

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 27 th April 2021	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	18 Greek Street, London, W1D 4DS		
Proposal	Use of the rear terrace areas at first and second floor level in association with the existing restaurant/bar use at 18 Greek Street and installation of new balustrades, artificial green wall areas, extended second floor terrace balcony and staircase and between the terraces.		
Agent	Monmouth Planning Ltd		
On behalf of	Soho Bars & Clubs Ltd		
Registered Number	20/06174/FULL	Date amended/ completed	12 October 2020
Date Application Received	2 October 2020		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional, temporary permission for a period of 1 year.

2. SUMMARY

18 Greek Street is an unlisted building located within the Soho Conservation Area, the Core Central Activities Zone and the West End Stress Area. The basement, ground and first floors of the property are occupied by a bar / restaurant called Zebrano, the upper floors are in use as offices. There are terrace areas at rear first and second floor levels for which consent is sought to use them in association with Zebrano for a temporary period of one year with associated works including retention of 'green walls' and an external connecting stair.

The key issue is:

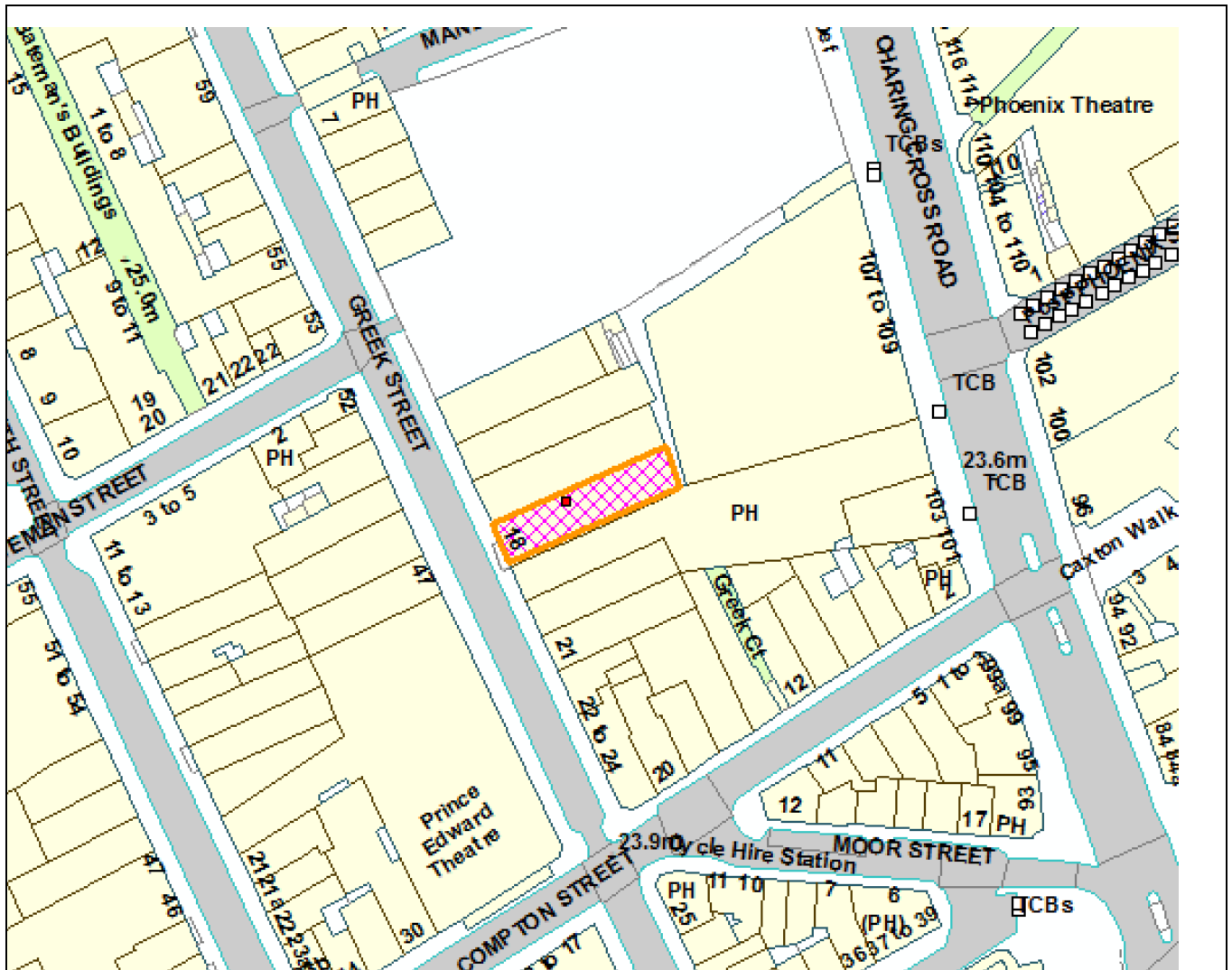
- The impact on residential amenity in terms of potential noise nuisance arising from use of the terraces in connection with the bar/restaurant.

Subject to appropriate conditions including limiting the capacity and hours of use of the terraces and

requiring the use of the terraces to operate in accordance with a Terrace Management Plan the proposal is considered acceptable for a temporary period of 1 year in the first instance.

The application complies with relevant adopted UDP, City Plan (November 2016) and City Plan 2019-2040 policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

View of the first floor terrace from the second floor:



View of the second floor terrace:



5. CONSULTATIONS

SOHO SOCIETY

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

PLANNING ENFORCEMENT

Any response to be reported verbally.

CROSSRAIL 1

Do not wish to comment.

CROSSRAIL 2

Do not wish to comment.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 63

Total No. of replies: 7

No. of objections: 11 (from seven objectors)

No. in support: 0

11 Objections received on some or all of the following grounds:

Use of the terraces late into the evening results in a noise nuisance to nearby residents, including from amplified music;

Patrons smoking on the terraces would result in cigarette odours impacting residents;

There are discrepancies in the submitted information regarding the hours of use of the terraces;

Supporting acoustic report is taken from a two hour period when the premises was closed due to COVID 19 restrictions.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

18 Greek Street is located on the east side of Greek Street close to its junction with Old Compton Street. The building comprises basement ground and three upper floors on the Greek street frontage rising to 4 upper floors at the rear of the site. The basement ground and first floors run the full depth of the site. An open central area at 2nd floor level and above (the area the subject of the proposed terraces) divides the building into two distinctive sections.

The basement, ground and first floor levels are occupied by a bar /restaurant called Zebrano. The upper floors of both the front and rear sections of the building are in office use. The area is mixed use in character with a large number of entertainment uses, but also number of residential flats within the vicinity.

The property is unlisted, located in the Soho Conservation Area and the Core Central Activities Zone. The property is also located within the West End Stress Area and the West End Special Retail Policy Area

6.2 Recent Relevant History

On 22 November 1984 permission was granted for use as a restaurant offices at first, second and third floors 84/03464/FULL

On 5 February 1987 permission was granted for use of the first floor front section as a restaurant ancillary to restaurant on ground floor 86/03671/FULL

7. THE PROPOSAL

Permission is sought for the use of two external terrace areas at first and second floor levels in association with an existing bar/restaurant. Consent is also sought for the retention of physical works including the installation of artificial green wall areas, an extended section of the terrace at second floor level and a stair between the first and second floor terraces.

A premises license for Zebrano Bar was granted in August 2019 which allowed the use of the terraces in association with the premises, with hours of use of the upper terrace restricted to 00:30 and 03:00 for the lower terrace, Monday to Saturday. Conditions were imposed on the premises license requiring security staff to monitor and supervise the terrace at all times from 21:00 until close Thursday, Friday and Saturday nights with two staff on duty for the terraces at all times. It also stated no regulated entertainment would be allowed on the terraces.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The upper terrace has previously been used in connection with the office accommodation. This application will regularise the position with regards to the use of both of the terraces for use in connection with the restaurant/bar.

8.2 Townscape and Design

Introductory Text

The key legislative requirements in respect to designated heritage assets are as follows:

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *"In considering whether to grant listed building consent for any works the local*

planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 66 of the same Act requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

Section 72 of the same Act requires that *“In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

18 Greek Street is an unlisted building in the Soho Conservation Area to which it makes a positive contribution. It stands on the east side of the street and next to the grade II listed No. 17. The rear of the building is typical of many in Soho and features extensions of various periods with no uniformity, with mechanical plant readily seen. In this context, there is no objection in design or heritage asset terms to use of the flat roof areas for outdoor seating etc.

As proposed, the new railings and external stairs are acceptable and will maintain the appearance of the building and surrounding conservation area along with the setting of No.17 which is entirely and conspicuously modern at the rear. It is recommended that the decision notice includes an informative, advising that if permission is sought for long term use of the roof areas as terraces the artificial green walls should be replaced with natural and 'living' green walls and the lighting replaced with something more subtle in design terms.

As such, the proposal is considered acceptable, mindful of the relevant policies of the Unitary Development Plan, City Plan (November 2016) and City Plan 2019 – 2040 and therefore, a recommendation to grant conditional permission would be compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8.3 Residential Amenity

Whilst both terraces have been in situ for a number of years. The 1st floor terrace has been used in connection with the restaurant/ bar but the 2nd floor terrace has been used as ancillary space to office accommodation on the upper floors. The first floor terrace has an area of 24 m², the second floor terrace is 29m². The terraces would have a

cumulative capacity of 50. The application proposes to use of the terraces from 10:00 until 22:00 daily.

Objections have been received from residential occupiers in buildings to the south along Old Compton Street and to the east of the site within a recent development on Charing Cross Road. The objections relate to potential noise nuisance.

The City Council adopted policies seek to protect residential amenity. Policy S29 of the City Plan (November 2016) and ENV13 of the UDP seek to ensure that new developments do not result in an 'unacceptable material loss of residential amenity and developments should aim to improve the residential environment.' Policy S33 of the City Plan 2019 – 2040 states that; 'development should prevent adverse effects of noise and vibration and improve the noise environment in compliance with the council's Noise Thresholds, with particular attention to: minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses'.

In this case the flat roof areas appear to be lawful terraces, although historically the 2nd floor has been used in connection with offices. Permission is sought for use of the terraces until 22.00 daily for a temporary period of 1 year. This will allow the impact of the use of both of the terraces to be assessed and provides the opportunity to impose safeguarding conditions.

An acoustic report has been submitted in support of the application. A background noise survey was carried out on the terraces for a two hour period between 21:00 and 23:00 when the bar was closed due to Covid 19 regulations. The report calculates noise levels to the nearest noise sensitive property at a distance of 20m from the lower terrace and 24m from the upper terrace.

The acoustic report makes estimations of noise levels at residential properties from patrons talking on the terraces. It is acknowledged there are difficulties in accurately quantifying noise levels on terraces because noise will not be constant and there will always be a degree of unpredictability. However, on reviewing the acoustic report Environmental Health advise that use of the terraces as proposed until 22:00 daily is unlikely to give rise to noise nuisance.

A Terrace Management Plan (TMP) has been submitted which details that staff will be restricting access to the terraces to accord with the requirements of the premises license. A condition is proposed to ensure the operation of the terraces are carried out in accordance with the TMP and to restrict the capacity to 20 persons on the upper terrace and 30 on the lower terrace and hours and the hours of use to between 10:00 and 22:00 daily. With these safeguarding conditions in place, it is considered that use of the terraces is unlikely to result in a loss of residential amenity. It is however recommended that permission is limited to 1 year in the first instance to enable the position to be reviewed.

Objectors have raised concerns about music being played on the terraces, a condition is recommended to prevent amplified music being played. A condition is also recommended to ensure that doors to the terrace are self-closing and are kept closed outside the hours of use to prevent noise escape from within the premises.

An objector has also expressed concern about people smoking on the terrace which could impact upon air quality if windows to their residential flat are open. Whilst it is accepted some users of the terraces may be smoking, given the distance to residential windows it is not envisaged people smoking on the terrace would detrimentally impact upon the air quality of neighbouring residents and the objection on these grounds cannot be sustained.

Objectors have also commented on discrepancies in the application with regard the proposed hours of use of the terraces. There were errors in the original submission as the TMP quoted the hours approved in the premises license. This has subsequently been amended in line with the hours sought.

8.4 **Transportation/Parking**

Not applicable to this application.

8.5 **Economic Considerations**

No economic considerations are applicable for a development of this size.

8.6 **Access**

Not applicable to this application.

8.7 **Other UDP/Westminster Policy Considerations**

Not applicable.

8.8 **Westminster City Plan**

Following an independent examination by the Planning Inspectorate, the council received the Inspectors' Report on the City Plan 2019-2040 on 19 March 2021. This concludes that with the recommended main modifications, the plan is sound and compliant with legal requirements. In light of this conclusion, council intends to formally adopt the City Plan 2019-2040: Intend to Adopt version (incorporating these main modifications) at the next meeting of Full Council. Therefore, having regard to the tests set out in paragraph 48 of the NPPF and the advanced stage in the plan-making process, all policies in the City Plan 2019-2040 now carry significant weight as a material consideration when determining applications in accordance with the duty set out under s.38(6) of the Planning and Compulsory Purchase Act 2004.

8.9 **Neighbourhood Plans**

Not applicable due to the location of the application site.

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.

8.12 **Planning Obligations**

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

8.13 **Environmental Impact Assessment**

Not applicable.

8.14 **Other Issues**

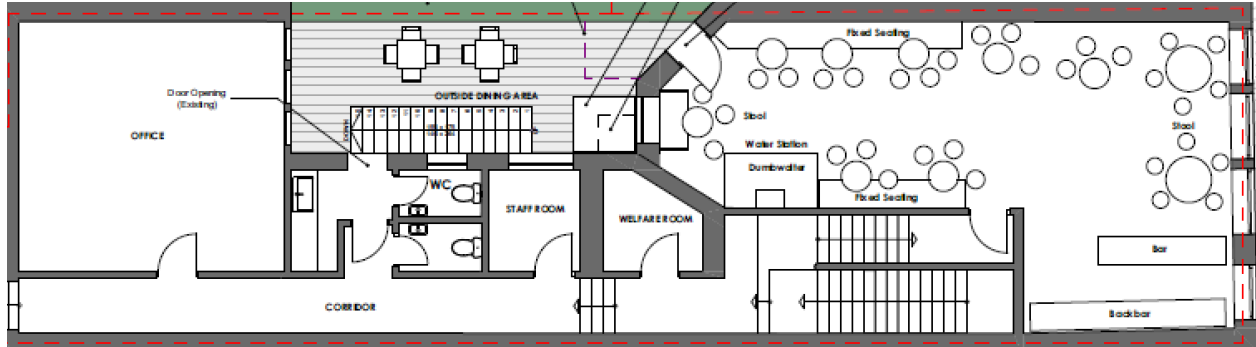
Not applicable.

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

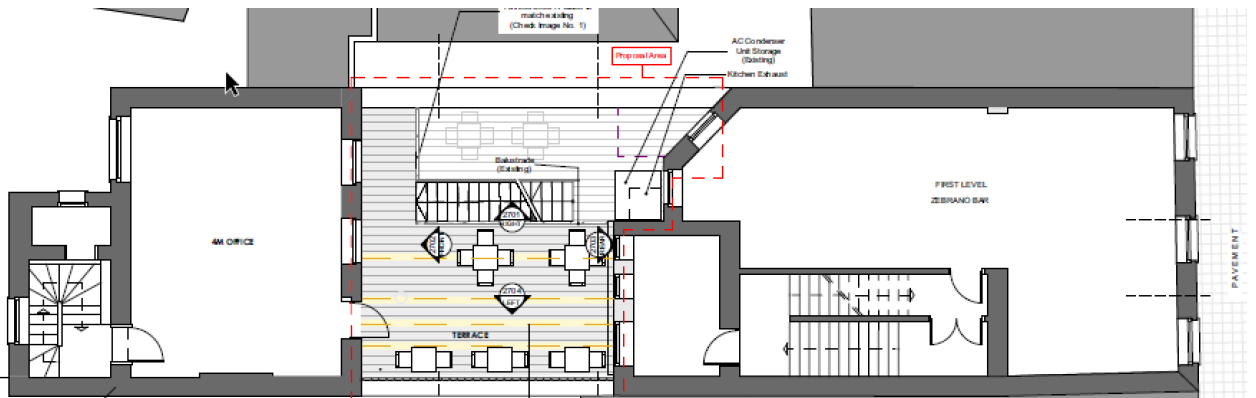
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk

9. KEY DRAWINGS

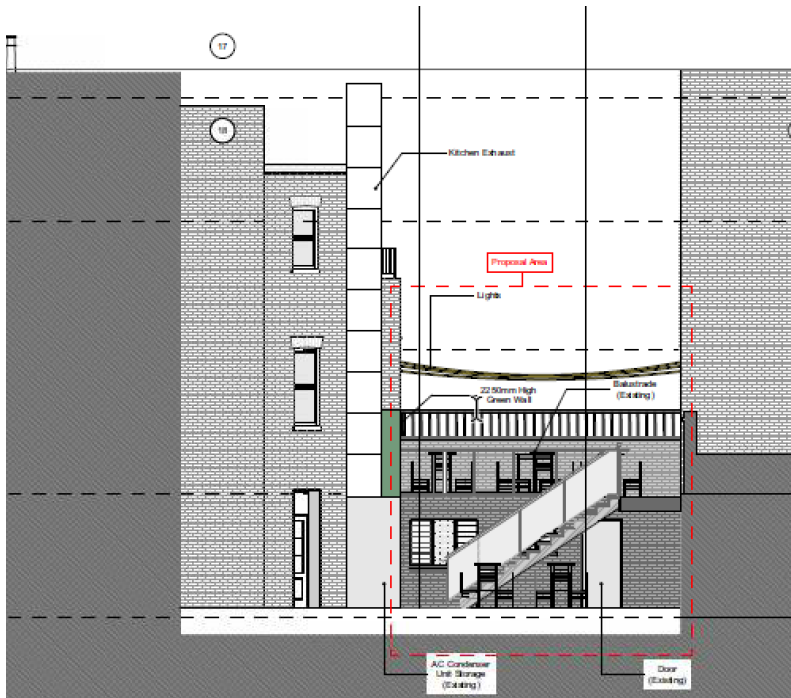
Proposed first floor terrace:



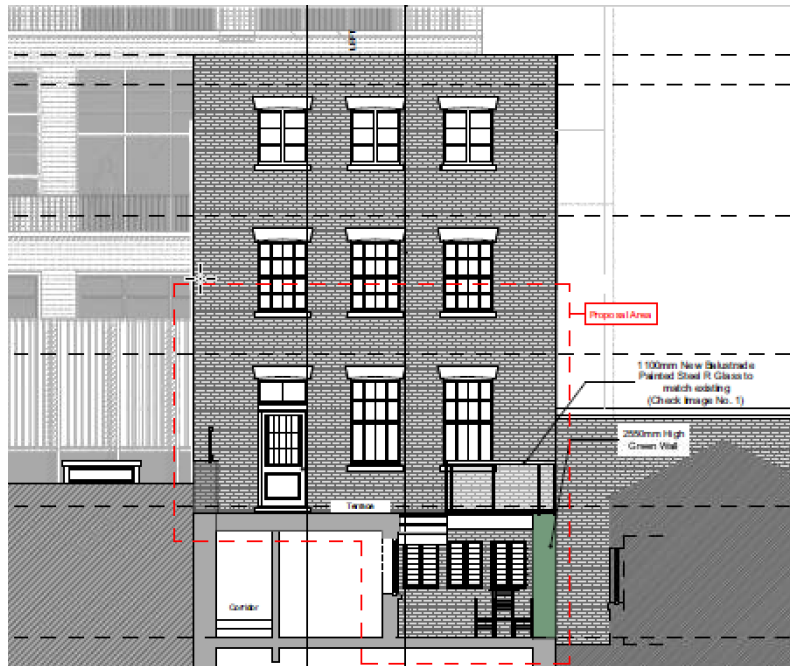
Proposed Second Floor Terrace:



Section looking north through the terraces:



Section looking east:



DRAFT DECISION LETTER

Address: 18 Greek Street, London, W1D 4DS

Proposal: Use of the rear terrace areas at first and second floor level in association with the existing restaurant/bar use at 18 Greek Street and installation of new balustrades, artificial green wall areas, extended second floor terrace balcony and staircase and between the terraces.

Reference: 20/06174/FULL

Plan Nos: Terrace Management Plan (DZ/SOH.16.1/Rev 1), Drawings: 2001, 2002, 2701, 2702, 2703, 2704.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641
07866040155

Recommended Condition(s) and Reason(s)

1	The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.
	Reason: For the avoidance of doubt and in the interests of proper planning.
2	You must not install any speakers or play any music externally on the rear terraces hereby approved.
	Reason: To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016), ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 and Policies 7 and 33 of the City Plan 2019 - 2040: Intend to Adopt version (March 2021).
3	The terrace area hereby approved at rear first floor level can only be used between the hours of 10:00 and 22:00 daily and when the terrace is not in use the doors to the terrace must be closed. You cannot use the terrace area outside of these hours other than in the case of an emergency. The use of the terrace can continue for one year from first occupation of the first floor. After this time you must not use any part of the roof for sitting out or for any other purpose and you must remove the green walls and light fittings unless permission has been granted. You can however use the roof to escape in an emergency.

	Reason: To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016), ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 and Policies 7 and 33 of the City Plan 2019 - 2040: Intend to Adopt version (March 2021).
4	You must install self-closing doors onto the terrace areas. You must not leave these doors open except in an emergency or to carry out maintenance.
	Reason: To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016), ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 and Policies 7 and 33 of the City Plan 2019 - 2040: Intend to Adopt version (March 2021).
5	You must not allow more than 50 customers onto the rear terraces hereby approved at any one time.
	Reason: To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016), ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 and Policies 7 and 33 of the City Plan 2019 - 2040: Intend to Adopt version (March 2021).
6	The operation of the terraces hereby approved must at all times be in accordance with the stipulations of the Terrace Management Plan (March 2021).
	Reason: To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016), ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007 and Policies 7 and 33 of the City Plan 2019 - 2040: Intend to Adopt version (March 2021).

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, the City Plan 2019 - 2040: Intend to Adopt version (March 2021), 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 You are advised that if consent is sought in future for the terraces to be in place longer the artificial green walls must be replaced with natural and 'living' green walls. This wall must be of living plants of a size and type suitable to the location, and you must also provide a management and maintenance plan for the wall. In addition a new external lighting system that is less conspicuous than the current installation would be required.

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.