

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 28 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Hyde Park	
Subject of Report	West End Quay, South Wharf Road, London, W2 1LA,		
Proposal	Use of hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant.		
Agent	Paul Semple		
On behalf of	Draft House Holdings Limited		
Registered Number	17/08027/TCH	Date amended/ completed	13 September 2017
Date Application Received	7 September 2017		
Historic Building Grade	Unlisted		
Conservation Area	No		
Licensing	The opening hours of the premises: Monday to Thursday: 09:00 to 23:30; Friday to Saturday: 09:00 to 00:00; Sunday: 09:00 to 22:30.		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

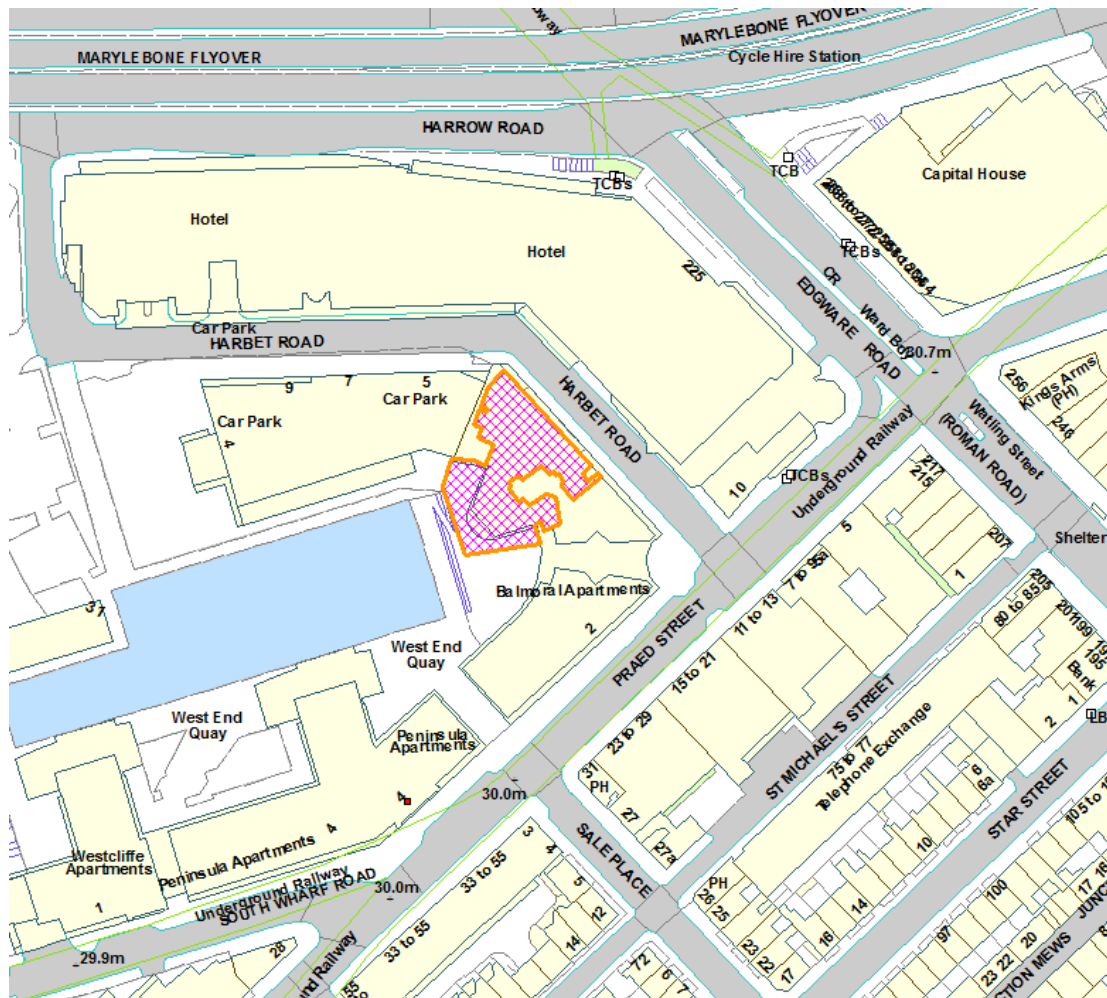
This application proposes the use of the use of a hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant known as 'The Draft House'. The key issues in this case are:

- The impact of the tables and chairs on the amenity of neighbouring amenity
- The impact upon pedestrian movement around the canal basin.

Objections have been received from the occupiers of residential properties on the upper floors of the building, principally on noise disturbance and anti-social behaviour grounds. However, it is considered that the objections raised can be suitably mitigated by the recommended conditions which are referred to in the report and set out in the draft decision letter appended to the report. In this context, it is considered that the proposed tables and chairs and associated umbrellas would accord with the

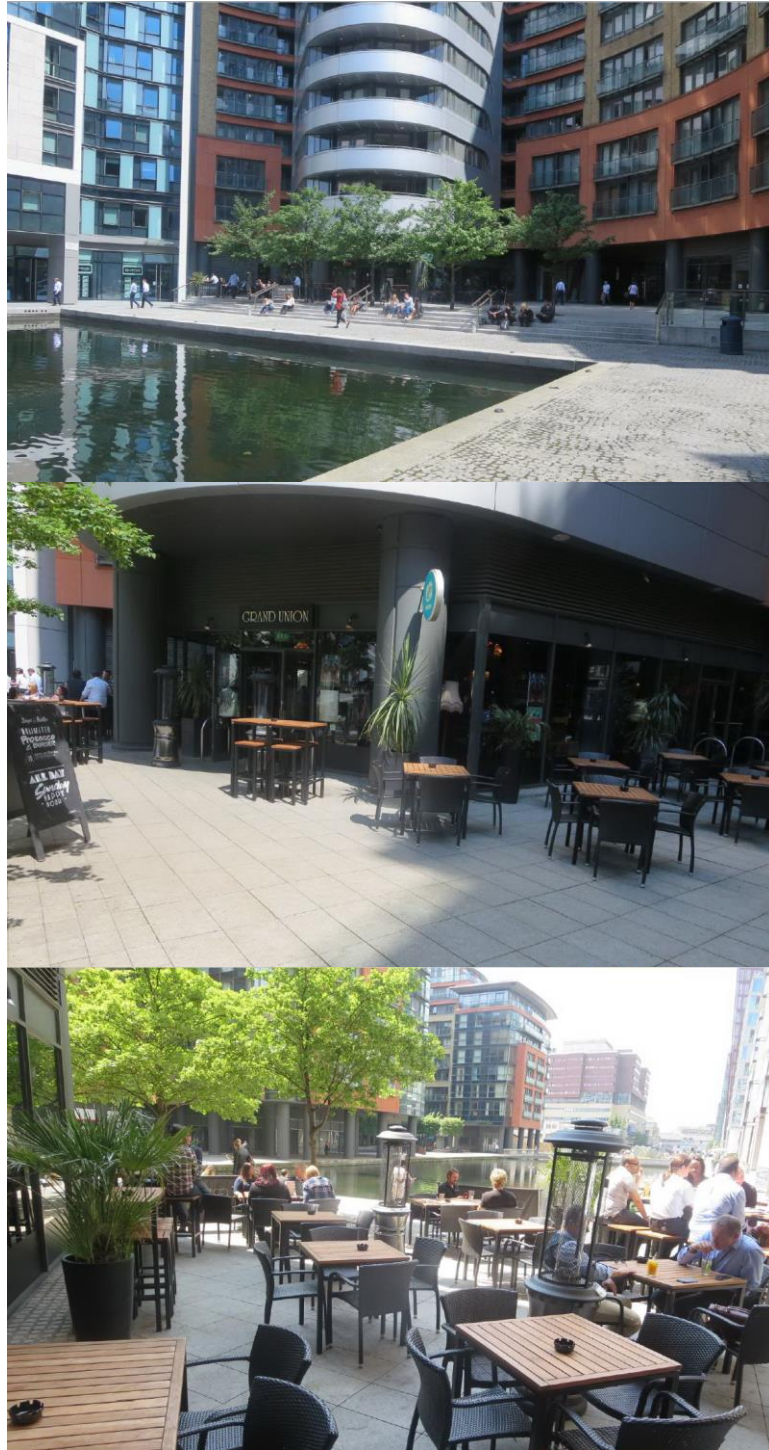
relevant polices in the Unitary Development Plan (UDP) adopted in January 2007 and Westminster's City Plan (the City Plan) adopted in November 2016. Therefore the application is recommended for conditional approval for a temporary period of one year to allow the amenity impacts of the tables and chairs to be monitored and reviewed at the end of the temporary permission.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Various views of the previously existing tables and chairs outside Unit 1 (note these images were taken when the premises was being operated by the previous operator).

5. CONSULTATIONS

PADDINGTON WATERWAYS AND MAIDA VALE SOCIETY

Any response to be reported verbally.

DESIGNING OUT CRIME ADVISOR

Any response to be reported verbally.

HIGHWAYS PLANNING

No objection as no obstruction to the public highway. Notes that the tables and chairs appear to obstruct fire escapes but this is a concern rather than a ground for objection. Conditions and informatives recommended.

CLEANSING MANAGER

No objection.

ADJOINING OWNERS/ OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 410.

Total No. of replies: 4.

No. of objections: 4.

No. in support: 0.

Four emails from three respondents raising objection on all or some of the following grounds:

Amenity

- Noise disturbance from use of tables and chairs.
- New business is much more alcohol centred and significantly more rowdy.
- Proposal is contrary to residents wellbeing.
- Use should be strictly controlled in terms of hours and space allocated.
- Drinking space appears to be double that for the previous licenced business.
- Stress Area along Edgware Road should be extended to Paddington Basin to control entertainment uses in what is a predominantly residential area.
- Object to additional tables and chairs now proposed.
- Not clear how the venue plans to mitigate the impact of the additional tables and chairs.
- In practice the management measures do not work.

Other Matters

- Not adhering to the operational management plan.
- Use of area outside of permitted hours as tables and chairs stored externally.
- Invitation to visit neighbouring flat to view impact.
- Umbrellas have already been placed outside the premises.

ADVERTISEMENT/ SITE NOTICE

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises a ground and basement restaurant/ bar use (Class A3/A4), known as Unit 1, located at the base of Balmoral Apartments, West End Quay. Unit 1, which has recently changed operator, is now operated as 'The Draft House'. It has a small street frontage onto Harbet Road (a private road) and has a more prominent facade facing onto Paddington Basin at its eastern end.

The site does not contain any listed buildings and is not located within a conservation area, although it is located within the Paddington Opportunity Area (POA) and the North Westminster Economic Development Area (NWEDA).

6.2 Recent Relevant History

6.2.1 Planning Applications

17/05688/FULL

Variation of condition 4 of planning permission dated 30 August 2016 (RN 16/06373/TCH) for use of hard paved area outside Unit 1 adjacent to canal basin for the placing of 25 tables and 86 chairs in connection with the use of Unit 1 by Grand Union Group. NAMELY, to allow continued use of the pavement until the 31 August 2018.

Application Permitted 31 July 2017

17/08028/ADV

Display of three internally illuminated fascia signs measuring, 3.89m x 0.35m one internally illuminated 'clock' hanging sign measuring 0.765m x 0.69m and non-illuminated lettering on external umbrellas.

Application Permitted 6 November 2017

16/06373/TCH

Use of hard paved area outside Unit 1 adjacent to canal basin for the placing of 25 tables and 86 chairs in connection with the use of Unit 1 by Grand Union Group.

Application Permitted 31 August 2016

13/03734/TCH

Use of hard paved area outside Unit 1 adjacent to canal basin for the placing of 25 tables and 86 chairs in connection with the use of Unit 1 by Grand Union Group.

Permission Permitted 25 February 2014.

12/02140/TCH

Use of hard paved area outside Unit 1 adjacent to canal basin for the placing of 25 tables and 86 chairs in connection with the use of Unit 1 by Grand Union Group.

Permission Permitted 29 May 2012.

10/05905/TCH

Use of hard paved area outside Unit 1 adjacent to canal basin for the placing of 25 tables and 86 chairs in connection with the use of Unit 1 by Grand Union Group.

Permission Permitted 21 October 2010.

6.2.2 Planning Enforcement

16/61997/H

Report of unauthorised placing of tables and chairs outside the Grand Union Bar as a result causing an adverse impact on amenity of neighbours due to noise and disturbance. Investigation into the alleged breach of planning control is ongoing.

Complaint Received: 6 June 2016

7. THE PROPOSAL

This application proposes the use of the use of a hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant known as 'The Draft House'.

Permission has previously been granted on five occasions for the placing of 25 tables and 86 chairs in the same area. On each occasion the previous permissions have been granted for a one year temporary period to allow the impact of the tables and chairs on the amenity of neighbouring residents to be continually monitored. Permission has not previously been granted for the placing of umbrellas in the paved area in addition to tables and chairs.

8. DETAILED CONSIDERATIONS

8.1 Land Use

The principle of placing tables and chairs outside of this restaurant/bar use (Class A3/A4) is acceptable and would accord with Policy S3 in the City Plan which seeks to deliver entertainment uses within the Paddington Opportunity Area (POA) and maintain active frontages to buildings at ground floor level. However, this is subject to the tables and chairs and associated structures not impede pedestrian movement around the canal basin (also an requirement of development within the POA) and not having a detrimental impact on the amenity of neighbouring residents. These considerations are addressed later in this report.

8.2 Townscape and Design

The types of tables and chairs proposed are detailed within documents submitted with the application. The furniture is of a good standard and would not be detrimental to the appearance of canal basin area.

8.3 Residential Amenity

A number of objections have been received raising concerns in amenity terms. The use of this area of paving for tables and chairs has also previously received objections in relation to the earlier approvals for the placing of a lesser number of tables and chairs in the same area. The principal issue is the noise and resultant disturbance that arises from the use of

this area for the placing of tables and chairs. Objectors are concerned that the current scheme increases the number of tables and chairs and they also consider the new operators business model (the new operator has already commenced operation) to be more focused on alcohol sales rather than dining, thus they allege that noisy behaviour would be increased by the users of the tables and chairs.

As with previous applications for tables and chairs at this site, the application is accompanied by a Management Plan for the external areas. This aims to ensure that the outside seating area is used by customers of Draft House and that there will be supervision of how the area is used, with the outside areas only to be used by customers; door staff to be used during busy times; no music will be played in external areas to the premises; and customers outside must be seated at all times and alcohol is only to be served as an accompaniment to food. If this management plan is operated and adhered to, then this would help to alleviate a number of the problems associated with noise and disturbance that would arise from the use of this area, and restrict it to an acceptable level that would be expected for this type of use, which is the lawful use of Unit 1 to which the tables and chairs are related. As has been the case for previous applications for tables and chairs outside these premises, a condition recommended requiring adherence to the submitted Management Plan, which is included in the background papers for information.

The submitted layout plan for previous applications included different areas of tables and chairs allocated for dining and an area for consuming beverages or bar snacks only. In line with this, it is recommended that an amending condition is attached requiring a revised drawing showing these different 'zones' and requiring these different zones to be used in a same way as previously permitted schemes (namely for 60% of the tables and chairs to be used only for those dining at the premises and 40% used by customers drinking and/ or consuming bar snacks). This would help reduce the impact on the residential amenity of neighbours above by limiting the use of a proportion of the tables and chairs outside of peak dining hours and the number of tables and chairs used solely for drinking, which are likely to cause more noisy behaviour.

Subject to these conditions and a condition to limit the number hours of use of the tables and chairs to the same hours as previously approved (between 09.00 and 23.00 Monday to Saturday and between 09.00 and 22.30 on Sundays and Bank Holidays), the proposed of tables and chairs are considered to be acceptable and in accordance with Policies S29 and S32 in the City Plan and Policies ENV 6 and TACE 11 in the UDP. As is normal practice with tables and chairs applications, it is also recommended that permission is only granted for a further temporary one year period to allow the City Council to monitor compliance by the new operator with the conditions imposed and an informative is recommended reminding the applicant that persistent breaches of the conditions that have been imposed are likely to result in future similar applications for tables and chairs in this location being refused.

8.4 Highways/ Transportation

The Council's Highway Officers advise that the proposed area to be used for tables and chairs is private land is not within 7m of any road or footway therefore he does not object to the application as the public highway would not be obstructed.

The accessibility of the privately accessible public realm is though a relevant consideration as Policy S3 in the City Plan requires public realm around the POA to be accessible. In this case, as set out in Section 8.6, the tables and chairs would not undermine this requirement of Policy S3 as the canal basin would remain fully accessible. Condition 10 requires the provision of screens to the perimeter of the tables and chairs area to prevent them being spread through use in to a larger area of the public realm.

In light of the above the proposals are considered to be in accordance with Policy TRANS3 in the UDP, Policies S3 and S41 in the City Plan and the guidance provided in the 'Westminster Way Supplementary Planning Document.

8.5 Economic Considerations

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

8.6 Access

The proposed tables and chairs would not obstruct access around Paddington Basin and would be set back from the steps and ramp at the adjacent level change at the head of the basin.

The Highways Planning Manager has commented that access from the fire escapes could be impeded. This is not a ground on which permission could reasonably be withheld, but an informative is recommended drawing this concern to the applicant's attention.

8.7 Other UDP/ Westminster Policy Considerations

None relevant.

8.8 London Plan

The application does not raise any strategic issues.

8.9 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.

8.10 Planning Obligations

Planning obligations are not relevant in the determination of this application and development is not CIL liable.

8.10 Environmental Impact Assessment

The proposed development is of insufficient scale to require an Environmental Impact Assessment.

8.12 Other Issues

One of the objections raised cites anti-social behaviour outside the permitted hours from persons sitting on/ using the tables and chairs when they have been left stacked outside. This is prohibited by recommended condition 10, which was also imposed on previous permissions for tables and chairs in this location. The applicant has advised that all of the structures, including the umbrellas are free standing and therefore their storage within the unit overnight is not unreasonable so as to limit the opportunity for anti-social behaviour outside of the permitted hours of use. Given a new operator has recently taken over the premises it is considered reasonable to re-impose this condition, but with the previously mentioned informative reminding the applicant that failure to comply with the imposed conditions is likely to result in permission for a similar tables and chairs proposal being refused in future once the current temporary permission has expired.

Whilst there is currently an open enforcement investigation for the unauthorised placing of tables and chairs, this dates from June 2016 when the unit was operated by a different operator. In this context, whilst it is clear that conditions relating to the management of the tables and chairs may have previously been breached by the previous operator, it is considered reasonable to grant a temporary one year permission for the proposed tables and chairs and umbrellas for the new operator. As mentioned elsewhere in this report, the temporary permission will act as a probationary period during which the impact of the tables and chairs on neighbouring residents and compliance with conditions can be monitored.

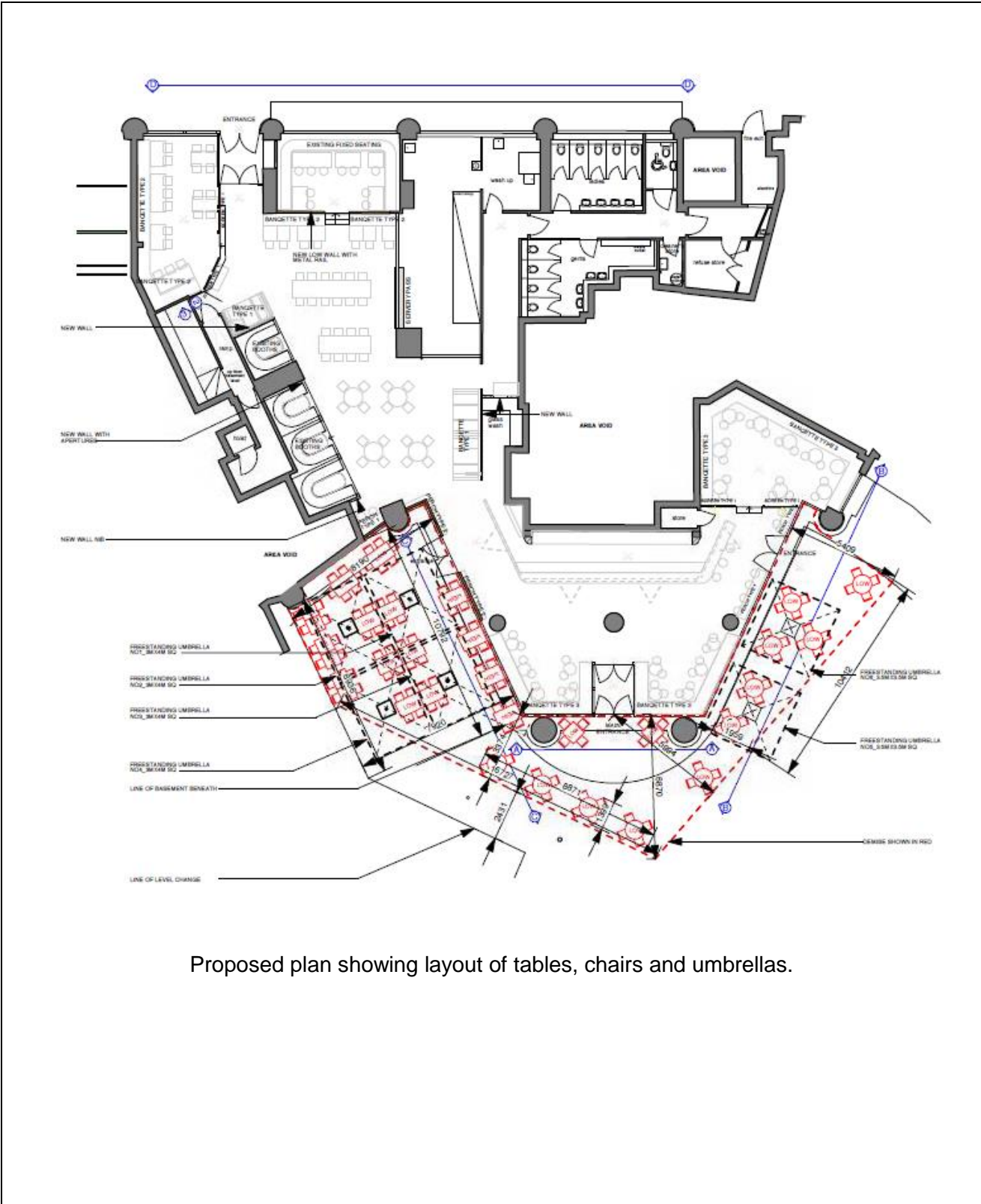
9 BACKGROUND PAPERS

1. Application form.
2. Copy of submitted 'Management Plan for the Operation of External Areas'.
3. Memo from the Cleansing Manager dated 29 September 2017.
4. Memo from the Highways Planning Manager dated 31 October 2017
5. Emails from the occupier of Flat 26, 5 Harbet Road both dated 22 September 2017.
6. Email from the occupier of Apartment 11, 5 Harbet Road dated 28 September 2017.
7. Email from the occupier of Apartment 36, 5 Harbet Road dated 4 October 2017.

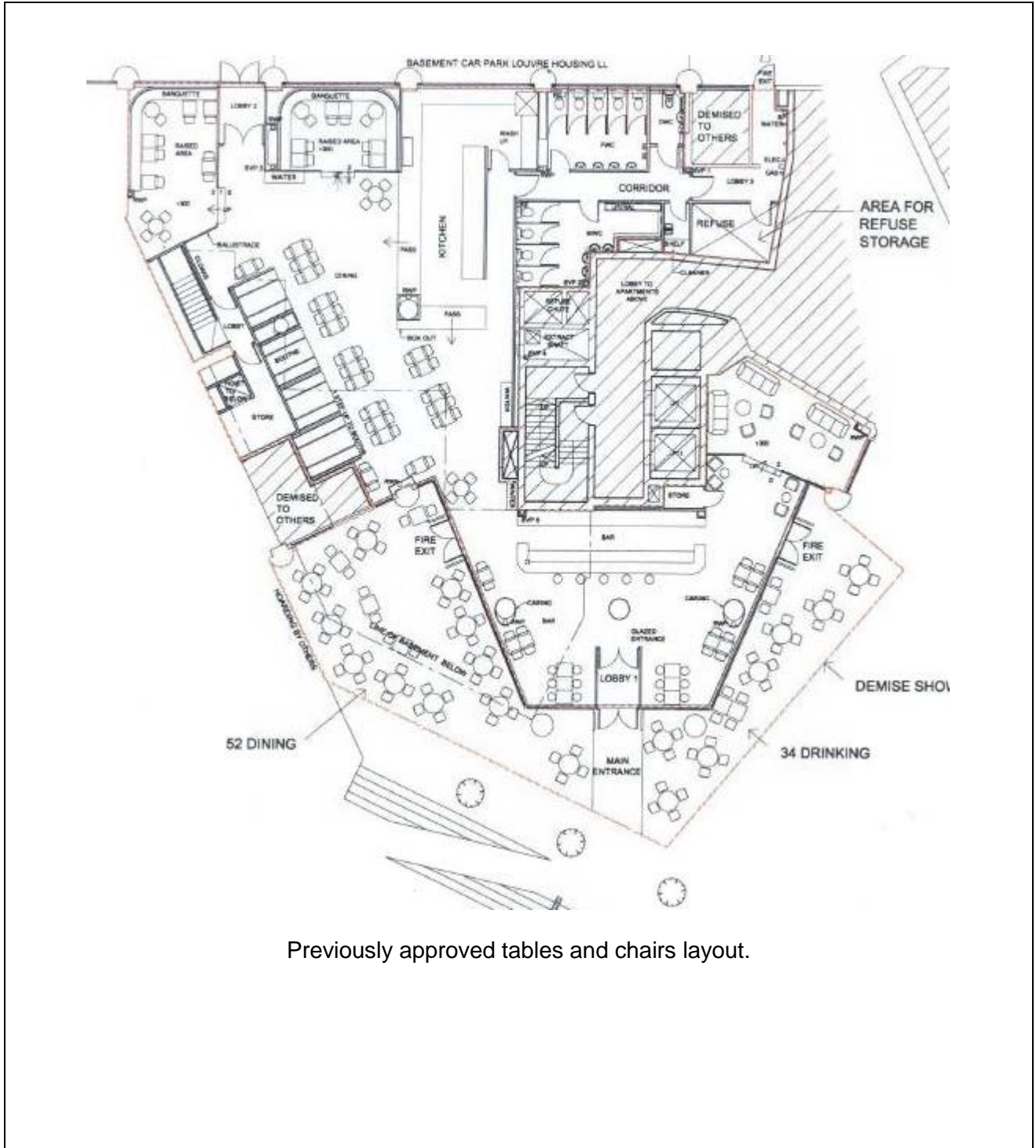
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: OLIVER GIBSON BY EMAIL AT ogibson@westminster.gov.uk.

10 KEY DRAWINGS



Proposed plan showing layout of tables, chairs and umbrellas.



Previously approved tables and chairs layout.

DRAFT DECISION LETTER

Address: West End Quay, South Wharf Road, London, W2 1LA

Proposal: Use of hard paved area outside Unit 1 adjacent to the canal basin for the placing of 31 tables, 112 chairs and 6 free standing umbrellas in connection with the use of Unit 1 as a bar/ restaurant.

Plan Nos: Site location plan; 65/02; 65/40; Planning Support Statement dated 06/09/17; and 'Management Plan for the Operations of External Areas at Draft House 1 West End Quay, London W2 1JX' (as amended pursuant to Condition 9 of this permission).

Case Officer: Avani Raven

Direct Tel. No. 020 7641 2857

Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:

- 1 You must not put the tables, chairs and umbrellas in any other position than that shown on drawing 65/02. (C25AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 2 You can only put the tables and chairs on the pavement between 09.00 and 23.00 Monday to Saturday and between 09.00 and 22.30 on Sundays and Bank Holidays.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 3 The tables and chairs must only be used by customers of 'The Draft House', Unit 1, West End Quay. (C25CA)

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 4 This use of the pavement may continue until 28 November 2018. You must then remove the tables and chairs. (C25DA)

Reason:

We cannot give you permanent permission as we need to assess the effect of this activity regularly to make sure it meets S42 of Westminster's City Plan (November 2016) and TACE 11 of

our Unitary Development Plan that we adopted in January 2007.

- 5 You can only put out on the pavement the tables, chairs and umbrellas shown on drawing 65/40. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture or equipment is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007.

- 6 You must not allow more than 112 customers in to the area of external tables and chairs hereby approved, as shown on drawing 65/02, and all customers within this area must be seated and no customers shall be permitted to stand in this area to consume food or beverages purchased from the restaurant and ancillary bar use of Unit 1.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 7 You must manage the tables and chairs hereby approved at all times in accordance with the management plan titled 'Management Plan for the Operations of External Areas at Draft House' (as amended by the detailed required pursuant to Condition 9 of this permission), including the supervision of the tables and chairs by a member of staff at all times during the hours of use.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 8 You must only access the tables and chairs are hereby approved via the main entrance (as annotated on drawing 65/02) and you must not use the fire exits to access the tables and chairs. The main entrance and fire exit doors to both side elevations must be kept shut at all times (except in the event of an emergency) and must not be left in an open position.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 9 You must apply to us for approval of detailed drawings and supporting management plan showing the following alteration to the scheme:

- An amended management plan and floorplan amended/ annotated to show not more than 40%

of the tables and chairs for use by customers consuming beverages or bar snacks only, with the remain 60% of tables and chairs for use only by customers consuming food purchased from the restaurant element of the use of Unit 1.

You must not place the tables and chairs and associated structures on the pavement until we have approved what you have sent us. You must then use the tables and chairs in accordance with the revised management plan and floorplan that we approve.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 10 You must not use the tables and chairs area unless screens not more than 1.2 metres in height are placed along the perimeter line of the tables and chairs area shown on drawing 65/02. Outside of the permitted hours of use of the tables and chairs area these screens must be removed from the hard paving and stored with the application premises.

Reason:

To protect neighbouring residents from noise and disturbance and retain the tables and chairs within the permitted area as set out in S29 and S32 of Westminster's City Plan that we adopted in July 2016 and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 11 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.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

- 3 You cannot put tables and chairs in the area unless you have a street trading licence.

If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)

- 4 You are reminded that customers must be moved from within the tables and chairs area prior to the terminal hours set out in Condition 2 and not after the specified hours. You must also ensure that you comply with all other conditions relating to the management of the tables and chairs, which are required to mitigate the noise impact of the use on neighbouring residents. Consistent failure to adhere to these conditions may result in future temporary planning permission for tables and chairs in this location being refused.
- 5 You are advised that you must ensure that egress from the fire exits of the premises are not blocked by the tables and chairs hereby approved. Any alterations to the approved tables and chairs layout hereby approved is likely to require the benefit of further permission.