

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 18 April 2023	Classification For General Release	
Report of Director of Town Planning & Building Control		Ward(s) involved Pimlico North	
Subject of Report	Basement And Ground Floor, 79 Wilton Road, London, SW1V 1DL		
Proposal	Use of basement and ground floors as restaurant/hot food takeaway (sui generis) with installation of extraction flue system to roof at rear.		
Agent	DELTA TECH LTD - Mr T AY		
On behalf of	MR SAYED		
Registered Number	22/06456/FULL	Date amended/ completed	27 September 2022
Date Application Received	23 September 2022		
Historic Building Grade	Unlisted		
Conservation Area	Pimlico		
Neighbourhood Plan	Pimlico Neighbourhood Plan 2021-2040		

1. RECOMMENDATION

Grant Conditional Planning Permission.

2. SUMMARY & KEY CONSIDERATIONS

This application proposes to change the use of the basement and ground floor premises at 79 Wilton Road as a restaurant and hot food takeaway (a sui generis use) and install an extraction flue system to the rear elevation of the building. This application does not propose any external works to the front of the building.

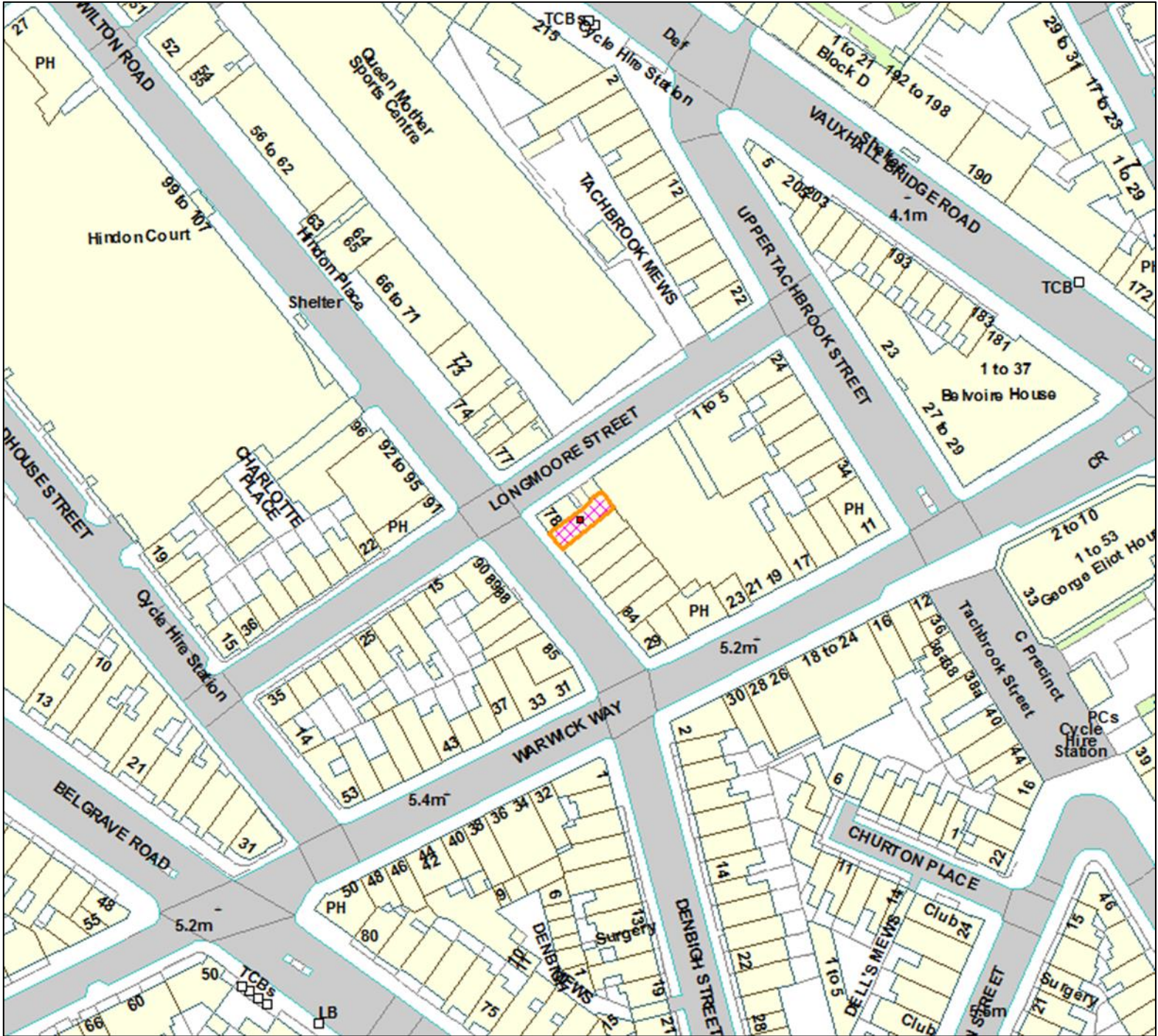
The key considerations in this case are:

- The acceptability of a hot food takeaway use at this location.
- The impact of the proposed use and extraction flue system on the amenity of neighbouring residential properties.
- The impacts of the proposed use on the public highway.
- The impacts of the proposed extraction flue system on the character and appearance of the host building and the Pimlico Conservation Area.

These considerations are assessed in turn in this report.

Subject to conditions securing the appearance, noise, odour and highways impacts of the proposed development, as set out in the draft decision letter, it is considered that the development would comply with the policies of the City Plan and the Pimlico Neighbourhood Plan. It is, therefore, recommended that conditional planning permission is granted.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

5.1 Application Consultations

WESTMINSTER SOCIETY

Any response received to be reported verbally by officers.

PIMLICO FREDA

Any response received to be reported verbally by officers.

PIMLICO NEIGHBOURHOOD FORUM

There is an over concentration of hot food takeaways in Pimlico which has a harmful impact on the character and function of the area and on residential amenity as result of late-night noise and activity and nuisance from cooking fumes. Object to any further increase in hot food takeaways. The external alterations will have a harmful impact on the appearance of the building and on the conservation area. There are no details of waste storage or deliveries.

ENVIRONMENTAL HEALTH

No objection subject to conditions mitigating the impacts of the external plant noise, internal noise generated from restaurant use and odour generated by extract ventilation equipment.

HIGHWAYS PLANNING MANAGER

Whilst no details of servicing have been provided, it is accepted that the proposed use will be serviced similarly to the existing use and nearby properties. Request that conditions are attached restricting the use to a restaurant and no delivery service to operate from the premises.

WASTE (PROJECTS OFFICER)

No objection subject to a condition to ensure that the storage for waste and recyclables is provided and made permanently available.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

First consultation begun September 2022

No. Consulted: 3

Total No. of replies: 3

No. of objections: 3

No. in support: 0

Consultation on revised plans begun March 2023

No. Consulted: 5

Total No. of replies: 1

No. of objections: 1

No. in support: 1

Four objections have been raised by two neighbours across the two consultation periods on the following grounds:

LAND USE

- Excessive number of pizza/fast food restaurants in the area
- Within 200m of a prep school and within meters of the Queen Mother Sports Centre – used by school children
- Should be retained for retail use

AMENITY

- Light pollution
- Smells from new flue
- Noise from customers and delivery drivers

One resident has written in support on the following grounds:

- A good pizza restaurant is needed in the area;
- Will enhance the area and help attract more visitors.

PRESS NOTICE/ SITE NOTICE:

Yes

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 Pimlico Neighbourhood Plan includes policies on a range of matters including commercial uses, design and heritage, housing and hotels, open spaces, pedestrian and transport facilities and protecting the environment.

It has been through independent examination and was supported by local residents in a referendum held on 22 September 2022. It was adopted on 7 December 2022. It therefore forms part of the development plan for Westminster for development within the Pimlico Neighbourhood Area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

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

The subject building is an unlisted building of merit located in the Pimlico Conservation Area. It forms part of a terrace of two storey buildings along the east side of Wilton Road. The building consists of basement, ground and first floor levels. The ground and basement floor levels are currently vacant but were most recently in use as a shop. The first-floor level of the building is a self-contained flat.

The application site is located within the following designated areas:

- Warwick Way/Tachbrook Street CAZ Retail Cluster
- Pimlico Conservation Area
- Flood Zone 3
- Pimlico North & Victoria Surface Water Flood Risk Hotspot

7.2 Recent Relevant History

There are signs installed on the shopfront of the building which do not have advertisement consent. The applicant is seeking approval for these signs through an application for advertisement consent which has been refused. See the following recent relevant history:

On 27 February 2023, the City Council refused consent for the 'display of an externally illuminated fascia sign measuring 70cm x 420cm and an externally illuminated projecting sign measuring 70cm x 70cm' on the grounds the extent and means of illumination of the proposed fascia and projecting signs harm the appearance of the building and area, and because it would also fail to preserve or enhance the character and appearance of the Pimlico Conservation Area. (RN: 22/08591/ADV)

27 February 2023

On 8 December 2022, the City Council refused consent for the 'display of internally illuminated fascia lettering and an internally illuminated projecting sign.' on the grounds the extent and means of illumination of the proposed fascia and projecting signs harm the appearance of the building and area, and because it would also fail to preserve or enhance the character and appearance of the Pimlico Conservation Area (RN: 22/06457/ADV)

8. THE PROPOSAL

The proposal would change the use of the basement and ground floor levels of the building from a retail unit (Class E) to a premises with a use that blends restaurant and hot food takeaway (sui generis). It is understood that most customers will eat on the premises and there is space for approx. 30 covers on site along with toilet facilities for customers. However, given the type of food being sold and the style of dining offered on the premises (i.e. no reusable cutlery) any takeaway service from the site would not seem truly ancillary to the restaurant use and so the proposal is assessed as a composite use of hot food takeaway and restaurant.

Along with this change of use, this application seeks planning permission for the installation of an extract flue system emerging out of the rear roof of the building after passing through the first floor flat on the site.

The location of the extract flue has been amended from what was originally consulted upon and additional details have been provided to secure the noise impacts and maintenance of the flue, given it would pass through the first floor flat. This amended from the original consultation prompted an additional consultation of neighbouring occupiers.

This application does not propose any alterations to the front of the building at all. New signage to be displayed on the front of the building has been proposed and assessed under regulations for the control of advertisements, see Recent Relevant History, above.

Table: Existing and proposed land uses.

Land Use	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (Class E)	126.65	0	-126.65
Restaurant and Hot Food Takeaway (Sui Generis)	0	126.65	+126.65
Total	126.65	126.65	0

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Policy

City Plan Policy 14, at Part A, requires proposals in existing town centres and high streets to enhance and diversify their offer as places to shop work and spend leisure time. At Part C, Policy 14 also requires that development be of a scale, type and format that reflects and enhances the function of the centre within which it is proposed. CAZ Retail Clusters, such as the Warwick Way/Tachbrook Street CAZ Retail Cluster the subject site is located within, are expected to provide large format retail and complementary town centre uses to meet the needs of residents, workers and visitors.

City Plan Policy 16, at Part A, requires that food and drink uses be of a type and size

appropriate to their location and the over-concentration of such uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. At Part C, Policy 16 also requires that proposals for hot food takeaways are not within 200 metres walking distance from the entrance of a primary or secondary school.

Pimlico Neighbourhood Plan Policy PIM 1, at Part A, sets out that Warwick Way/Tachbrook Street CAZ Retail Cluster (and the Local Centres) are the areas of a commercial and mixed use character to which main town centre uses that both serve visiting members of the public and provide active frontages should be directed within the Pimlico Neighbourhood Area. At Part C this policy set out that proposals for hot food takeaways within 200m walking distance from the entrance of a primary or secondary school will not be supported. Part C also sets out details criteria for proposed hot food takeaways that are assessed in more detail later in this report.

Consideration and Assessment

The above land use polices can be summarised as giving rise to two requirements that the proposed restaurant and hot food takeaway must meet in order to be considered acceptable in land use terms. Firstly, it must be more than 200 metres walking distance from the entrance to any primary or secondary school and, secondly, it must not be detrimental to the vitality, character and diversity of the Warwick Way/Tachbrook Street CAZ Retail Cluster that it would be located within, nor harmful to the amenities of the residents of the area either.

The subject premises are not within 200 metres walking distance of the entrance of any primary or secondary school. The nearest two schools are the branch of the Westminster Cathedral Choir School (WCCS) at 47 Francis Street (a primary school), which is approx. 270 metres walking distance from the subject premises, and Eaton Square Sixth Form (a secondary school) on Eccleston Square which is approx.. 270 metres walking distance from the subject premises as well. All other schools in the area that officers have been able to identify (e.g. St Vincent De Paul Primary School) are over 300 metres walking distance from the premises.

One objection states that the premises are less than 200 metres from a prep school at the corner of Vauxhall Bridge Road and Francis Street. It is assumed this must be referring to the WCCS branch on Francis Street as there is no primary or secondary school directly on this junction. As outlined above, this school is more than 200 metres walking distance from the subject premises.

Hence, the proposal accords with the minimum distance requirements between hot food takeaways and schools set out in Policy 16 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan and the proposal cannot be considered to contribute to the negative consequences of children consuming junk food.

The next land use question to address is whether the proposal would maintain the vitality, character and diversity of the Warwick Way/Tachbrook Street CAZ Retail Cluster. It is acknowledged that the proposed development would result in a row of five consecutive restaurants and about half of all ground floor units along both sides of Wilton Road between Gillingham Street and Warwick Way are already restaurants, cafes

or pubs. However, given the size and scale of the subject premises and the context of the existing use falling with Class E of the Use Classes Order, meaning it could become a restaurant without needing planning permission, the restaurant aspect of the development cannot reasonably be resisted, even if it could be assessed as being a change of use of the premises.

It is also noted here that no open premises along this stretch of Wilton Road have planning permission to operate as hot food takeaways, although some restaurants evidently do have a degree of hot food takeaway occurring from their premises, such as both the neighbouring SeaFresh Restaurant and Chicken Joint. However, taking a view on the mix of uses along Wilton Road and the wider Warwick Way/Tachbrook Street CAZ Retail Cluster, the introduction of a hot food takeaway use in this location would not detrimentally impact the diverse mix of uses that help maintain the vitality and character of this CAZ Retail Cluster. Its function of providing retail and complementary town centre uses for the benefit of residents, workers and visitors in the CAZ would not deteriorate as a result of the introduction of this hot food takeaway, nor would it cumulatively contribute to over-concentration of such a use in the surrounding area.

The nearest residential properties are the unit at first floor level in the subject building, on the upper floor levels of 85 Wilton Road, at first floor level above the commercial premises on the opposite side of Wilton Road and in the upper floor levels of 7-11 Longmoor Street, to the rear of the building. The direct impacts of the proposed use (and the proposed extract flue) are assessed in detail in the Residential Amenity section of this report. There are many more residential properties in the wider CAZ Retail Cluster (e.g. above the Sainsbury's on Wilton Road) but these would not be directly affected by the proposed use and the introduction of the proposed hot food takeaway. Taking the wider area as a whole and the prevalence of hot food takeaways within it, it cannot be concluded that the proposed hot food takeaway would result in an overconcentration of food, drink and entertainment uses that is harmful to the amenities of residents in the area.

The Pimlico Neighbourhood Forum raise the number of hot food takeaways within the nearby Tachbrook Street Market. However, these hot food takeaway stalls are a part of the wider market use of that land and so, for the purposes of consideration of this application, we cannot add the concentration of hot food takeaways within the market to permanent and authorised hot food takeaways in the wider area to concluded there might be an overconcentration of such uses in the area.

Hence, the proposed introduction of a hot food takeaway use in this location is not considered to conflict with Policies 14 and 16 of the City Plan or Policy PIM 1 of the Pimlico Neighbourhood Plan in land use terms.

9.2 Environment & Sustainability

Sustainable Design

As the only operational development proposed as a part of this application is the installation of an extract flue to the rear of the building, it does not trigger any policy requirements in terms of sustainability.

Flood Risk & Sustainable Drainage

The subject site is located in Flood Zone 3 and Pimlico North & Victoria Surface Water Flood Risk Hotspot. The applicant has submitted a site-specific Flood Risk Assessment (FRA) that complies with the requirements of City Plan Policy 35 and the Environmental SPD (adopted 2022). As the proposal's flood risk vulnerability would be the same as the existing use's - shops, restaurants and hot food takeaways are all classified as uses that are 'less vulnerable' to flood risk - it is not necessary to consult the Environment Agency on the proposals.

Policy does not prevent 'less vulnerable' uses in Flood Zone 3 and there is no policy trigger requiring this type of development to provide any sustainable drainage measures. Hence, the proposal is considered acceptable in terms of flood risk and sustainable drainage.

9.3 Townscape, Design & Heritage Impact

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *"In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*

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

Policy 39 of the City Plan 2019-2040 (April 2021), at part K, requires development in conservation areas to preserve or enhance the character and appearance of Westminster's conservation areas. Features that contribute positively to the significance of conservation areas and their settings will be conserved and opportunities taken to enhance conservation areas and their settings, wherever possible.

Policy 40 of the City Plan, at part A, states that development will be sensitively designed, having regard to the prevailing, scale, heights, character, building lines and plot widths, materials, architectural quality and degree of uniformity in the surrounding townscape. Part B goes on to state that: Spaces and features that form an important element in Westminster's local townscapes or contribute to the significance of a heritage asset will be conserved, enhanced and sensitively integrated within new development. Part D requires that alterations and extensions respect the character of the existing and adjoining buildings, avoid adverse visual and amenity impacts and do not obscure important architectural features or disrupt any uniformity, patterns, rhythms or groupings of buildings and spaces that contribute positively to Westminster's distinctive townscape.

Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) sets out

that development within or affecting the setting of the Pimlico Conservation Area should demonstrate well-detailed, high quality, sustainable and inclusive design and architecture which preserved and enhances the historic character of the conservation area.

79 Wilton Road is an unlisted building of merit located within the Pimlico Conservation Area. There are a number of existing extract ducts to the rear of the terrace that 79 Wilton Road forms a part of. The proposed route of the extract duct work is towards the rear of the site and the duct would be short in length compared to other nearby extract ductwork along the rear of the terrace because extract flue system emerges out of the rear roof of the building after passing through the first floor flat on the site. This appears to be the best available route for an external duct and would be only moderately visible in private views to the rear. Due to the poor townscape quality (because of existing ducts) to the rear of the building, the installation of this duct would preserve and cause no harm to the character and appearance of the Pimlico Conservation Area. The proposal is therefore considered to be acceptable in design and conservation terms.

It must be noted here that although objections have been raised about a new shopfront and signage, this application does not seek planning permission to alter the shopfront, nor is any alteration to the shopfront proposed and the existing shutter and shutter box will remain. It is acknowledged that there is already signage erected at the site. However, these signs are advertising that are handled through the separate control of advertisements regulations and could be enforced against, if necessary, even if planning permission is granted for this change of use and installation of an extract flue. Still, given the advertisements exist and consent for them have been refused, the planning enforcement team have been notified so that they can investigate.

9.4 Residential Amenity

Policy 7 of the City Plan requires development to protect and where appropriate enhance amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking. It also requires development to protect and where appropriate enhance the quality of the local environment.

Policy 33 of the City Plan sets out that the Council will make sure that quality of life and health of existing and future occupiers and the natural environment are not adversely affected by harmful pollutants and other negative impacts on the local environment. This includes minimising noise and vibration from plant, machinery and internal uses and addressing the adverse impact of odour through the incorporation of appropriate mitigation measures using a precautionary approach.

Policy PIM 1 of the Pimlico Neighbourhood Plan requires proposal for restaurants and hot food takeaways to protect local environmental quality by mitigating the detrimental impacts of staff and customer activity in respect of noise and by providing adequate extraction and air conditioning which does not impact on the amenity of residents living above or close to the unit in terms of noise or odours.

The Council's Environmental SPD (adopted 2022) has sections guiding the

implementation of the above policies in respect of noise, vibration and odour.

The proposal, by virtue of its nature, size and location, could not impact neighbouring amenity in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy or overlooking. The proposal's impacts on residential amenity in terms of noise, vibration and odour are considered in turn below.

Noise & Vibration

This application has been submitted with an acoustic report in accordance with the requirements of our Environmental SPD. This report has demonstrated that the proposed extract flue on the rear roof of the building would operate 10 dB below the background noise level outside adjacent residential properties and is therefore not considered harmful to neighbouring occupiers' amenities. That this is implemented and maintained as such will need to be secured by conditions on the grant of planning permission, including conditions requiring that the proposed plant is never operated outside of the hours 07:00 and 23:00 and that vibrations greater than tolerable levels are not transmitted to neighbouring properties or structures. An updated noise report considering the noise and vibration impacts on the occupiers of the first floor flat the flue would run through has been submitted and concludes it would not have an unacceptable impact on the occupiers of that flat. This updated report meets the approval of the Council's Environmental Health officers.

The proposed use as a restaurant and hot food takeaway may also have noise and vibration implications for nearby occupiers resulting from its use. These impacts can be mitigated by limiting the hours of operation of the use and by restricting the amplified music that may be played on the premises. These will be secured by conditions on the grant of planning permission. The hours of operation of the proposed restaurant and hot food takeaway use will be limited to being between 07:00 and 23:00 every day, so as to align with the hours that the use of the associated plant will be limited to. It is considered that these conditions will adequately mitigate any detrimental effects of the proposed development in terms of noise and vibration and it would, therefore, comply with the relevant parts of Policies 7 and 33 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

Odour

The application has been submitted alongside an odour management plan which complies with the requirements of our Environmental SPD. So long as the extract flue and its odour control system are installed and maintained in accordance with the recommendations included in the submitted odour management plan (as updated to outline its routine maintenance without requiring access to the first floor flat), the proposed restaurant and hot food takeaway will not have any adverse effects on the local environment in terms of odour. That the extract flue is installed and maintained in accordance with this management plan will be secured by a condition on the grant of planning permission here. Subject to this condition, the proposed development would comply with the relevant parts of Policies 7 and 33 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

9.5 Transportation, Accessibility & Servicing

The proposed change of use and extract flue do not trigger any policy requirements in terms of car or cycle parking, and it is not considered that the coming and goings of staff and customers could impact the transport and highway network any differently to the prior use.

Policy 7 of the City Plan requires development to make appropriate and effective waste management arrangements.

Policy 29 of the City Plan requires servicing collection and delivery needs to be fully met within a development.

Policy 37 of the City Plan requires all development (including changes of use) to provide appropriate facilities for the storage of separate waste streams which are safe and convenient to access for deposit and collection, with sufficient capacity for current and projected future use.

Policy PIM 1 of the Pimlico Neighbourhood Plan requires that hot food takeaways mitigate the detrimental impacts of customer and staff activities in respect of litter, commercial waste and dirty pavements by ensuring adequate waste storage arrangements. This policy also requires that deliveries (both by moped and bicycle) from hot food takeaways ensure that pavements and roadways are not obstructed and that delivery workers do not congregate in a location that creates unacceptable obstruction and noise.

Servicing and Waste & Recycling Storage

The applicant has submitted a waste management plan in respect of the proposal which meets the Council's Environmental SPD and Recycling and Waste Storage Requirements. This ensures appropriate waste management arrangements for the proposed use. Therefore, a condition will be attached to the grant of planning permission here that ensures the waste storage will be provided in accordance with the waste management plan prior to the first use of the development. Subject to this condition, the proposal would comply with the relevant parts of Policies 7 and 37 of the City Plan and Policy PIM 1 of the Pimlico Neighbourhood Plan.

The proposed restaurant and hot food takeaway will be prohibited from operating its own delivery service from the premises by a condition on the grant of planning permission here. This is necessary to ensure the proposal's impact on the public highway is no different to the prior use's and, therefore, acceptable in highways terms. We are unable to control platform-based delivery services using the restaurant and hot food takeaway as a provider since planning conditions cannot control what is done outside of land under the control of the applicant (i.e. on the internet and between the premises and customer's homes), but the condition would prevent any operator of the premises from operating their own delivery service.

Servicing of the proposed restaurant and hot food takeaway, other than in terms of waste and delivery services, would not be materially different from the prior retail use of

the premises. Hence the proposal's servicing arrangements are considered acceptable.

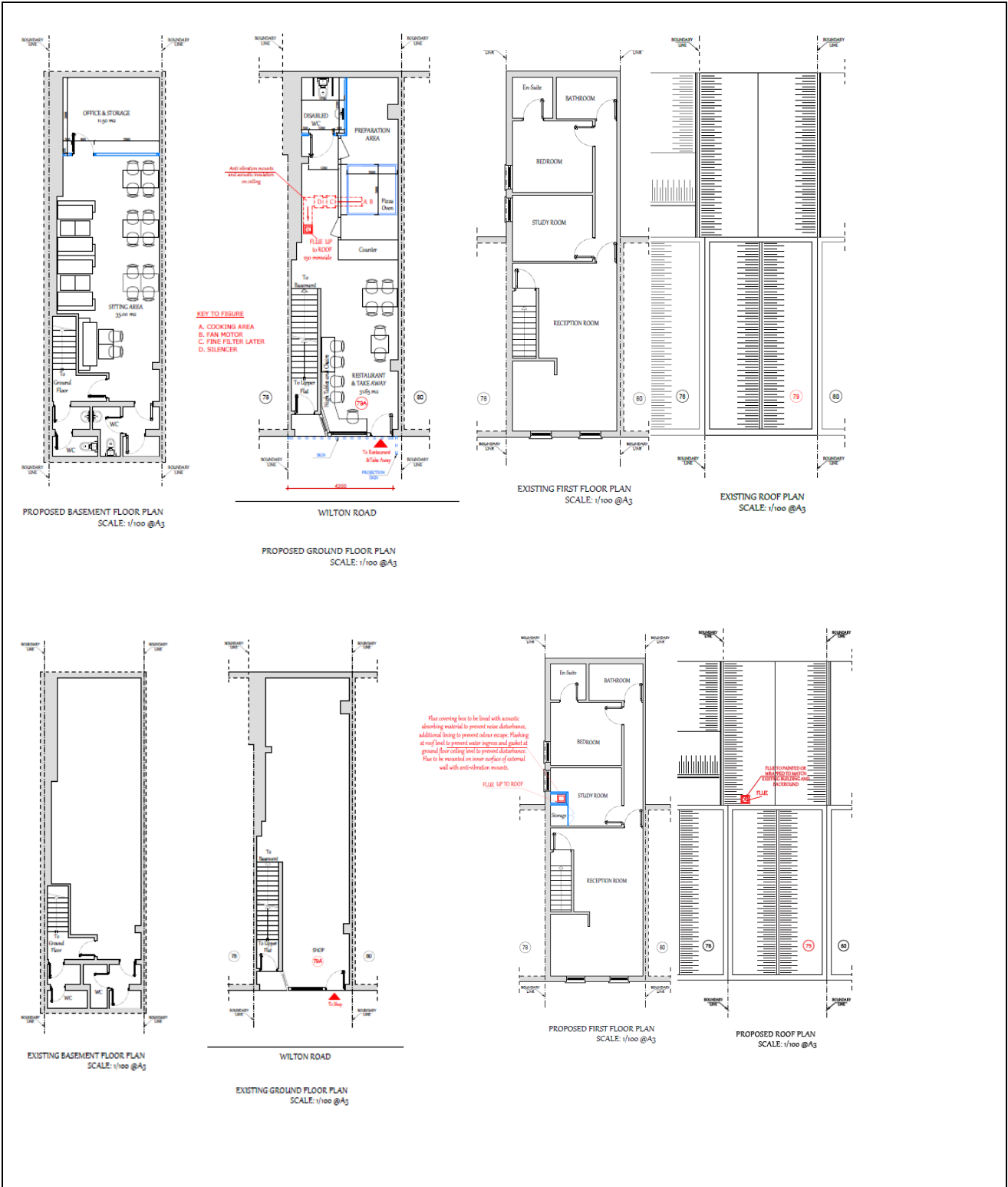
10. Conclusion

Subject to conditions, the proposal is policy compliant and gives rise to no identified harm. It is therefore recommended for approval subject to conditions.

(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: JOSHUA HOWITT BY EMAIL AT jhowitt@westminster.gov.uk

11. KEY DRAWINGS





DRAFT DECISION LETTER

- Address:** Basement And Ground Floor, 79 Wilton Road, London, SW1V 1DL
- Proposal:** Use of basement and ground floors as restaurant and hot food takeaway (sui generis) with installation of extraction flue system to rear.
- Reference:** 22/06456/FULL
- Plan Nos:** Plans:
WLT79/22/01 Existing Site, Basement & Ground Floor Plans; WLT79/22/02 Existing Roof Plan & Front & Rear Elevations; WLT79/22/03 Existing Side Elevations; WLT79/22/04 Location Plan; WLT79/22/05 Rev A Proposed Site, Basement & Ground Floor Plans; WLT79/22/06 Rev B Proposed Roof Plan & Rear Elevation; WLT79/22/07 Rev B Proposed Side Elevations; WLT79/22/09 Existing & Proposed First Floor Plan.
- Supporting Documents:
Noise Impact Assessment Issue 03 prepared by Deane Austin Ltd (DAA) dated 17 March 2023; Odour Management Plan prepared by Delta Tech Ltd dated March 2023; Waste Management Plan Rev A Dec 2022 prepared by Delta Tech Ltd; Flood Risk Assessment January 2023 produced by Delta Tech Ltd.

Case Officer: Max Leonardo

Direct Tel. No. 07817095744

Recommended Condition(s) and Reason(s)

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

Reason:

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

- 2 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:
 - o between 08.00 and 18.00 Monday to Friday;
 - o between 08.00 and 13.00 on Saturday; and
 - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 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 Pimlico Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 4 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R26BF)

- 4 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and

damping equipment;

(c) Manufacturer specifications of sound emissions in octave or third octave detail;

(d) The location of most affected noise sensitive receptor location and the most affected window of it;

(e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;

(f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

(g) The lowest existing LA90, 15 mins measurement recorded under (f) above;

(h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;

(i) The proposed maximum noise level to be emitted by the plant and equipment.
(C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission. (R46AC)

- 5 The plant/machinery hereby permitted shall not be operated except between 0700 hours and 2300 hours daily. (C46CA)

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) the Environmental Supplementary Planning Document (February 2022).
(R46CC)

- 6 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 7 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens.

Noise from music and entertainment from the restaurant and hot food takeaway use shall be 10 dB below the measured/assessed background in adjoining residential habitable space measured in the parameters Leq & LFmax of 63 Hz and 125 Hz octave bands OR fixed criteria of Day: NR30 Leq, NR35 FLmax and Night: NR25 Leq, NR30 LF max.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R13ED)

- 8 A noise limiter must be fitted to the musical amplification system and the operational panel of the noise limiter shall then be secured by key or password which shall be inaccessible to staff.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R13ED)

- 9 Prior to first occupation of the premises as a restaurant and hot food takeaway you must provide the separate stores for waste and recyclable material storage as shown on drawing no. WLT79/22/05 Rev A of the submitted Waste Management Plan and thereafter maintain them for the storage of waste and recycling. You must clearly mark them and make them available at all times to everyone using the restaurant and hot food takeaway. You shall not leave any waste on the highway other than immediately before collection.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021), Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R14CD)

- 10 You shall maintain the extract ventilation system in accordance with the recommendations in the submitted Odour Management Plan prepared by Delta Tech Ltd dated March 2023.

Reason:

To protect neighbouring residents from odour nuisance, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022).

- 11 Customers shall not be permitted within the restaurant and hot food takeaway premises before 0700 or after 2300 each day. (C12AD)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R12AD)

- 12 You shall not operate a delivery service from the premises.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021) and Policy PIM 1 of the Pimlico Neighbourhood Plan 2021-2040 (December 2022). (R23AD)

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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 This permission does not allow any alterations or advertisements to the front elevation of the building.
- 3 Conditions 4 & 5 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

- 4 You are advised to permanently mark the plant/machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 5 The operating timings for the mechanical plant for the kitchen ventilation system should be controlled by an automated system rather than relying on staff manually switching the system off at closing time.
- 6 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.
- 7 The term 'clearly mark' in condition 9 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 8 Kitchen Extract Ventilation Informative:
 - i. The best solution to prevent odour nuisance for any food operation is a scheme consisting of 'full height' discharge - see guidance at;
 - o <https://www.westminster.gov.uk/media/document/westminster-guidelines-for-kitchen-extract-ventilation-systems-mar-2021>

In this case the 'low' discharging scheme submitted with the application is considered to be acceptable as it complies with 'Best Practicable Means' standards if implemented and maintained in accordance with Section 2.6 of the Odour Management Plan from Delta Tech Ltd.

As food operations and intensity of use are always difficult to precisely define at the outset final acceptance of the scheme as being sufficient to prevent odour nuisance may therefore require further mitigation works to be carried out if nuisance is being caused post-installation. In addition if in the future the food operation changes significantly you must assess if the scheme is still adequate to prevent nuisance - see the guidance above.

- ii. Any installed scheme should also contain the following elements:
 - o All fume producing cookline equipment must be placed under the extraction canopy
 - o The kitchen extract ducting should be designed to discharge vertically
 - o The general ventilation within the kitchen must be designed to achieve an upper ambient temperature of 25 centigrade and provide sufficient air changes within the workspace in compliance with Building & Engineering Services Association (BESA) guidance DW172 -2018 or as updated
 - o The kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance, at approximately 2-3 metre intervals or be in compliance with the BESA document TR19 for cleaning and maintenance
 - o Any cladding must be made of non-flammable materials (approved by Building Control and/or Fire Brigade) and still allow access to any cleaning and maintenance doors/hatches
 - o Access to the ducting must comply with the Health & Safety safe access standards

9 HIGHWAYS LICENSING:

Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please visit our website at www.westminster.gov.uk/guide-temporary-structures.

CONSIDERATE CONSTRUCTORS:

You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

BUILDING REGULATIONS:

You are advised that the works are likely to require building regulations approval. Details in relation to Westminster Building Control services can be found on our website at www.westminster.gov.uk/contact-us-building-control

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.