

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 4th April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved. Lancaster Gate	
Subject of Report	50 Eastbourne Terrace, London, W2 6LG		
Proposal	Details of an operational management plan (OMP) pursuant to Condition 4 (B) of planning permission dated 27th July 2022 (RN:22/00672/FULL).		
Agent	FirstPlan		
On behalf of	Vapiano Ltd		
Registered Number	22/08590/ADFULL	Date amended	10.02.2023
Date Application Received	20 December 2022		
Historic Building Grade	Unlisted, but a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along Westbourne Terrace (Grade II).		
Conservation Area	Outside of, but borders the Bayswater Conservation Area		
Neighbourhood Plan	Not applicable		

1. RECOMMENDATION

Approve Details

2. SUMMARY & KEY CONSIDERATIONS

This approval of details application seeks approval of an Operational Management Plan (OMP) for Vapiano's restaurant (with ancillary delivery and click and collect) located on the corner of Eastbourne Terrace and Craven Road. Following the refusal of an earlier version of the OMP in December 2022, a new OMP has been submitted which has itself been revised during the course of this application.

The key considerations in this case are:-

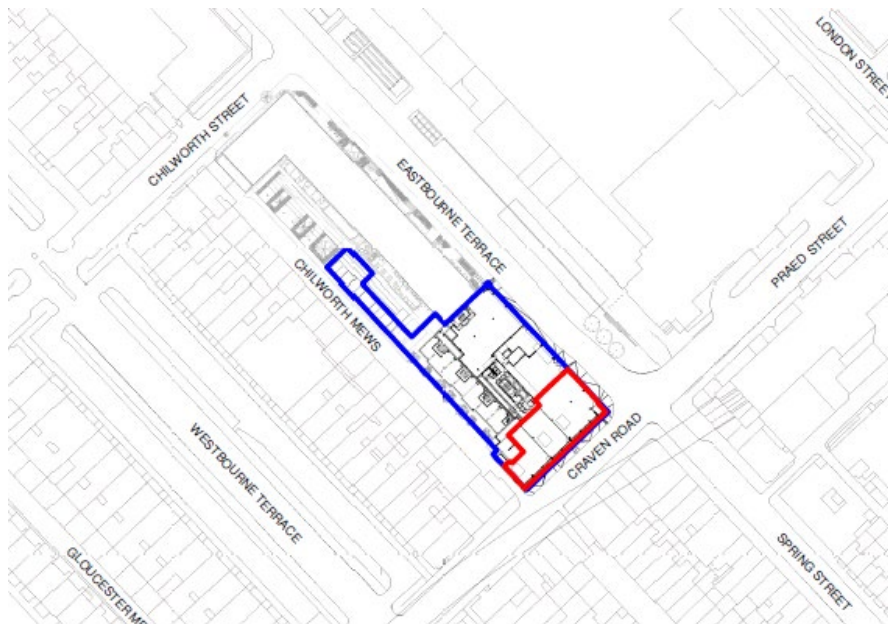
- Whether the OMP is sufficiently detailed to make sure that the use will not cause nuisance for people in the area.

Representations of objection have been received by the South East Bayswater Residents Association, and two residents of Chilworth Mews. These include concerns that Vapiano continue to operate without an approved OMP; their inability to provide adequate operational methods and controls in their OMP as is evidenced by the numerous complaints regarding deliveries and servicing, waste collection, job roles and processes. Alongside this, are concerns raised with respect to vehicles (& vehicles of specific sizes) being able to access Chilworth Mews and the off-street servicing bay safely.

In granting permission for the redevelopment of the site (as now built) and subsequent permissions, it was accepted that the development would be served by an off-street loading bay (whether enclosed or not), and the single bay was sufficient to receive the expected number of servicing vehicles. Subsequently a Servicing Management Plan (SMP) was approved by the Planning Applications Sub-Committee. Regrettably, Vapiano's began operating as a restaurant (no delivery or click and collect services are being offered at present) before receiving approval of their OMP. Consequently, a breach of condition and enforcement notice have been served.

The OMP is intended to set out measures with respect to various aspects of the operation of the use, in order to make sure that the use will not cause nuisance for people in the area. This report sets out in detail the processes and procedures set out in the submitted OMP and explains why officers now consider that the OMP is sufficiently detailed to meet the requirements of condition 4B and notwithstanding the objections, why the OMP is recommended for approval and for this condition to be discharged.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Vapiano's on the corner of Eastbourne Terrace and Craven Road.



Vehicular Access Via Arch (another Arch at the northern end of the Mews) from Craven Road to Chilworth Mews, which leads to the off street loading bay for 50 Eastbourne Terrace.



Loading Bay for 50 Eastbourne Terrace (& 40 Eastbourne Terrace) under construction in Chilworth Mews.



Internal area of loading bay

5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL CONSULTATION

HIGHWAYS PLANNING TEAM

Comment. It is accepted in highway and transport terms that the document is consistent with the requirements of the condition. While it is not believed that the submitted OMP resolves the original concerns raised by Highways Planning (Highways Planning raised an objection to the proposed restaurant delivery operation), however the use was permitted by Town Planning.

WASTE PROJECT OFFICER

No objection.

WARD COUNCILLORS FOR LANCASTER GATE

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS' ASSOCIATION (SEBRA)

Objection.

The submission for the OMP fails to address the requirements set out in Condition 4(B).

- Operating already in breach of this condition, which states that the OMP should be agreed before the restaurant opens.
- Persistent reports by residents of other breaches of planning conditions, location of deliveries, use of door to Chilworth Mews, failure to use the authorised smoking area for staff.
- In breach of condition 6B which requires an approved off street servicing area to be used for all deliveries and collections including rubbish and waste.
- OMP conflicts with condition 6B " *All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.*"
- Condition 4B requires delivery operatives to park lawfully, but the OMP is vague on this issue.
- The phrase " *Drivers on non-combustion engine vehicles will not be able to receive orders from the app*" is confusing. Are electric cars or vans meant? If so, how will this be enforced? Are only delivery drivers meant, or 'click and collect' customers as well?
- Adequacy of staff for monitoring compliance with the provisions of the OMP. This is not covered in the draft OMP which is required to have " *Dedicated restaurant employee to monitor delivery driver compliance with the OMP*".
- The Incident log should be 'incident and complaints log'. Should record all complaints and be subject of inspect by Council planning enforcement officers.

PADDINGTON RESIDENTS ACTIVE CONCERN ON TRANSPORT (PRACT)

Any response to be reported verbally.

PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 0
Total No. of replies: 3 from two residents
No. of objections: 2
No. in support: 0

No consultation is required for approval of details applications. However, representations of objection from two residents of Chilworth Mews were received.

- No improvement on the last plan.
- Plan is lacking in substantive, practical and credible procedures for restaurant and take away staff to achieve the planning and licensing conditions and is currently operating to the detriment of the local area.
- No operating procedures are included describing the process for booking and receiving restaurant food and other supplies. The restaurant has been causing a nuisance by using the public highway and footpath in Chilworth Mews and Craven Road for the delivery of its supplies since it began operating in December 2022.
- The plan does not include any operating procedures relating to access to the loading bay in the case of mechanical failure of the unit's lift. This has already occurred, and local area residents have had the restaurant's rubbish carted along the busy footpath in Craven Road and down the residential road in Chilworth Mews rather than the infinitely shorter and more direct route of via the adjacent entrance at 50 Eastbourne Terrace.
- The staff rest area is entirely inadequate and results in staff using Chilworth Mews.
- No complaints log or manager's telephone number was available in December 2022. A formal, written complaint to the Manager in January 2023 did not receive a reply.
- No designated smoking area for staff and customers.
- Does not indicate a drop off and collection area for customers that arrive at the restaurant by vehicle.
- The procedures for click and collect customers are unclear.
- Contradictory information regarding vehicles, initially stating that these will be by pedal cycles and e-bike, followed by a bullet point stating that: "non-combustion engine vehicles" will not be able to receive orders.
- Contradictory information regarding where take-away delivery vehicles will park.
- The monitoring of compliance regarding deliveries and servicing is vague.
- Requires a directive to engage with the local community on the issues. We have attempted to engage with the restaurant management and received a stony silence.
- Objection to deliveries from Chilworth Mews.
- At present deliveries to Vapiano are being made from vehicles parked at the south end of the Mews.
- If the loading-bays that are being made available to the occupants of No. 50 are not yet operational, would it not be possible to remove the restriction on parking on the north side of Craven Road to service these units, as was formally the modus operandi of those shops before the No. 50 development?
- Disappointed that the City and WCC Highways Officers are not coming up with

any strategy to ensure that residents of Chilworth Mews can continue to live in the Mews free of nuisance, when we have pointed out over the last six months, that the Mews may be just too narrow to take even a Short Wheel Base van into the proposed loading-bays, in the position that they are at the moment.

- We have sent you the Developer's own swept-path drawings on several occasions, which show that even the smallest vans of under 6m, have to make an extra 3-point turn to exit the bays and, with a second vehicle already in the second bay, it is almost certain that there will be several adjustments made to reverse in alongside, to avoid hitting it.
- Have provided photographs of vehicles having to use our frontage, i.e., inside the single yellow parking line on our side of the Mews, where we have enjoyed and been encouraged to add greenery to our Mews, as with so many others.
- We need the two Highways Officers to face up to the problem of Vapiano not being able to use the No. 50 loading-bay for the immediate future and also to tell us how it will play out when the No. 40 deliveries are taking place at the same time.

SITE/PRESS NOTICE: Not required for this approval of details application.

SECOND CONSULTATION ON REVISED OMP INCLUDING CHECKLIST TEMPLATE (15.02.2023)

HIGHWAYS PLANNING

Any response to be reported verbally.

WASTE PROJECT MANAGER

Any response to be reported verbally.

WARD COUNCILLORS FOR LANCASTER GATE

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS' ASSOCIATION (SEBRA)

Any response to be reported verbally.

PADDINGTON RESIDENTS ACTIVE CONCERN ON TRANSPORT (PRACT)

Any response to be reported verbally.

PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 120

Total No. of replies: 6 from 2 residents of Chilworth Mews

No. of objections: 2

No. in support: 0

No consultation is required for approval of details applications. However, representations of objection were received to the originally submitted OMP, as such on receipt of the revised OMP (10.02.2023) consultation was undertaken with residents.

- Vapiano continue to operate with no approved OMP.
- Inability to provide adequate operational methods and controls is evidenced by the numerous complaints to the WCC Enforcement Team regarding their:
 1. Rubbish and recycling deposited on the pavement in Craven Road, contrary to planning permissions.
 2. Rubbish and recycling carted down Craven Road and Chilworth Mews, rather than transporting it internally as required.
 3. Rubbish/recycling put out in the loading bay throughout the evening up to midnight each night, creating considerable noise, instead of storing it in the internal stores until 30 minutes before collection, as required.
 4. Food deliveries undertaken in Chilworth Mews and on double yellow double-crossed lines in Craven Road, contrary to servicing permissions.
 5. Staff using Chilworth Mews as a rest area, contrary to licensing permissions.
 6. Service vehicles that exceed the published traffic height restrictions on Chilworth Mews arches accessing the road, contrary to road traffic regulation.
- This 3rd OMP fails to detail the processes by which local area safety, welfare and amenity will be ensured during their receipt of supplies/servicing.
- The OMP must reasonably detail how the SMP conditions will be carried out, including: job roles and processes, routes to and through the unit, timings of servicing activities, how the conditions and restrictions for servicing will be communicated to staff and suppliers, who will be responsible for monitoring service vehicle compliance with SMP and road traffic requirements, how and which process risks have been reviewed, and what the contingency arrangements have been made to accommodate any issues with normal operational processes.
- At the very least, this OMP must detail critical job role processes and plans, for example:
 1. Moving waste and recycling from the restaurant into the internal storage area on the lower ground floor, the route, timings of movements, risk assessment of potential issues, such as the mechanical failure of the lift, and contingency arrangements.
 2. Moving waste and recycling from the internal storage area on the lower ground floor into the loading bay, along with details of timings of refuse collections; by whom and how monitoring is done for the condition that no waste or recycling is put out in excess of 30 minutes before collection, risk/issues assessment of potential issues, such as early or delayed collections, and contingency plans.
 3. Booking food deliveries and/or other service vehicles, and when and how information is provided to service vehicle drivers, (e.g., mandated routes to be taken to and exit from the loading bay, Chilworth Mews arch vehicle height restrictions, no deliveries or collections from the public highway, exclusion timings for the use of reversing beepers, requirements for door closure for all deliveries and collections, etc.),
 4. Opening loading bay doors, receiving the goods and transporting the goods to the unit, including when/how the loading bay door operator will be notified to open the loading bay doors, who will deliver the received goods to the unit, risk assessment of potential issues, such as mechanical failure of the lift, and contingency arrangements.

- Other areas of the plan that remain unspecified or unreasonably vague include:
- Which types of complaints would receive a written response and the maximum time for a response and for action.
- A detailed escalation process for complaints.
- Details, (including maps), of the drop off and collection areas for customers that arrive at the restaurant by motor vehicle and how these will be communicated.
- The location of the smoking area for staff, customers, and/or delivery drivers and how this will be communicated.
- Appropriate commercial delivery driver parking and how this will be communicated. The use of public cycle parking is neither addressed nor mitigated by the statement that individual drivers will only be there a "short time".
- The OMP clearly requires further development before it can be accepted as an effective means of ensuring the protection of the local community.
- At present, our welfare and amenity continue to decline while the Council allows what seems to be an unlimited amount of time for this firm to get their business operations in order. This is entirely inequitable, and I would be most grateful if the Council would now put into effect the published planning requirement for this unit - that this business not operate forthwith and until such time as they fully demonstrate the capability to prepare a meaningful operating management plan.

SITE/PRESS NOTICE: Not required.

Applicant's Pre-Application Community Engagement

As this application is for an approval of details application, it does not trigger the City Council's Early Community Engagement guidance.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

50 Eastbourne Terrace comprises of a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level. There are two commercial (Class E) units at ground floor level, a ground floor restaurant (with permission for ancillary delivery and click and collect) on the corner of Eastbourne Terrace and Craven Road currently occupied by "Vapianos" and a second commercial unit along Craven Road which is currently vacant but anticipated to be occupied as a gym. The remainder of the building (part ground and all upper floors) provides office floorspace, not all of which is currently occupied. At the rear on Chilworth Mews are 7 residential townhouses (2-14 Chilworth Mews).

Adjacent to the Mews house at 14 Chilworth Mews, the approved off-street servicing bay (open to the elements) for the development is now located within a new purpose built enclosed loading bay structure with a clearance height of 4.6m (allowing for use by smaller private refuse vehicles and provided with electrical vehicle charging infrastructure). The structure which contains two bays, 1 for this site (50 Eastbourne Terrace) and 1 for the adjacent site (40 Eastbourne Terrace) was secured as part of the development of 40 Eastbourne Terrace and is nearing completion.

The site occupies a prominent corner position at the junction of Eastbourne Terrace and Craven Road, opposite Paddington Station and benefits from three street frontages to Eastbourne Terrace, Craven Road and Chilworth Mews, all with differing characteristics.

To the north of the site is 40 Eastbourne Terrace, previously an office, but currently under development as a hotel following planning permission for development. To the rear of the site is Chilworth Mews, a primarily residential mews.

The site is located outside of a conservation area. However, the site borders the Bayswater Conservation Area, and a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along Westbourne Terrace (Grade II).

The site is located within the designated Paddington Opportunity Area (POA), Central Activities Zone and the Praed Street District Shopping Centre.

7.2 Recent Relevant History

50 EASTBOURNE TERRACE

Original Application

Demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop) / A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. (16/07359/FULL).
Application Permitted 15 November 2016.

Non-Material Amendment Application

Amendments to planning permission dated 5 December 2016 (RN: 16/07359) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop) / A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews; NAMELY to split condition 3 into two stages: demolition and construction. (18/08770/NMA)
Application permitted 09 November 2018

First Variation Application

Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to provide an additional floor of Class B1 office accommodation beyond the approved; minor alterations to the proposed massing, terraces, green roof, solar panels and external facades; minor internal reconfiguration of the proposed retail (Classes A1/A2/A3) and office (Class B1) floorplates including ancillary spaces. (18/09733/FULL).
Application Permitted 10 July 2019.

Non-Material Amendment Application

Amendment to planning permission dated 10 July 2019 (RN: 18/09733) for: Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper storeys. Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews, to provide an additional floor of Class B1 office accommodation beyond the approved; minor alterations to the proposed massing, terraces, green roof, solar panels and external facades; minor internal reconfiguration of the proposed retail (Classes A1/A2/A3) office (Class B1) floorplates

including ancillary spaces. NAMELY, to split Condition 3 (Part B) (Code of construction Practice) into two parts to reflect the two separate construction phases. (19/05689/NMA) Application permitted 26 July 2019.

Non- Material Amendment Application

Amendments to planning permission dated 10 July 2019 (RN: 18/09733) for: Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, amend the wording of condition 21 to allow the installation of public art (proposed clock) to be installed to project over the footway and closer to the kerb edge than condition 21 allows. (19/09883/NMA)

Application permitted 14 January 2020

Second Variation Application

Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary retail cafe unit (Class A1) (19/07378/FULL) Application Permitted 5 February 2020.

Non-Material Amendment Application

Amendments to planning permission dated 05.02.2020 for Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. (19/07378/FULL) NAMELY, to allow the regularisation of the as-built north-east elevation through the addition of a second set of double doors on the respective floorplan.(22/05771/NMA) (22/05771/NMA)

Application permitted 28 November 2022

Non Material Amendment Application

Amendments to planning permission dated 5 February 2020 (19/07378/FULL)
Allowed a : Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. For the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary cafe unit. NAMELY to amend the car parking layout for the seven car parking spaces associated with the residential mews houses. (20/02091/NMA) Application permitted on 08.04.2020.

Non-Material Amendment Application

Non material amendment agreed on 18.07.2022 for Amendments to planning permission dated 05 February 2020 (RN:19/07378) for the: Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the addition of a door on the southern elevation linked to the approved restaurant unit along Craven Road. (22/00674/NMA)

S106 Modification

Deed of Modification of Schedule One Clause 4.1 and 4.4 to the Section 106 Agreement dated 5th February 2020 associated with planning permission reference 19/07378FULL, To:-

- 1) Change the plans showing car parking spaces so that it aligns with non-material amendment under reference 20/02091/NMA
- And
- 2) To vary the basis on which the car parking spaces are to be managed, specifically for them to be managed on an allocated basis (one space per one residential unit). (20/02323/MOD106) Application agreed on 08.07.2020.

Change of Use application

Conditional planning permission granted on 08.06.2021 for Change of use of Retail Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. (21/00264/FULL).

Ancillary Take-away application

Conditional planning permission granted on 27.07.2022 for *Variation of condition 1 (approved plans) and 5 (no- take-away) of planning permission dated 08 June 2021 (RN: 21/00264/FULL) for the: Change of use of Retails Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. NAMELY, Reconfiguration of the approved floor plans, and to allow for an ancillary quantity of takeaway from the restaurant unit. (22/00672/FULL)*

Approved Servicing Management Plan Condition 18

Details of Servicing Management Plan and waste storage pursuant to condition 18 and 24 of planning permission dated 5th February 2020 (RN:19/07378/FULL).(20/02855/ADFULL)
Application permitted 05 October 2020

Refused OMP condition 4A (Gym)

Details of operational management plan, scheme for the shop windows and secure short stay cycle storage, all for the Gym use pursuant to conditions 4(A), 8 and 15 of planning permission dated 27th April 2022 (RN: 22/00672/FULL).(22/05521/ADFULL).
Application Refused 16 September 2022.

Refused OMP condition 4B (Restaurant)

Details of operational management plan pursuant to Condition 4 (Part B) of planning permission dated 27th July 2022 (RN: 22/00672/FULL) (22/07118/ADFULL)
Application Refused 7 December 2022.

Approved Kitchen Extract condition 10

Details of a scheme for the prevention of odour nuisance from the kitchen extract ventilation and subsequently install it and maintain it pursuant to Condition 10 of planning permission dated 27th July 2022 (RN: 22/00672/FULL). (23/00964/ADFULL)
Application Approved 15 March 2023

Planning Enforcement

A breach of condition notice and enforcement notice were served on 3rd March 2023 in respect of condition (4B) OPM, requiring the use to cease until an OMP has been submitted to and approved by the City Council. The Breach of Condition Notice requires compliance by 31st March 2023 and the Enforcement Notice by 5th May 2023. (22/77460/H) (unless an appeal is submitted against the Notice).

40 EASTBOURNE TERRACE

Original Application

Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). 19/03058/FULL
Application Permitted 1 November 2019

1st Non-Material Amendment

A First Non-Material Amendment was agreed on 05.03.2021 to remove reference to the specific number of bedrooms (366) within the development and change the description

of the proposal to "Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1)" and to include a new condition to restrict the number of hotel bedrooms to 369. . (21/00688/NMA)

2nd Non-Material Amendment

A Second Non-Material Amendment was agreed on 17.05.2021 to amend the wording of condition 26 (tree protection measures) to enable details to be provided in four phases.(21/01953/NMA)

3rd Non-Material Amendment

A third Non-Material Amendment was agreed on 09.09.2021 for Replacement of relocated lower ground floor plant rooms with bedrooms; recesses to fire exits removed at lower ground floor level; cycle and bin store relocated within the lower ground floor level; entrance to cycle store relocated at lower ground floor level; 8 windows replaced with 8. inset brick bays at ground floor level; 1 window added at ground floor level on the South Elevation; curtain walling replaced with individual windows on Chilworth Street; windows included within lightwell on Chilworth Street; and certain consented windows replaced with shadow box windows. (21/01110/NMA)

4th Non-Material Amendment

A fourth Non-Material Amendment was agreed on 12.01.2022 for Amendments to planning permission dated 01 November 2019 (RN:19/03058/FULL), as amended by non-material amendments dated 05 March 2021 (RN: 21/00688/NMA) and 09 September 2021 (RN: 21/01110/NMA) for the: Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). NAMELY, to allow the addition of a fire escape door at lower ground level, adjustment of bedroom window positions, fire exit door rotated, and brick wall extended at lower ground level and smoke vent louvres removed at lower ground floor level. (21/07942/NMA)

5th Non-Material Amendment

A fifth Non-Material Amendment was agreed on 25.11.2022 for Amendments to planning permission dated 01 November 2019 (19/03058/FULL) for Demolition of top floor and erection of replacement floor plus one storey extension, rear extensions, and replacement facades with associated external alterations for use as a 366 bed hotel (Class C1) with flexible use at part of ground floor for restaurant/hotel use (Class A3/C1). Namely, design changes to hotel back of house; loading bay; changes to refuse provision; change of a window to a door at 4th floor level; relocation of a door at 5th floor level; revision to staircase enclosure.(22/01848/NMA)

Water Tank Application

Conditional permission was granted on 09.09.2021 for Excavation below existing building to accommodate basement level for water tank relating to the approved hotel planning permission (19/03058/FULL) (21/01170/FULL).

Public Art

Details of a scheme of public art. Pursuant to condition 6 of planning permission dated 1 November 2019 (19/03058/FULL) (22/02757ADFULL).
Application permitted 06.12.2022.

Tree Protection

Detailed phase 4 tree protection for installation of hard & soft landscaping pursuant to condition 26 and Details of hard and soft landscaping scheme pursuant to condition 31 of planning permission dated 1st November 2019 (RN:19/03058) as amended under 21/01953/NMA).

Application permitted: 17.05.2021.

Pending Application

Servicing Management Plan, Operational Management Plan for the hotel and restaurant uses, and details of how a no Coach/no group bookings policy will be managed, pursuant to condition 10A (OMP) and 10B (No coach or Group booking policy) and 32 (SMP) of planning permission dated 1 November 2019 (19/03058/FULL)(22/01773/ADFULL)

7.3 Background

Approved Servicing Strategy

The redevelopment of 50 Eastbourne Terrace is now substantially complete and starting to be occupied. Under the permission, the loading bay to serve the development was an off-street open servicing bay accessed via Chilworth Mews. However, the planning permission for the development of the adjacent site at 40 Eastbourne Terrace includes a new purpose built enclosed loading bay structure, also accessed via Chilworth Mews. In granting permission for the adjacent site, it was made clear that under the permission for 50 Eastbourne Terrace the loading bay was non-enclosed, but that if the planning permission for 40 Eastbourne Terrace was implemented, then the non-enclosed loading bay would become enclosed in a purpose built structure which would serve both developments. Either scenario was considered to be acceptable, and both have the benefit of planning permission.

The development of 40 Eastbourne Terrace has been implemented and construction is underway. The purpose built enclosed loading bay structure has also been built (although not completed at the time of writing this report) and contains two bays, 1 for 40 Eastbourne Terrace and 1 for the 50 Eastbourne Terrace, with a maximum clearance height of 4.6m, allowing use by a smaller private refuse vehicle and provided with an electrical vehicle charging point. The loading bay does not include a turntable and it was agreed therefore that vehicles would be required to reverse into or out of the loading bays. The agreed servicing hours are 07.00-20.00 Monday to Saturday and 09.00-16.00 Sundays and Bank Holidays.

A Servicing Management Plan (SMP) for the development at 50 Eastbourne Terrace was agreed unanimously by the Planning Applications Sub-Committee in 2020 subject to some further concessions by the applicant, being agreed post committee by the Chair.

Complaints /Breach of Condition/s

Vapiano's are in occupation of the ground floor corner restaurant unit to Eastbourne Terrace and Craven Road, although they are not currently operating a delivery or click

and collect service. However, it was brought to the attention of the City Council's Planning Enforcement Team that the operation of the restaurant was in breach of a number of planning conditions:-

- Condition 4B required prior to the use of the restaurant approval of an operational management plan.
- Condition 6B requires operation of the restaurant in accordance with the SMP approved for the site 05.10.2020 20/02855/ADFULL.
- Condition 9 requires all servicing to take place from the off street loading bay (whether enclosed in a structure or not) between 07.00-20.00 Monday to Saturday and 10.00-16.00 on Sundays and Bank Holidays.
- Condition 10 – Prior to use of the restaurant submission of a scheme for prevention of odour nuisance from the kitchen extract ventilation.
- Condition 16 – The back of house access door along Chilworth Mews, shown on approved shall only be used for emergency purposes only, unless otherwise approved in writing by the local planning authority.

The City Council's Planning enforcement officers held a Teams meeting with complainants on 1st February 2023. Subsequently a site visit was undertaken by the case officer, along with colleagues from Planning Enforcement and Highways Planning on 8th February 2023. Officers looked around the restaurant, future delivery pick up area, back of house areas including access route to and from the loading bay and the loading bay (within a structure) itself.

It is not uncommon for new developments to have “teething problems” at the outset. This site incorporates both 40 and 50 Eastbourne Terrace and whilst the development at 50 Eastbourne Terrace is largely complete, 40 Eastbourne Terrace is still under active construction. Both developments once complete will utilise the same loading bay which is currently directly below the ongoing building works taking place at 40 Eastbourne Terrace. The area adjacent to the loading bay is still protected by a timber hoarding and temporary timber gates provide access in and out of the loading bay.

Whilst the loading bay remains under active construction, the developer has advised that it is likely to be completed by the end of March 2023 and it is understood that deliveries are now taking place from within the loading bay and that staff man the temporary timber gates enabling access as and when delivery vehicles attend the loading bay. Furthermore, evidence has now been provided to the City Council Planning Enforcement Team demonstrating that the booking system for servicing vehicles (15 and 30 minute slots) is fully operational and that all tenants have access to the system.

The Council's Planning Enforcement Team continue to conduct an investigation in relation to alleged breaches of planning control taking place at the premises.

The details relating to Condition 10 (kitchen extract ventilation) was approved on 15.03.2023. It is understood that Vapiano's is endeavouring to operate in accordance with all conditions including 6B, 9 and 16 as set out above (although this is disputed by residents). Potential breaches of planning control brought to the City Council's attention are being continually monitored by our Planning Enforcement Team.

A breach of condition and enforcement notice were served on 3rd March 2023 in respect of condition (4B) OPM, requiring the use to cease until an OMP has been submitted to and approved by the City Council. The Breach of Condition Notice requires compliance by 31st March 2023 and the Enforcement Notice by 5th May 2023.

The City Highways Report on Chilworth Mews

The planning permission for the redevelopment of 40 Eastbourne 01.11.2019 under reference: 19/03058/FULL included an informative (No.16) advising the developer to liaise with neighbours with respect to the condition requiring a SMP (No.32) of that permission and that the SMP would be the subject of formal consultation by the City Council. Consequently, a residents meeting took place on 29.06.2022. One of the outcomes of this meeting was that it was agreed that Highways Planning would request City Highways to undertake a review of Chilworth Mews with respect to vehicular access to and through the Mews and to consider a number of highways matters raised by those who attended the meeting. The City Highways report on Chilworth Mews has been completed and was circulated on 10.03.2023. A copy of the report is provided in the background papers.

8. THE PROPOSAL

This approval of details application seeks approval of an Operational Management Plan (OMP) for the restaurant including its ancillary delivery and click and collect service (Vapiano's) on the corner of Eastbourne Terrace and Craven Road as required by condition 4B of the July 2022 permission. This follows the refusal of an earlier OMP by officers in December 2022, which was considered to lack the detailed procedures that the OMP was imposed to secure.

For the avoidance of doubt, this application is not an opportunity to revisit the approved development, or the approved SMP for the entire development of 50 Eastbourne Terrace. The expectation is that the OMP is explicit in wording and provides a working manual for staff to refer to for the entire restaurant, delivery and click and collect operation.

Condition 4B states:-

Prior to the use of the retail/restaurant and ancillary take-away and delivery service, you must apply to us for approval of an operational management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings and to minimise any impact in environmental, highways and amenity terms.

The Operational Management Plan must include:-

- *Details of staff and capacity, arrival and departure processes, hours of operation.*
- *Delivery & Click and Collect to remain ancillary to the sit down restaurant.*
- *Delivery operatives must only attend the site by way of foot, by bicycle or by electrically powered bicycle.*
- *Delivery operatives must park lawfully.*
- *No obstruction of the pedestrian or vehicular highway within the vicinity of the site.*
- *No use of Chilworth Mews at any time*
- *Litter patrols*
- *Dedicated restaurant employee to monitor delivery driver compliance with OMP.*

- *Policy to exclude delivery operatives who fail to comply with OMP.*
- *Contact for complaints.*
- *Log of complaints/issues over 12 months from date of first occupation of the restaurant.*
- *Resubmission of OMP with any necessary refinements/ revisions*

You must not start the retail/restaurant and ancillary take away or delivery use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the restaurant is in use.

Reason:- To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021).

An Operational Management Plan by Firstplan on behalf of Vapiano's (the restaurant operator) was originally submitted on 20th December 2022 and revised on 10th February 2023. The full OMP is included the background papers.

The details within the OMP are set out below following the headings set out under condition 4B:-

DETAILS OF STAFF AND CAPACITY, ARRIVAL AND DEPARTURE PROCESSES, HOURS OF OPERATION.

- A maximum of 20 staff on shift at any given time with a minimum of 1 manager and 4 managers at peak times.
- Capacity of the restaurant is 172, with 3no. seats available in the takeaway waiting area.
- Staff and restaurant customers will arrive and leave through the main entrance door on the corner of Eastbourne Terrace and Craven Road.
- Rest areas for staff will be provided in allocated seating areas within the restaurant.
- The provider utilises advanced software platforms for all riders, allowing them to be tracked and in order to provide advice, procedures and tips specific to individual premises. The restaurants are also now able to limit catchment areas, throttle the incoming orders and turn the system off and on very easily. This advancement in technology will ensure that there is not too much demand to the restaurant at any one time. This will enable the restaurant to control the number of orders and cap these to ensure that the restaurant can safely manage the collections. These limits can be applied on a one off or reoccurring basis.
- Both the restaurant and riders are incentivised to follow the above protocol based on app ratings and customer reviews. As such, riders have a limited dwell time, meaning orders leave the restaurant in a prompt manner.
- The OMP states that delivery service provider will be Uber Eats only and that a typical delivery is completed in the following sequence:-
 - An order is placed either through a web page or mobile application linked to the restaurant.
 - The restaurant accepts the order and prepares the food.
 - A rider is assigned to the order and once the food is ready the rider will receive a notification via the app. The rider then attends the restaurant at the specified time for collection of the food.
 - The rider takes the food to the specified customer location.
 - The rider may then collect a new order from another restaurant or return and fulfil a new order from the same restaurant.

- The operating hours of the takeaway will be: 12:00 to 22:00 Sunday to Thursday, 12:00 - 23:00 Friday and Saturday.
- The delivery radius will be approximately 2.6 miles.
- It is expected that there will be circa 60 delivery orders per day (average 5-7 deliveries an hour based on trading hours) and 30 Click and Collect orders per day.

DELIVERY & CLICK AND COLLECT TO REMAIN ANCILLARY TO THE SIT DOWN RESTAURANT

- The plan indicates that as required, Delivery and Click and Collect will remain ancillary to the sit down restaurant. And sets out that this is one of Vapiano's Key Business Indicators, with current national averages as a percentage of sales across of sites as follows: 3.92% takeaway, 9.32% delivery, and 86.75% dine-in. The General Manager will keep a log of these percentages for the Paddington premises, to be made available for inspection by the Council to evidence that the restaurant component forms the main portion of sales.

DELIVERY OPERATIVES MUST ONLY ATTEND THE SITE BY WAY OF FOOT, BY BICYCLE OR BY ELECTRICALLY POWERED BICYCLE

- The OMP states "Delivery riders will be directed to public bicycle racks along the eastern and western side of Spring Street, with further cycle parking provision available on the northern side of Craven Road".
- Delivery operatives must only arrive by foot, bicycle or electrically powered bicycle and will be turned away if arrival by any other means.
- Click and Collect customers will park in parking bays along Eastbourne Terrace and Spring Street.
- It is expected that all staff will use public transport, however, should any staff drive to work they will be required to park in the paid public parking areas.

DELIVERY OPERATIVES MUST PARK LAWFULLY

- All takeaway riders will park in line with existing highway network controls and restrictions and staff will remind riders to do this.
- Delivery operatives must park their bicycles in designated public bike racks only and not on the pedestrian pavement or on the vehicular highway or any other location including Chilworth Mews. This will be communicated to delivery operatives via their collection app each time they arrive at the site and patrolling staff will ensure this is followed.

NO OBSTRUCTION OF THE PEDESTRIAN OR VEHICULAR HIGHWAY WITHIN THE VICINITY OF THE SITE.

- Riders will be informed that they cannot stand outside the restaurant. Staff will monitor this to confirm that riders inside the restaurant stay in the designated waiting area and will discourage any loitering and noise generation/smoking. Riders will also be informed that they cannot obstruct the pedestrian or vehicular highway within the vicinity of the site.
- In terms of the Click and Collect service, customers would place an order and then will be directed to collect their orders from the delivery area as shown above. Staff will continuously monitor to ensure that customers are not blocking the footpath and are orderly in their behaviour.
- Riders will also be informed and managed not to obstruct the pedestrian or vehicular

highway within the vicinity of the site. Restaurant management and staff will monitor and manage this, and non-compliance will be recorded in the complaints log. A manager will make a walkthrough of Chilworth Mews at the times that a twice a day digital checklist is completed.

NO USE OF CHILWORTH MEWS AT ANY TIME

- There will be no use of Chilworth Mews by anyone at any time, as per the conditions of the restaurant licence and planning permission, apart from stock/supplier deliveries and refuse collections via the landlord loading bay at specific times, as per the building planning permission. Restaurant management on-shift, alongside staff manning the takeaway, will monitor Chilworth Mews throughout the day to ensure this is complied with.

LITTER PATROLS

- Routine litter patrols will also be undertaken by staff, with a dedicated restaurant employee instructed to monitor delivery driver compliance with the enclosed OMP protocols.
- Routine litter patrols will also be undertaken by staff, with a dedicated restaurant employee instructed to monitor delivery driver compliance with the enclosed OMP protocols. Litter patrols are to be undertaken by restaurant management and staff on a daily basis and will cover the entire restaurant frontages of Eastbourne Terrace and Craven Road.

DEDICATED RESTAURANT EMPLOYEE TO MONITOR DELIVERY DRIVER COMPLIANCE WITH OMP

- All takeaway riders will park in line with existing highway network controls and restrictions and staff will remind riders to do this.
- Monitoring of delivery driver compliance will be undertaken by both restaurant management and by staff on a daily basis throughout the day. The member of staff will walk round the site with a check list of behavioural points to ensure these are being complied with.

POLICY TO EXCLUDE DELIVERY OPERATIVES WHO FAIL TO COMPLY WITH OMP

- Riders who are not compliant with the OMP protocols will be excluded from collecting from the site. A log of issues will be maintained with the delivery operator and will feedback to the aggregators. Rider feedback will be sent to Vapiano's Uber EATS account manager via email. Two repeated transgressions will result in riders being banned from the location.

CONTACT FOR COMPLAINTS

- Any possible complaints should be directed to Marco De Checco (gm.london10@vapiano.co.uk), who will be available during restaurant opening hours.

LOG OF COMPLAINTS/ISSUES OVER 12 MONTHS FROM DATE OF FIRST OCCUPATION OF THE RESTAURANT.

- A log of complaints/issues will be kept over a 12 month period, commencing from the first occupation of the restaurant. If an incident/complaint occurs, it will be logged into a spreadsheet and will be categorised via issue (e.g., noise, incorrectly using Chilworth Mews, using motorised vehicle etc). the log will be updated by the General Manager. The spreadsheet will be reviewed each year, with a subsequent plan of action made to

address any such issues.

RESUBMISSION OF OMP WITH ANY NECESSARY REFINEMENTS/ REVISIONS

- Based on the log of complaints, the OMP will be revised and resubmitted if necessary to fully address any concerns. Notwithstanding this, the OMP will be reviewed on an annual basis to ensure that it is effective.

OTHER

- Signage will be placed on the restaurant frontages to indicate the nearest parking opportunities and pickup point. Vapiano will secure the necessary advertisement consent, if required, and landlord consent.

LICENSING

- All conditions required by the Premises Licence will be complied with (Ref: 22/03010/LIPN), in particular:
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- A direct telephone number for the manager at the premises shall be publicly available at all times the premises are open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
- All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
- No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
- No deliveries to the premises shall take place between 23.00 and 08.00 hours on the following day.
- An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours and on Sunday after 22:30 hours.
- No collections of waste or recycling materials including bottles from the premises shall take place between 23:00 and 08:00 hours on the following day.
- All deliveries of food and/or alcohol shall be made on foot, by bicycle or by electrically powered vehicle.
- The Premises Licence Holder shall ensure that any takeaway delivery service do not use Chilworth Mews or its entrance at any time.
- All crimes reported to the venue (b) all ejections of patrons (c) any complaints received concerning crime and disorder (d) any incidents of disorder (e) all seizures of drugs or offensive weapons (f) any faults in the CCTV system, searching equipment or scanning equipment (g) any refusal of the sale of alcohol (h) any visit by a relevant authority or emergency service.
- There shall be no sales of hot food or hot drink for consumption off the premises after 23.00 hours and on Sunday after 22:30 hours.
- No collections of waste or recycling materials including bottles from the premises shall take place between 23:00 and 08:00 hours on the following day.
- All deliveries of food and/or alcohol shall be made on foot, by bicycle or by electrically powered vehicle.

- The Premises Licence Holder shall ensure that any takeaway delivery service do not use Chilworth Mews or its entrance at any time.

ASSESSMENT

In granting permission for the redevelopment of the site (as now built) and subsequent permissions, it was accepted that the development would be served by an off-street loading bay (whether enclosed or not). Subsequently a Servicing Management Plan (SMP) for the whole development of 50 Eastbourne Terrace, was approved by the Planning Applications Sub-Committee.

Regrettably, Vapiano's began operating as a restaurant (no delivery or click and collect services are being offered at present) before receiving approval of their OMP. Consequently, they have been served a breach of condition/enforcement notice advising them to cease operation from 31.03.2023 until such a time as their OMP has been agreed. Whilst representations of objection have been made by SEBRA and two residents of Chilworth Mews with respect to the breach of planning conditions, this is the subject of separate planning enforcement and is not in itself a reason to withhold approving the OMP if found to be acceptable.

It is understood that Vapiano's are now servicing the site including for collection of waste by a private contractor, from the off-street servicing loading bay (the enclosure of which remains under construction) and other breaches of planning conditions (use of door and staff smoking in Chilworth Mews) have now ceased. The objections made to the numbers of vehicles expected to service the site, the approved Servicing Management Plan and the ability of servicing vehicles to enter and travel along Chilworth Mews are not matters for consideration of this OMP. The number of servicing vehicles expected to serve the development of 50 Eastbourne Terrace as a whole (up 35 per day) was accepted as part of the original development and in approving the SMP.

The concerns raised with respect to Chilworth Mews and its use by vehicles and of vehicles of particular size being able to access the Mews and the off-street servicing bay safely, following the installation of a pavement outside of the 7 new mews houses in Chilworth Mews, is outside of the development site and outside of the control of the application, is public highway and is the subject of a highways report by Westminster's City Highways team. As such, it is considered unreasonable to withhold the determination of this OMP awaiting the outcome of that discussion with Ward Councillors, SEBRA, PRACT and residents, particularly as Vapiano's are in situ and operational.

The OMP is intended to set out measures with respect to various aspects of the operation of the use, in order to make sure that the use will not cause nuisance for people in the area. This officer report sets out above in detail the processes and procedures set out in the submitted OMP. This OMP seeks to address both Officer concerns and the matters and queries raised in representations of objection. Some of the key aspects confirmed and clarified in the OMP are:-

- No use of Chilworth Mews by staff or delivery operatives.
- Servicing from off street loading bay
- Delivery operatives are only to attend the restaurant by pedal bike, electric bike or foot.
- Specific separate area within restaurant with separate door for delivery and click and collect collections.
- Provision of a complaints log

The City Council's Highway's Planning Manager has indicated that the OMP generally lists the

matters requested in the condition, the document is now considered to be a sufficient working document with detailed procedures that the OMP was imposed to secure. The OMP is now explicit and provides a working manual for staff to refer to for the entire operation (restaurant, delivery, click and collect). As such, officers consider the reason for imposing the condition has been met and that the OMP is in a condition to be approved. As such a favourable recommendation is given. The objections raised, whilst noted, where they relate specifically to the OMP are considered to be satisfactorily addressed by the most recent OMP.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Not applicable

9.2 Environment & Sustainability

Not applicable to application of this nature.

9.3 Biodiversity & Greening

Not applicable to application of this nature.

9.4 Townscape, Design & Heritage Impact

Not applicable to application of this nature.

9.5 Residential Amenity

See Assessment above.

9.6 Transportation, Accessibility & Servicing

See Assessment above.

9.7 Economy including Employment & Skills

Not applicable to application of this nature.

9.8 Other Considerations

None.

9.9 Environmental Impact Assessment

Not applicable to application of this nature.

9.10 Planning Obligations & Pre-Commencement Conditions

Not applicable to application of this nature.

10. Conclusion

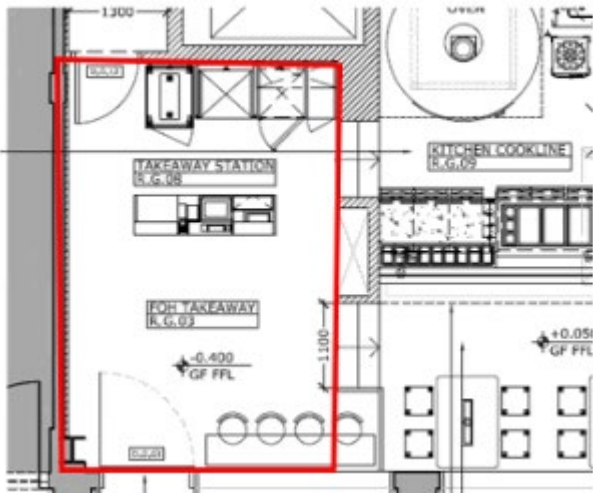
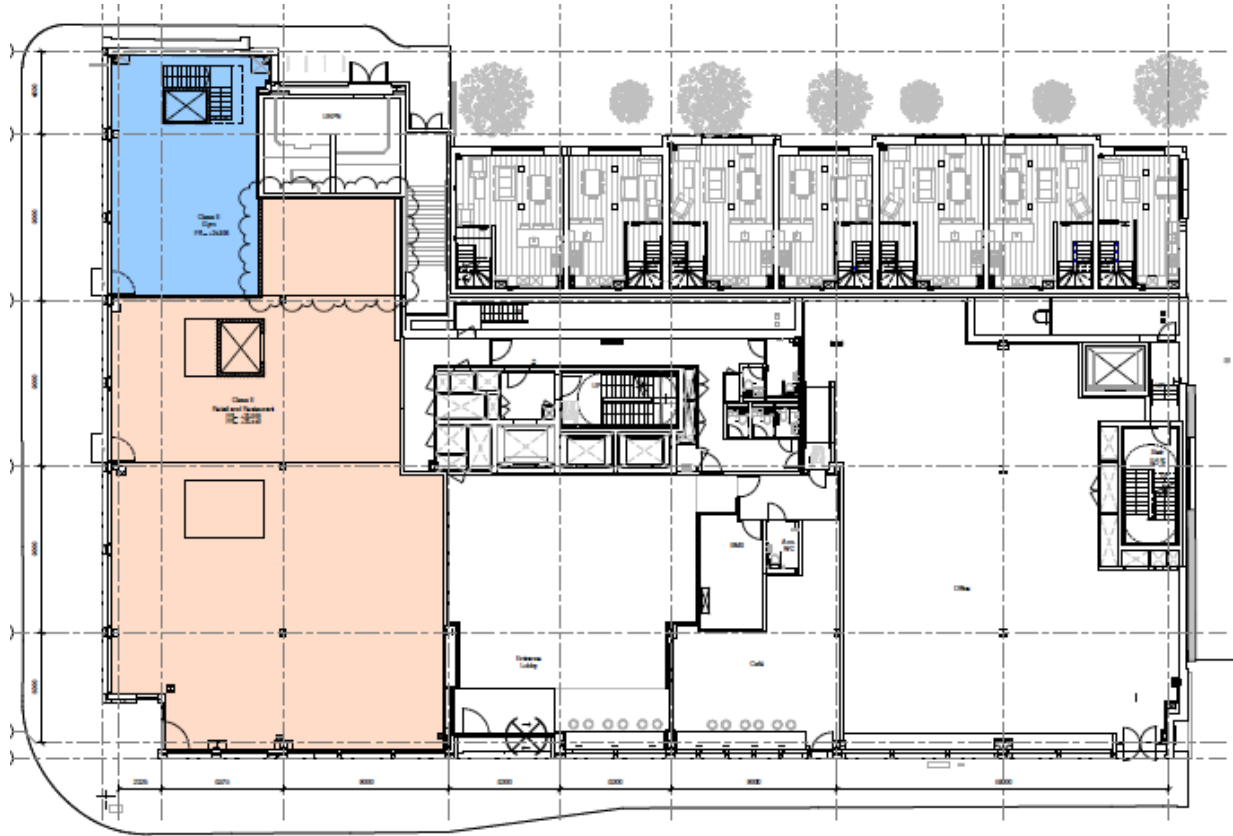
It is regrettable that Vapiano's have begun operation without first receiving approval of their OMP and that residents have had to deal with the "teething" problems associated with the use and the incomplete off-street loading bay. However, the OMP must be assessed on its own merits. Notwithstanding the objections raised, officers consider that the OMP is now sufficiently detailed and has gone as far as can be reasonably expected to make sure that the use will not cause nuisance for people in the area. The applicant is expected to operate in accordance with their OMP and subject to this, the operation of the Restaurant and ancillary delivery and click should be able to be carried without causing a nuisance to residents.

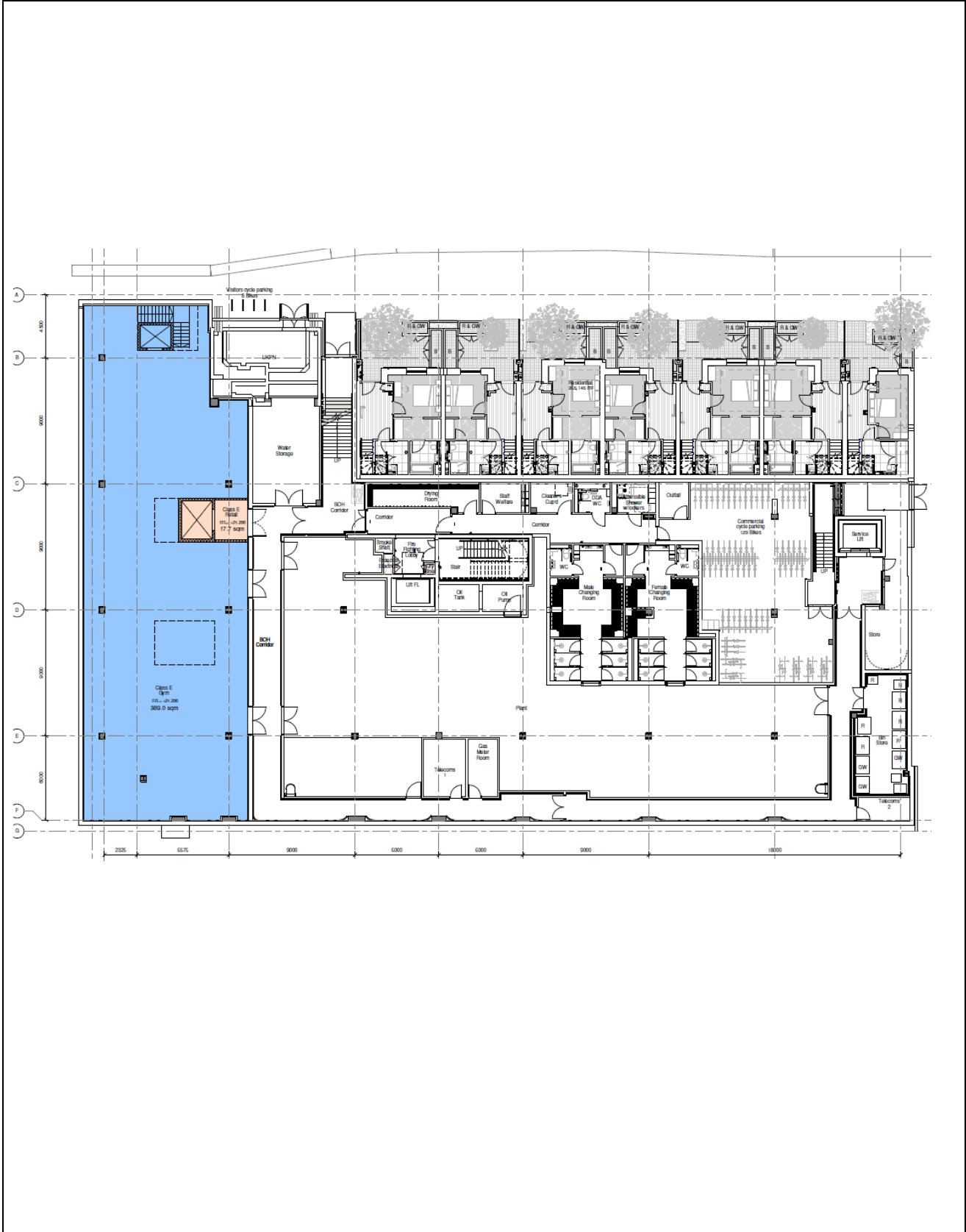
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk.

11. KEY DRAWINGS

Ground floor plan





DRAFT DECISION LETTER

Address: 50 Eastbourne Terrace, London, W2 6LG

Proposal: Details of an operational management plan (OMP) pursuant to Condition 4 (B) of planning permission dated 27th July 2022 (RN:22/00672/FULL).

Reference: 22/08590/ADFULL

Plan Nos: Firstplan Covering Letter 20.12.2022, Firstplan Operational Management Plan

Case Officer: Sarah Whitnall

Direct Tel. No. 020 7641
07866036375

Recommended Condition(s) and Reason(s)**Informative(s):**

- 1 This permission fully meets condition(s) 4B of the planning permission dated 27th July 2022 (RN:22/00672/FULL). (I11AA)
- 2 You are reminded of the need for the restaurant operator to comply with this Operational Management Plan, the agreed Servicing Management Plan and the conditions of the Planning Permission. Failure to complete with all or some of these, is likely to result in the City Council instigating Enforcement proceedings.

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.