

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 16 th January 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	21-23 Meard Street, London, W1f 0el		
Proposal	Variation of Condition 9 of planning permission dated 03 October 2017 (RN 17/06840/FULL) for, 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street'; NAMELY, to vary the opening hours to 07:00 to 00:00 daily for the retail unit at ground and basement floors at No. 74 and from 09.00 to 22.30 daily for the additional retail space at ground and basement floors of No. 23 Meard Street.		
Agent	Lipton Plant Architects		
On behalf of	Consulco		
Registered Number	17/09630/FULL	Date amended/ completed	30 October 2017
Date Application Received	30 October 2017		
Historic Building Grade	N/A		
Conservation Area	Soho		

1. RECOMMENDATION

For Sub-Committee's consideration:

1. Does the Sub-Committee consider that the proposed opening hours of the retail unit are acceptable in amenity terms?
2. Subject to 1 above grant conditional planning permission.

2. SUMMARY

23 Meard Street is an unlisted building in the Soho Conservation Area, within the designated Core Central Activities Area, the West End Stress Area and the West End Special Retail Policy Area. The property comprises of basement, ground and first to third floor levels. The entire property is in use as office accommodation (Class B1), currently vacant. The adjacent property to the west is 74 Wardour Street which is Grade II listed and is currently in use as retail accommodation at basement and ground floor levels with residential flats (Class C3) on the upper floors of the building. The property to

the east at 21 Meard Street was recently granted permission to be converted from office accommodation to a single family dwellinghouse (Class C3).

Planning permission was granted on the 3rd October 2017 for the, 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street.'

Condition 9 of the above consent requires that, 'Customers shall not be permitted within the ground and basement retail premises at 23 Meard Street and 74 Wardour Street before 09:00 or after 22:30 each day.' Consent is now sought to vary this condition to allow the retail floorspace to open between 07:00 and 00:00 at 74 Wardour Street and 09:00 and 22:30 at 23 Meard Street.

The key issue is:

- The impact of the proposed opening hours on the amenity of nearby residents.

The existing retail unit at 74 Wardour Street and the office accommodation at 23 Meard Street currently operate with no restrictions on the opening hours of their premises. The proposal variation to Condition 9 would maintain the previously conditioned opening hours of the operation of the retail floorspace in 23 Meard Street but enable extended opening hours of the retail accommodation at 74 Wardour Street. It is unlikely that the proposed amended condition would cause any material harm to local environmental or residential amenity. Given this, Sub-Committee's views are sought as to the acceptability of the proposal.

3. LOCATION PLAN



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4. PHOTOGRAPHS





5. CONSULTATIONS

SOHO SOCIETY
No Response.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 55; Total No. of replies: 5
No. of objections: 5; No. in support: 0

Objections on the following grounds:

- Potential food waste blocking public sewers.
- Noise from customers of the retail unit impacting on residential amenity.
- Difficult to enforce the different hours of use within the same retail unit.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

23 Meard Street currently has lawful use as office accommodation across basement, ground and first to third floor levels. 74 Wardour Street has lawful use as a retail use at basement and ground floor levels (currently vacant) with residential flats on the upper floors of the property. There are no planning restrictions on the existing retail use, so that it could open 24 hours a day. Whilst 74 Wardour Street is a Grade II listed property, 23 Meard Street is unlisted with both properties located within the Soho Conservation Area, Core Central Activities Zone, West End Special Retail Policy Area and the designated West End Stress Area.

6.2 Recent Relevant History

Planning permission granted on the 3rd October 2017 (17/06840/FULL) for 'Use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street.'

And listed building consent granted for 'Internal alterations at lower ground and ground floor levels to include the creation of new openings between 74 Wardour Street and 23 Meard Street.' (17/06841/LBC).

7. THE PROPOSAL

Planning permission is sought to vary condition 9, which was imposed by the Planning Applications Committee, of the planning permission dated 3rd October 2017. This condition requires the following:

'Customers shall not be permitted within the ground and basement retail premises at 23 Meard Street and 74 Wardour Street before 09:00 or after 22:30 each day.'

The reason for this condition is:

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 8 of our Unitary Development Plan that we adopted in January 2007.

The applicant is seeking to vary the condition so it is worded as follows:

'Customers shall not be permitted within the ground and basement retail floor space at 23 Meard Street before 09:00 or after 22:30 each day and shall not be permitted within the ground and basement retail floor space at 74 Wardour Street before 07:00 or after 00:00 each day. Between the hours of 07:00 and 09:00 and 22:30 and 00:00 daily the internal doors at basement and ground floor levels between 23 Meard Street and 74 Wardour Street shall be closed to prevent customer access to 23 Meard Street'

In effect, the applicant wishes to maintain the longer opening hours at the existing unrestricted retail shop at No. 74, whilst accepting the hours restriction in the new retail accommodation.

The intention is to use the premises as an ice cream parlour.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Objections have been received to the proposal commenting on the increase in commercial floor space in Meard Street and the change in the balance of commercial and residential within the street. The application is only seeking to vary the condition relating to the opening hours of part of the premises. There have been no material changes to the policy framework since the original consent was granted with regard the change of use of the office accommodation to retail and the previous consent is still extant. The proposed change of use is therefore still considered acceptable in land use terms.

8.2 Townscape and Design

The previous consent from October 2017 allowed for minor changes to the shopfront on 23 Meard Street; there have been no material changes to the policy framework since this consent was granted, the permission is still extant for the works and the alterations are still considered acceptable in design terms, subject to the same conditions as previously.

8.3 Residential Amenity

As set out above, planning permission and listed building consent were previously granted on 3rd October 2017 for the change of use of the basement and ground floors of 23 Meard Street for use as retail accommodation in association with a lawful retail unit at 74 Wardour Street. The permission included the installation of a new shopfront and the

additional entrance door to 23 Meard Street was to serve the extended retail use by providing disabled access and an emergency fire escape. The additional floorspace is to be used for seating, a disabled toilet, napkin / cutlery counter and to provide a better layout to manage queueing customers. The main entrance to the extended retail unit was retained through the existing Wardour Street door which already serves the current retail unit and is further away from the residential properties in Meard Street. A condition was imposed on the October 2017 consent to ensure that the new access door to the retail unit from 23 Meard Street only allowed access to the retail unit for disabled patrons and in emergencies in order to ensure the proposal did not result in any increase in noise and disruption within Meard Street.

The opening hours of the existing retail unit at basement and ground floor levels in 74 Wardour Street were not controlled by condition. It was only when the October 2017 permission was granted that a condition was imposed to control the hours of operation of the whole extended retail unit. The condition restricted the hours of opening of the entire retail unit to between 09:00 and 22:30 daily. The applicant now seeks to amend this condition to allow the retail floorspace at 74 Wardour Street to open between 07:00 and 00:00 whilst the extended floorspace at 23 Meard Street would still be restricted to the same hours as previously imposed by Planning Committee.

Policy S29 of the City Plan states that 'the council will resist proposals that result in an unacceptable material loss of residential amenity and developments should aim to improve the residential environment', Policies ENV13 and ENV6 of the UDP also have a similar aim to resist any proposals which would be detrimental to residential amenity or result in an increase in the level of noise for residential occupiers.

The proposal for slightly extended opening hours of the Wardour Street retail unit will still allow for the control of the retail operation (where none currently exist) within acceptable hours and the proposed amended condition will ensure the additional retail accommodation at 23 Meard Street can only be used in accordance with the previously imposed opening hours. Wardour Street is a busy commercial street with the majority of units being utilised for commercial purposes. Nearby licensed premises include:

- Wahaca at 80-82 Wardour Street with licensed opening hours of 10:00 till 00:00 Monday to Saturday and 12:00 till 23:00 on Sundays;
- Banana Tree Restaurant at 103-109 Wardour Street licensed to open between 10:00 and 00:30 Monday to Thursday, 10:00 and 01:30 Friday and Saturday and 12:00 and 00:00 on Sundays;
- MasQMenos at 68-70 Wardour Street is licensed to open 10:00 till 23:30 Monday to Thursday, 10:00 till 00:00 Friday and Saturdays and 12:00 till 22:00 on Sundays.

It is also noted that there are a number of other ice cream / frozen yogurt premises in the vicinity which currently have the following opening hours:

- Snog at 9 Brewer Street with opening hours of 11:00 till 00:00 Sunday to Thursday and 11:00 till 01:00 Friday and Saturdays.
- Gelupo at 7 Archer Street with opening hours of 11:00 till 23:00 Monday to Thursday, 11:00 till 00:00 Friday and Saturday and 12:00 till 23:00 on Sundays.

- Snowflake at 102 Wardour Street with opening hours of 12:00 till 23:30 Monday to Thursday, 12:00 till 00:30 Friday and Saturday and 12:00 till 23:30 on Sundays.

It is therefore considered unlikely that the extended opening hours requested by the applicant would result in additional noise outside of hours when this may already be expected on this busy commercial street. It is also important to note that these licensed premises detailed above are restaurant uses whilst the proposal is for a retail unit (albeit one selling ice cream), which would have a much lesser impact upon residential amenity. Whilst the objections from some residents of Meard Street are noted the proposal only seeks to extend the opening hours of an area of retail floorspace that until the October 2017 consent was uncontrolled.

There has been an objection on the grounds that it will be difficult to enforce the different hours of use within the same retail unit. However, there is a clear single opening at ground and basement level between 74 Wardour Street and 23 Meard Street with a door between the two areas which will be closed when required. There is also nothing within the demise of 23 Meard Street which is intrinsic to the operation of the retail premises and the objection on these grounds is not therefore considered sustainable.

With the main entrance to the property being from Wardour Street with only disabled access from Meard Street it is not considered the current proposal would result in any increase in pedestrian footfall along Meard Street or a detrimental impact to residential amenity and the objections on these grounds are not considered sustainable.

8.4 Economic Considerations

No economic considerations are applicable for a development of this size

8.5 Access

No changes are proposed to the previously approved access arrangements to the property. It is noted that the disabled access to the property is through 23 Meard Street and this will not be possible between the hours of 07:00 and 09:00 and 22:30 and midnight daily when the front part of the shop would be open. However, it is not possible to improve on this situation as alterations to facilitate level access from 74 Wardour Street would be unacceptable in listed building terms. Whilst it is unfortunate level access cannot be provided for the entire time the premises would be open, the proposal is still an improvement on the existing situation.

8.6 Other UDP/Westminster Policy Considerations

An objector has commented on the potential for food waste from the property to block sewers in the vicinity. The applicant has confirmed that due to the nature of production of the ice creams (which is served direct from the packaging and has a very long shelf life) there is very little waste food product. The sinks will however be fitted with a 'sieve' system to prevent large items from entering the drains and sieves will be emptied directly into the bins. Any out of date or contaminated product is disposed of directly in its container.

8.7 London Plan

This application raises no strategic issues.

8.8 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.

8.9 Planning Obligations

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

8.10 Other Issues

An additional condition is included to ensure that the consent is still limited to the three year time limit which was imposed on the planning permission dated 3rd October 2017 and that this variation of condition consent does not extend the time limits for implementation of the permission.

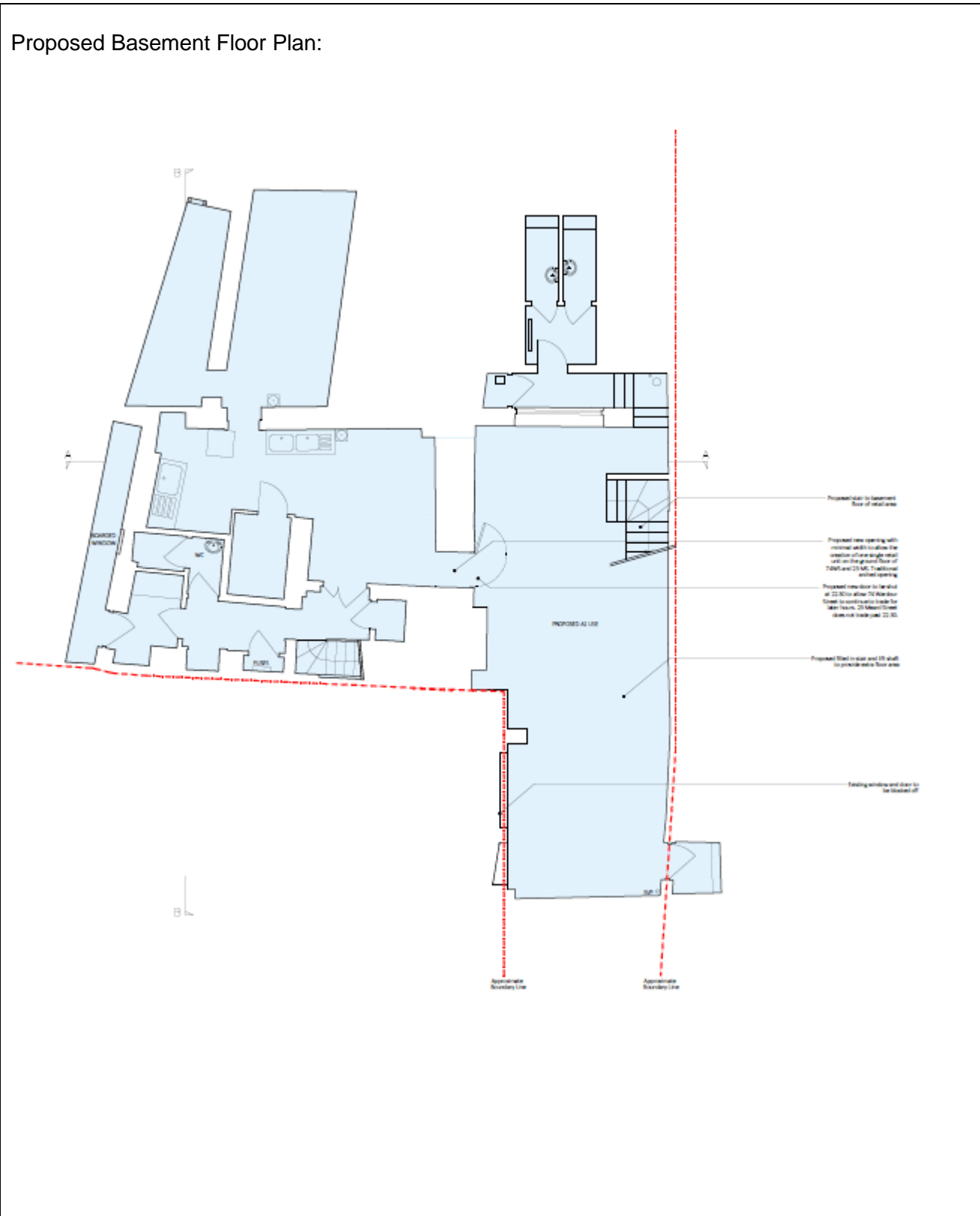
9. BACKGROUND PAPERS

1. Application form
2. Letter from occupier of 4 Meard Street, London, dated 13 November 2017.
3. Letter from occupier of 11 Meard Street, London, dated 23 November 2017.
4. Letter from occupier of second and third floor maisonette, 13 Meard Street, dated 7 November 2017.
5. Letter from occupier of 19 Meard Street, London, dated 7 November 2017.
6. Letter from the agent for the applicant dated 1st December 2017.
7. Letter from occupier of 1a Meard Street, London, dated 5 December 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: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

10. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 21-23 Meard Street, London, W1F 0EL,

Proposal: Variation of condition 9 of planning permission dated 03 October 2017 (RN 17/06840/FULL) for the use of the ground and basement floors of 23 Meard Street as retail (Class A1) in association with the existing retail unit at 74 Wardour Street to include the installation of a ground floor frontage to 23 Meard Street including new emergency and disabled access door and internal openings between 74 Wardour Street and 23 Meard Street NAMELY, to vary the opening hours to 07:00 to 00:00 daily for the retail unit at ground and basement floors at No. 74 and from 09.00 to 22.30 daily for the additional retail space at ground and basement floors of No. 23 Meard Street.

Reference: 17/09630/FULL

Plan Nos: Drawings: 474.(1).1.001 RevB, 474.(1).1.002 RevB., , 17/06840/FULL - Drawings: 474 1 1.002 RevB, 474 1 1.001 RevB, 474 1 2.001 RevA, 474 1 2.002 RevA, 474 1 3.001 RevA, 474 1 3.002 RevA.

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

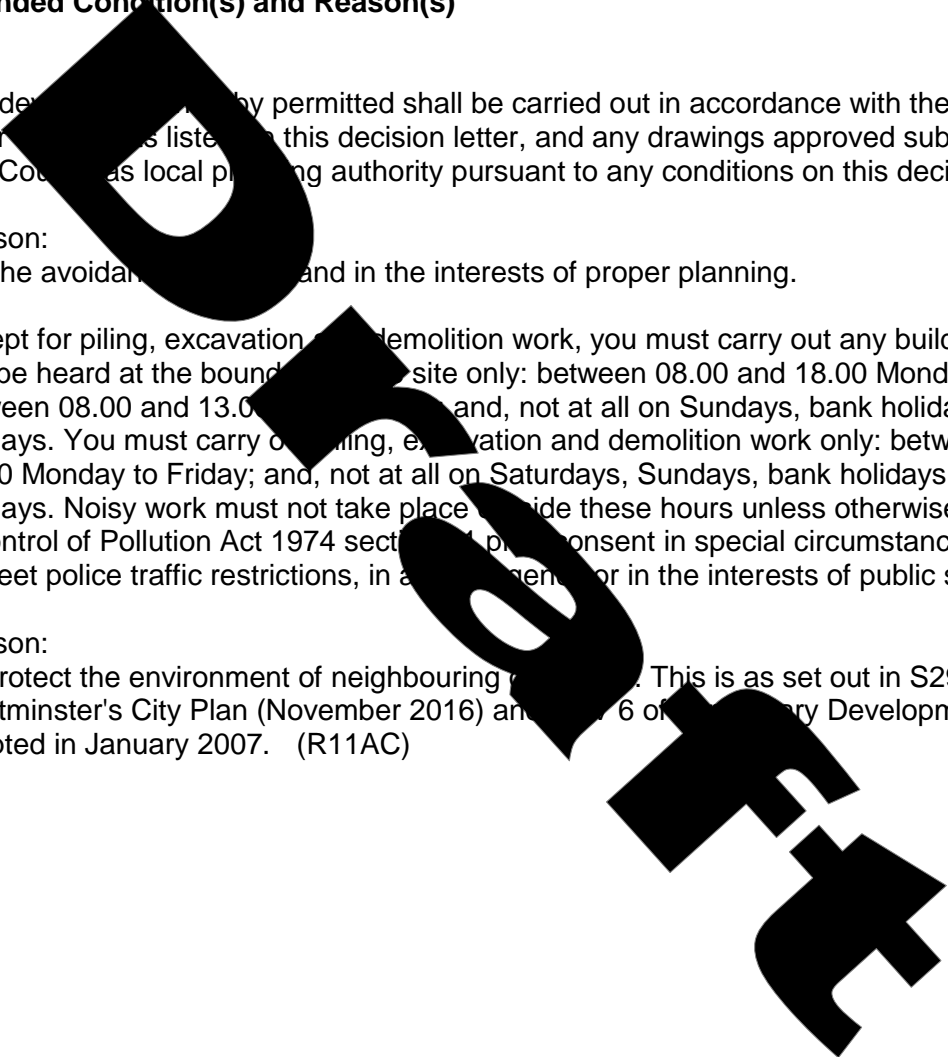
Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other conditions listed in 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 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 permit consent in special circumstances (for example, to meet police traffic restrictions, in a emergency or in the interests of public safety). (C11AB)

Reason:
To protect the environment of neighbouring residential areas. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and paragraph 6 of the City of Westminster Development Plan that we adopted in January 2007. (R11AC)



- 3 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, prior to the occupation of the floorspace, clearly mark the stores and make them available at all times to everyone using the retail unit.

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)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

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 TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 7 The single door serving the retail unit on Meard Street is only to be used to provide access for disabled patrons. It is not to be used by other customers except in the case of an emergency and should not be kept open for any other purpose than providing access.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 8 You must apply to us for approval of detailed drawings showing the following alteration to the scheme: - The installation of ramped access to the ground floor entrance door on Meard Street. The additional retail (Class A1) floorspace shall not be occupied until these detailed drawings have been approved by the City Council and the approved ramp has been installed in full. The approved ramp shall be retained in situ for the life of the development.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 9 Customers shall not be permitted within the ground and basement retail floor space at 23 Meard Street before 09:00 or after 22:30 each day and shall not be permitted within the ground and basement retail floor space at 74 Wardour Street before 07:00 or after 00:00 each day. Between the hours of 07:00 and 09:00 and 22:30 and 00:00 the internal doors at basement and ground floor levels between 23 Meard Street and 74 Wardour Street shall be closed to prevent customer access to 23 Meard Street

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

- 10 This permission must be commenced no later than 02.10.2020

Reason:

As required by s91 of the Town and Country Planning Act 1990 as amended by s51 of the Planning and Compulsory Purchase Act 2004.

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 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (154AA)

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.