

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 13 February 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	170 Great Portland Street, London, W1W 5QB		
Proposal	Use of the basement and ground floor of 170-172 Great Portland Street as (Class A3) restaurant/cafe with ancillary retail and bar area.		
Agent	Bidwells		
On behalf of	Villandry Foodstore Restaurant Limited		
Registered Number	17/09047/FULL	Date amended/ completed	16 October 2017
Date Application Received	11 October 2017		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises the basement and ground floors of this unlisted building located within the Harley Street Conservation Area and the Central Activities Zone (CAZ). The main entrance to the unit is location on Great Portland Street, a Named Street within Marylebone and Fitzrovia. The site is not located within a stress area.

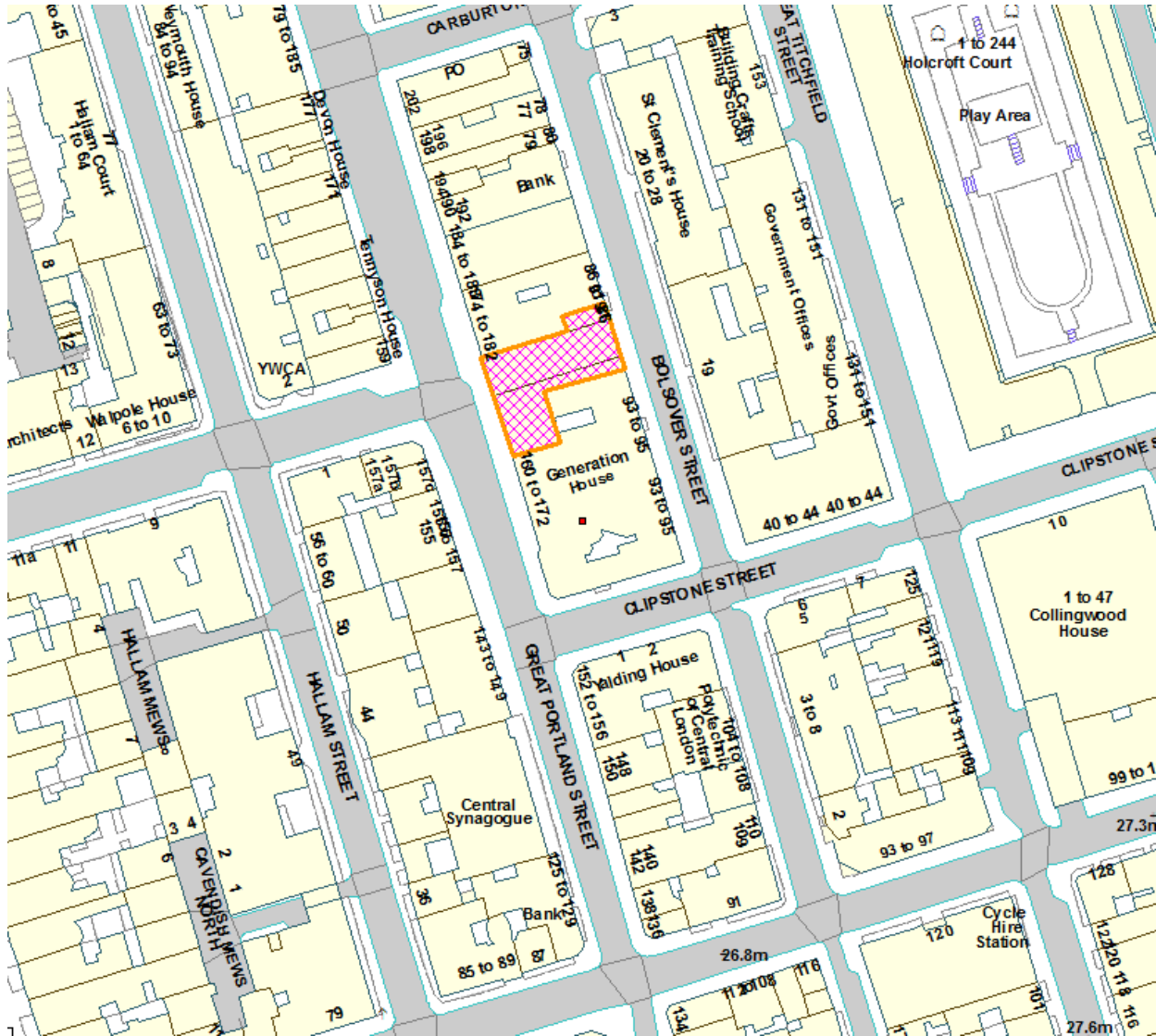
The basement and ground floors are in mixed use as a shop and restaurant (*Sui Generis*), with frontages onto both Great Portland Street and Bolsover Street. The application seeks to intensify the amount of floorspace dedicated to dining at the expense of the retailing that takes place on site. The result would be a material change of use to a restaurant (Class A3) with ancillary retail and bar area. The application also seeks to adjust some of the restrictions imposed in 1998 when the current use was granted permission.

The key issues for consideration are:

- Whether the loss of the retail element of the existing use would be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality; and
- Whether the proposed increased intensity of entertainment floorspace would be acceptable in land use and amenity terms.

The proposal is considered acceptable in land use, amenity and transportation terms, complying with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan). For these reasons it is recommended that conditional planning permission be granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Great Portland Street frontage:



5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION:

Any response to be reported verbally.

HIGHWAYS PLANNING:

No objection.

CLEANSING:

No objection.

ENVIRONMENTAL HEALTH:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 122;

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises the basement and ground floors of this unlisted building located within the Harley Street Conservation Area and the CAZ. The main entrance to the unit is location on Great Portland Street, a Named Street within Marylebone and Fitzrovia. The site is not located within a stress area.

The basement and ground floors are in use as a mixed use shop and restaurant (*Sui Generis*), with frontages onto both Great Portland Street and Bolsover Street. The ground floor comprises mainly dining, informal dining / bar and some retailing in the northern part of the two rooms facing Great Portland Street. The basement is used as a kitchen, storage, customer toilets and refuse store.

Records indicate that there are few residential properties in the immediate vicinity of the site. The upper floors of the property are in office use.

6.2 Recent Relevant History

Permission was granted on 6 May 1997 (Ref: 97/2223) for the use of the unit as a mixed use shop and restaurant, including use of part of the forecourt on Bolsover Street for external seating. The area dedicated to retailing was the entirety of the Great Portland Street frontage, the central room, and approximately half of the room facing Bolsover Street. The area dedicate to dining was limited to the remaining half of the room facing

Bolsover Street and the approved drawings indicate that this area had a capacity of 30 covers.

Permission was again granted on 8 October 1998 (Ref: 98/4386) to use this part of the building for a mixed use shop and restaurant purposes, including use of part of the private forecourt on the Bolsover Street elevation for external seating. The nature of the proposed mixed use shop and restaurant permitted, however, was materially different from that approved in May 1997, with the entire room facing Bolsover Street now being dedicated to dining (72 covers) and the southern of the two rooms facing Great Portland Street now also being dedicated to dining (45-50 covers). The central room and the northern of the two rooms facing Great Portland Street are shown as retailing, including fridges and tables for the sale of flowers, fruit and vegetables. Condition 1 of this permission requires these two areas to be kept for retail purposes within Class A1 in order to ensure that a meaningful amount of retail floorspace at ground floor level was retained.

Temporary permission was granted on 2 December 2015 (Ref: 15/09772/TCH) to use parts of the public highway on both Great Portland Street and Bolsover Street for *a/ fresco* dining between the hours of 08.00 and 22.00. This permission expired on 31 December 2017 and no application to extend this permission has yet been submitted.

7. THE PROPOSAL

At some point, contrary to Condition 1 of the October 1998 permission, the central room was converted from retailing to informal dining / bar. The applicant is seeking to regularise this breach of planning control to retain this area for dining purposes. In addition, the applicant seeks to enlarge this bar area into the northern of the two rooms facing Great Portland Street and to introduce seating in this room - this area was previously used as a retail flower stall. The applicant estimates that the proposal will result in an additional 16 covers compared to the current situation.

This further intensification of dining at the expense of retailing is considered to materially change the use of the unit from the approved mixed shop / restaurant to a unit where the primary use is a restaurant (Class A3). The bar and any remaining retailing element are considered to be ancillary to the primary restaurant use, being sufficiently small scale but functionally related to it. The applicant is therefore seeking permission to use the ground and basement floors as a restaurant with ancillary retail and bar areas. The applicant is also seeking greater flexibility in terms of the controls imposed by the October 1998 permission.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Mixed shop / restaurant (<i>Sui generis</i>)	1,348	0	-1,348
Restaurant (Class A3)	0	1,348	+1,348
Total	1,348	1,348	-0

The proposed opening hours of the restaurant are:

- 07.00 – 23.30 (Monday to Fridays);
- 09.00 – 23.30 (Saturday); and
- 10.00 – 18.00 (Sundays and Bank Holidays).

8. DETAILED CONSIDERATIONS

8.1 Land Use and Residential Amenity

Loss of retail element of existing use

City Plan Policy S21 states '*Existing A1 retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let*'. The supporting text advises that this approach will ensure that the needs of customers and retailers across the city are met through the retention of the number of shops and overall amount of retail floor space.

City Plan Policy S8 identifies certain streets within Marylebone and Fitzrovia as 'Named Streets'. One of these is Great Portland Street. Named Streets are defined in the City Plan as, '*Specific streets in Marylebone and Fitzrovia which are treated as part of the Core Central Activities Zone and as designated on the Policies Map.*' Policy S8 outlines how the Named Streets are an appropriate location for a range of commercial uses and retail and other town centres uses will be directed towards the Named Streets, Marylebone High Street and the local shopping centres.

As the City Plan states that Named Streets are to be treated as part of the Core CAZ, this supersedes any prior definition of the Core CAZ within the UDP. Therefore, the applicable policy from the UDP relating to the loss of retail floor space is Policy SS5, that only allows the loss of shops where this loss would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality. Furthermore, Policy SS5 states that proposals for non-A1 uses must not:

1. Lead to, or add to, a concentration of three or more consecutive non-A1 uses.
2. Cause or intensify an existing overconcentration of A3 and entertainment uses in a street or area.

Whilst the loss of the retail element of the approved mixed use is regrettable through narrowing the offer for local residents and visitors, this part of Great Portland Street is not heavily characterised by retailing but contains a mix of shops, restaurants and offices. It is considered that the proposed restaurant would act as a destination, attracting customers into the area that may benefit other shops in the vicinity. As such, it is not considered that the proposed loss of the retail element of the approved mixed use would materially harm the character and function of the area or to the vitality or viability of Great Portland Street as a shopping frontage.

Whilst the site is already in a run of non-A1 uses on this side of Great Portland Street, this would remain unchanged from existing.

Intensification of entertainment use

City Plan Policy S24 outlines how:

'New entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.

New large-scale late-night entertainment uses of over 500 sqm floorspace will not generally be appropriate within Westminster'.

Given that the floorspace of the unit is 1,348 sq.m, there is also a presumption within UDP Policy TACE 10 against such a larger entertainment use, with exceptional circumstances having to be demonstrated to allow such a use.

The proposal, however, is not for a new entertainment use but to change the character of an existing use to increase the number of covers. The modest proposed increase in covers (16) is not considered to represent such a change that it would cause or intensify an existing over-concentration of entertainment uses in this part of Fitzrovia and therefore there is no in-principle objection from a land use and amenity perspective.

The applicant is also seeking greater flexibility in terms of the controls imposed by the October 1998 permission. Of relevance, the original permission imposed the following conditions:

- Hours: 0700 – 23.30 (Monday to Saturday) and 07.00 – 16.00 (Sundays and Bank Holidays).
- Servicing is limited on Bolsover Street to between 08.00 and 17.00 (Monday to Friday).
- The door located on the Bolsover Street elevation is only permitted to be used between 08.00 and 17.00 (Monday to Saturday) and between 09.00 to 17.00 (Sundays and Bank Holidays).

The applicant requests:

- Identical opening hours on Mondays to Fridays;
- Opening at 09.00 (rather than 07.00) on Saturdays; and
- Opening at 10.00 (rather than 07.00) and closing at 18.00 (rather than 16.00) on Sundays and Bank Holidays.

The changes to the proposed operating hours are considered to be acceptable in the context of the site's location of a Named Street and given the limited residential properties in the vicinity of the site.

The applicant has confirmed that there is a goods lift on Great Portland Street, and therefore Bolsover Street is not used as a goods entrance. As such, it is proposed that a condition be imposed requiring servicing from Great Portland Street only in order for this to take place on the busier and more commercial of the two streets. There are no on-

street or current planning restrictions to loading on this part of Great Portland Street and therefore it is not considered appropriate to control the hours of servicing.

Finally, the lack of residential properties on Bolsover Street means that it is not considered necessary to re-impose additional restrictions on customers or staff entering or exiting the site on this frontage.

8.2 Townscape and Design

No external changes are proposed and therefore there will be no impact upon the character and appearance of the Harley Street Conservation Area.

8.3 Transportation/Parking

The Highways Planning Manager accepts that the proposal will not result in a material impact upon the local highway network. Whilst the provision of cycle parking and restricting delivery service from the premises is requested, the small change in the number of covers means that such additional controls are not considered to be necessary.

8.4 Economic Considerations

Any economic benefits arising from the proposed change of use are welcome.

8.5 Access

Level access to the unit is available from both the Great Portland Street and Bolsover Street entrances and this is proposed to remain unchanged.

8.6 Other UDP/Westminster Policy Considerations

Refuse /Recycling

The submitted drawings show a location for the storage of waste and recyclable material in the basement. The Cleansing Manager points out that there is a lack of detail in terms of capacity. If this were a new use this information would be required to be submitted to the City Council for approval prior to commencement of use. In view of the longstanding nature of dining at this location and the small increase in the number of covers, this additional information is not in this instance considered necessary.

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. No additional floorspace is proposed and therefore the development is not CIL-liable.

8.10 Environmental Impact Assessment

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

8.11 Other Issues

None.

9. BACKGROUND PAPERS

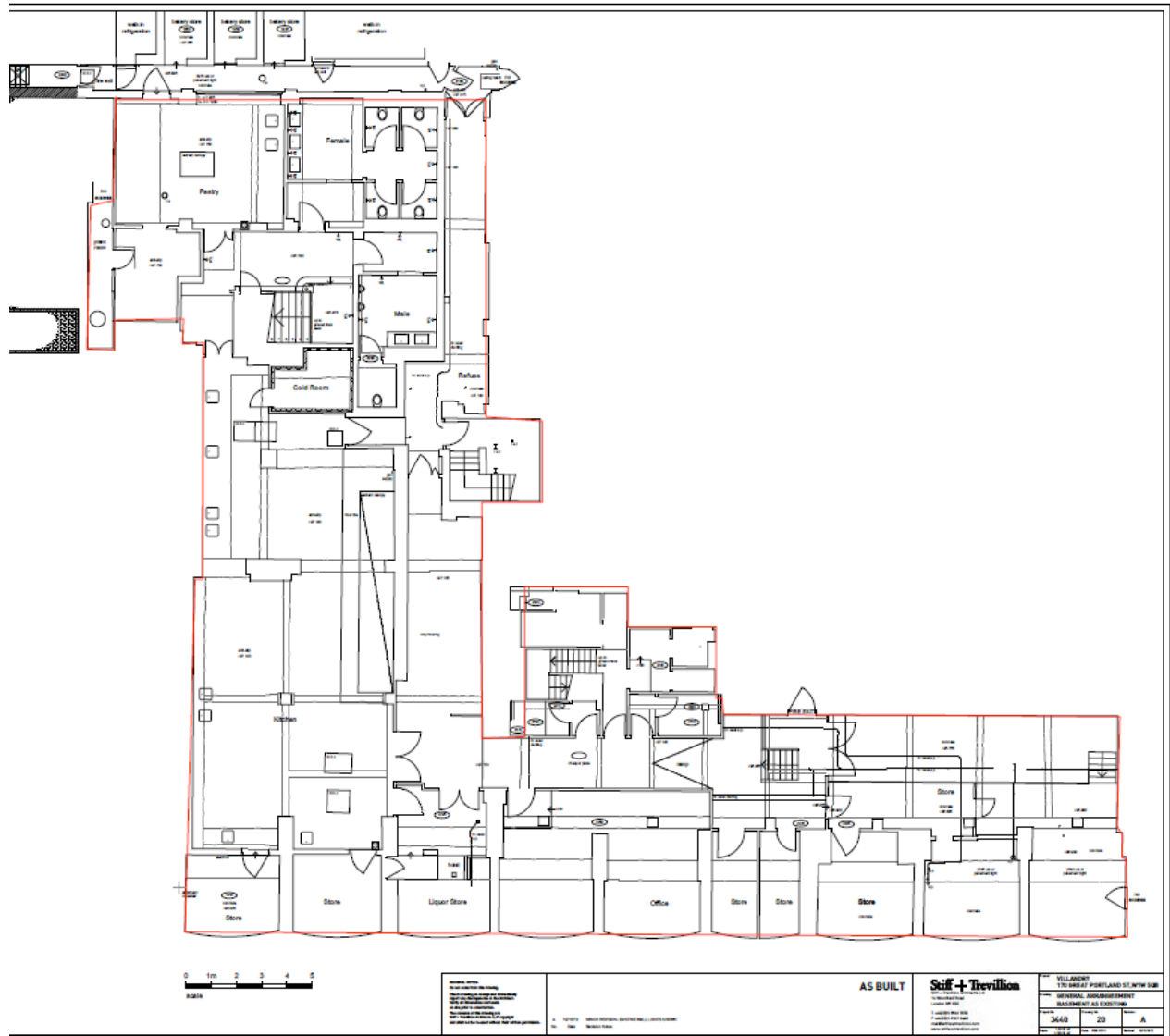
1. Application form
2. Response from Environmental Health, dated 24 October 2017
3. Response from the Cleansing Manager, dated 30 October 2017
4. Response from the Highways Planning Manager, dated 15 November 2017

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

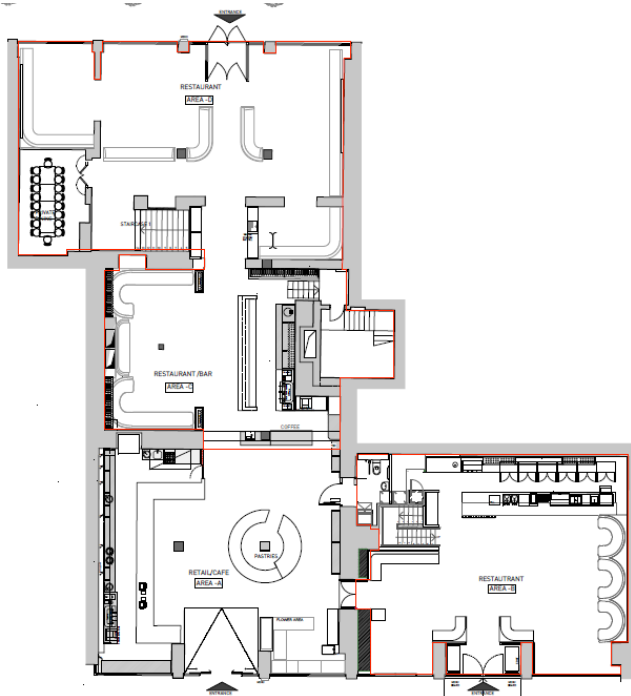
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk.

10. KEY DRAWINGS

Existing and proposed basement floorplan:



Existing ground floor plan:



Proposed ground floor plan:



DRAFT DECISION LETTER

Address: 170 Great Portland Street, London, W1W 5QB,

Proposal: Use of the basement and ground floor of 170-172 Great Portland Street as restaurant/cafe (Class A3) with ancillary retail and bar area.

Plan Nos: 20 Rev. A and 800 Rev. B.

Case Officer: Mark Hollington

Direct Tel. No. 020 7641 2523

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Prior to the commencement of the restaurant (Class A3) use hereby approved, you must provide the separate stores for waste and materials for recycling shown on drawing number 20 Rev. A. You must clearly mark them and make them available at all times to everyone using the restaurant. (C14FB)

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)

- 3 Customers shall not be permitted within the ground and basement premises:

- Before 07.00 or after 23.30 on Monday to Friday (not including bank holidays and public holidays);
- Before 09.00 or after 23.30 on Saturday (not including bank holidays and public holidays); and
- Before 10.00 or after 18.00 on Sunday, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 Servicing of the restaurant at basement and ground floor levels shall take place from Great Portland Street only.

Reason:

To protect the environment of people in neighbouring properties. This is as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and TACE 10, ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, 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.