hz and 125 Hz shall be at least 10 dB below the existing background noise level measured in terms of L90,5mins (31.5Hz, 63Hz, 125Hz) inside the neighbouring premises.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development. (R49BA)

- 8 (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 drinking establishment 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 drinking establishment 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)

- 9 You must not use the drinking establishment (Class A4) until you have sent us details of the noise limiter fitted to the musical amplification system and we have approved these details in writing. The device must be commissioned to ensure emitted music noise is acceptable when assessed within neighbouring residential properties, so that it complies with the noise criteria set out in condition 7 and 8 of this permission. You must not make any adjustments to the device unless we approve this in writing. Any loudspeakers in the drinking establishment shall be wall or floor mounted only, and all must incorporate appropriate anti-vibration supports to prevent transmission of music through the building structure.

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 Prior to occupation a "Secured by Design" accreditation shall be obtained for the drinking establishment and thereafter all features are to be permanently retained.

Reason:

To reduce the chances of crime without harming the appearance of the building as set out in S29 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R16AC)

- 11 You must apply to us for approval of details of how waste is going to be stored on the site. 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 waste store in line with the approved details, and clearly mark it and make it available at all times to everyone using the drinking establishment. 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 drinking establishment use. You must not 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 2016 (R22FA)

- 13 There shall be no primary cooking on site such that you must not cook raw or fresh food on the premises.

Reason:

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in S24 and S29 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007. (R05EC)

**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](http://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](mailto:siteenquiries@ccscheme.org.uk) or visit [www.ccscheme.org.uk](http://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](http://www.westminster.gov.uk/contact-us-building-control)
- 3 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)
- 4 In relation to condition 10, you must seek the advice of the Metropolitan Police Service Designing out Crime Officers (DOCOs) to achieve accreditation. The services of MPS DOCOs are available free of charge and can be contacted via [docomailbox.nw@met.police.uk](mailto:docomailbox.nw@met.police.uk) or 02087333465.
- 5 In relation to condition 11, you should refer to the City Council Recycling and Waste Storage Requirements, sections 2.3.1 and 3.1.
- 6 In relation to condition 13, you must not cook food in any way which is likely to cause a nuisance by smell. You must not, for example, grill, fry, toast, braise, boil, bake, hot smoke or roast food. However, you can reheat food by microwave or convection oven as long as this does not require extractor equipment.

Any application to remove or vary the condition must submit details of extraction which shall consist only of either a 'full height' system or in limited circumstances where all cooking equipment is electric only an 'approved recirculation' scheme ( any extraction scheme proposing 'low-level' external discharge to get rid of cooking fumes will not be accepted as being suitable as per Westminster Environmental Health requirements for new premises wishing to provide an extensive hot food operation).

Item No.
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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.