

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 22 November 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	7-14 , Coventry Street, London, W1		
Proposal	Variation of Conditions 1 and 7 of planning permission dated 19 June 2012 (RN: 12/02627/FULL) for use of the first floor (mezzanine) as a restaurant (Class A3) with retail (Class A1) accommodation at ground floor level and associated external alterations including the installation of plant at roof level - namely, to vary the approved drawings to allow the relocation of the approved ancillary retail use (Class A1) from ground floor to first floor (mezzanine) level, and to enable the use of the ground floor level for Class A3 (restaurant) use in connection with the existing restaurant.		
Agent	CgMs		
On behalf of	Bubba Gump Shrimp Company Ltd		
Registered Number	16/09194/FULL	Date amended/ completed	23 September 2016
Date Application Received	23 September 2016		
Historic Building Grade	Grade II Listed Building		
Conservation Area	Soho		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site forms part of the Trocadero complex, comprising part ground and first floor (mezzanine) on the corner of Coventry Street and Rupert Street. The site is located within the Soho Conservation Area and the West End Stress Area.

In June 2012 planning permission was granted for the use of the first floor as a restaurant with retail accommodation at ground floor level and since October 2014 the Bubba Gump Shrimp Company has occupied the premises in accordance with that planning permission. The main restaurant space is on the first floor (mezzanine) level extending to 1,170 sqm gross internal area with space for approximately 380 covers (though the earlier permission allows for 450). The restaurant is accessed via the ground floor, which also provides a retail area selling Bubba Gump themed merchandise. That retail floorspace is required to be maintained by Condition 7 of the 2012 permission.

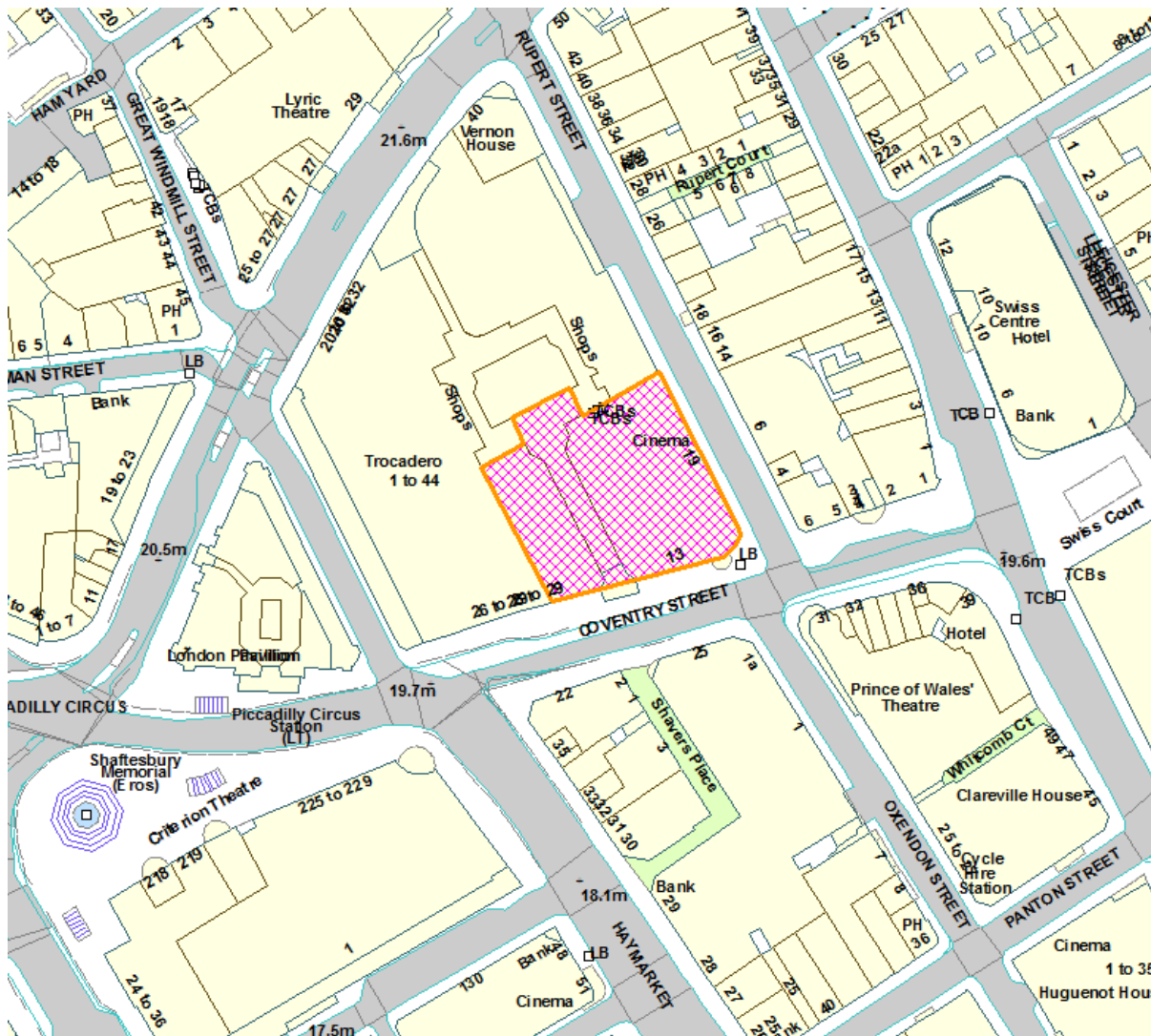
Consent is now sought to use the ground floor for restaurant purposes and relocate the retail element to first (mezzanine) floor. No changes are proposed internally or to the external elevation, and the applicant proposes to retain a display window at ground floor.

City Plan Policy S7 seeks to maintain and enhance the unique status and offer of the West End Special Retail Policy Area. City Plan Policy S21 states that existing A1 retail will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. Finally, UDP Policy SS5(C) states that proposals for non-A1 uses must not lead to, or add to, a concentration of three or more consecutive non-A1 uses.

In support of the application, the applicant argues that the retail element of the business is ancillary to the restaurant and contributes around only 9% of total revenue, the majority of which is driven by customers to the restaurant, rather than from passing trade. The applicant also contends that in the restaurant's first full year of trading (2015), it saw an operating loss of £1.8 million and that so far in 2016 net sales are down by 18%, potentially resulting in an operating loss of over £3 million. Without action, the applicant argues that the business will close. In order to address this problem and to increase the visibility of the restaurant, the applicant proposes to reconfigure the ground floor space as a restaurant area with customer seating for approximately 20 covers, and to relocate the retail element to the first floor (mezzanine). The overall number of allowed covers would remain the same.

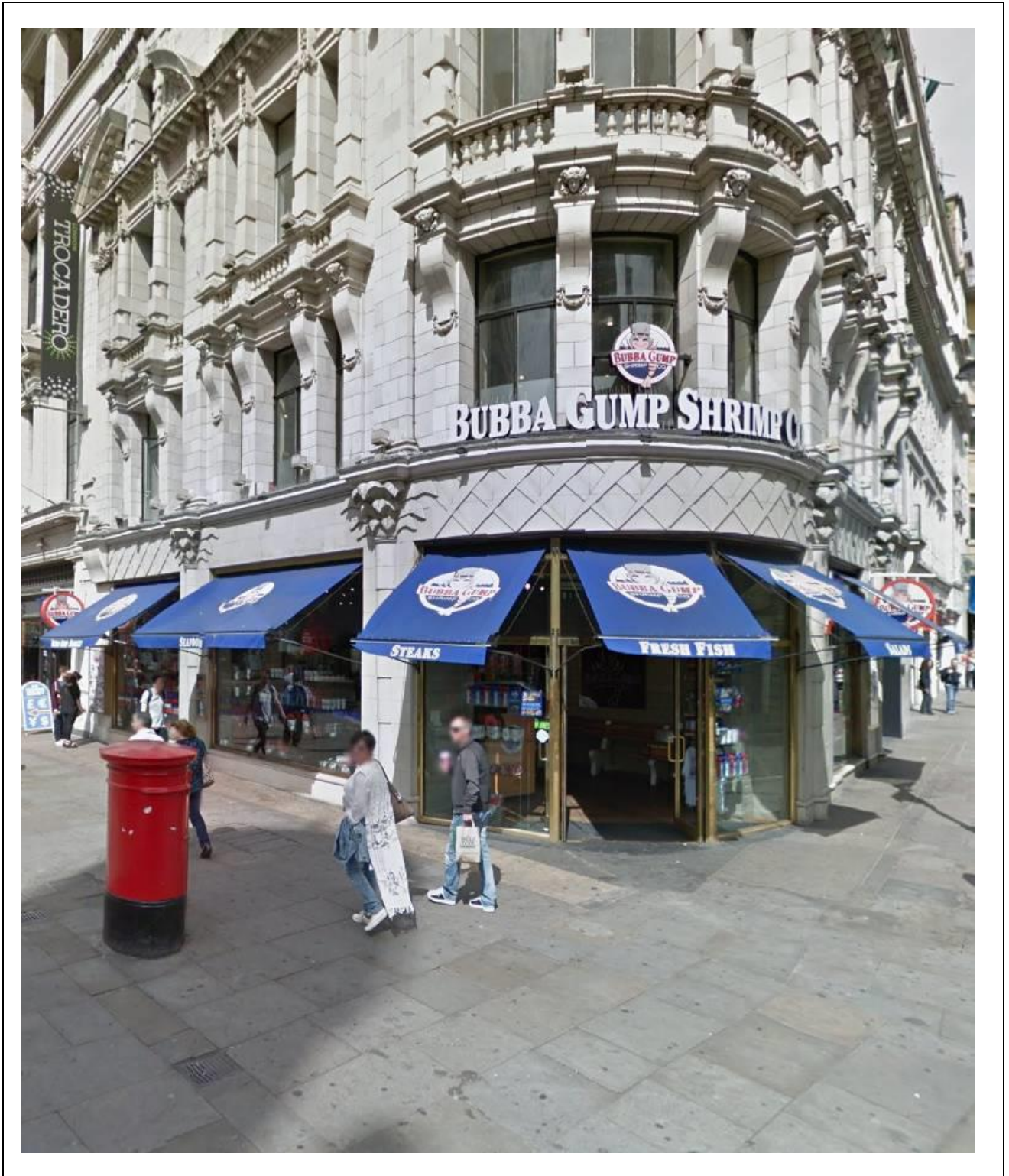
The limited viability information that the applicant has put forward would not ordinarily be sufficient to outweigh the strong policy presumption to retain retail floorspace and the proposal is undoubtedly contrary to City Plan Policies S21 and UDP Policy SS5. However, the only retail goods on offer are Bubba Gump themed products including clothing, glassware, DVD's and cookery books. As such, the retail element is in practice ancillary to the main use of the premises as a restaurant and it is not considered that the sale of such themed products provides 'destination' retailing. The applicant intends to retain a display window at ground floor and the same amount of retail floorspace is to be provided at first floor. On this basis, and provided the window display at ground floor level and the retail area at first floor are retained, it is not considered that there would be a detrimental loss of retail floorspace and approval is therefore recommended.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

SOHO SOCIETY

Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 23; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

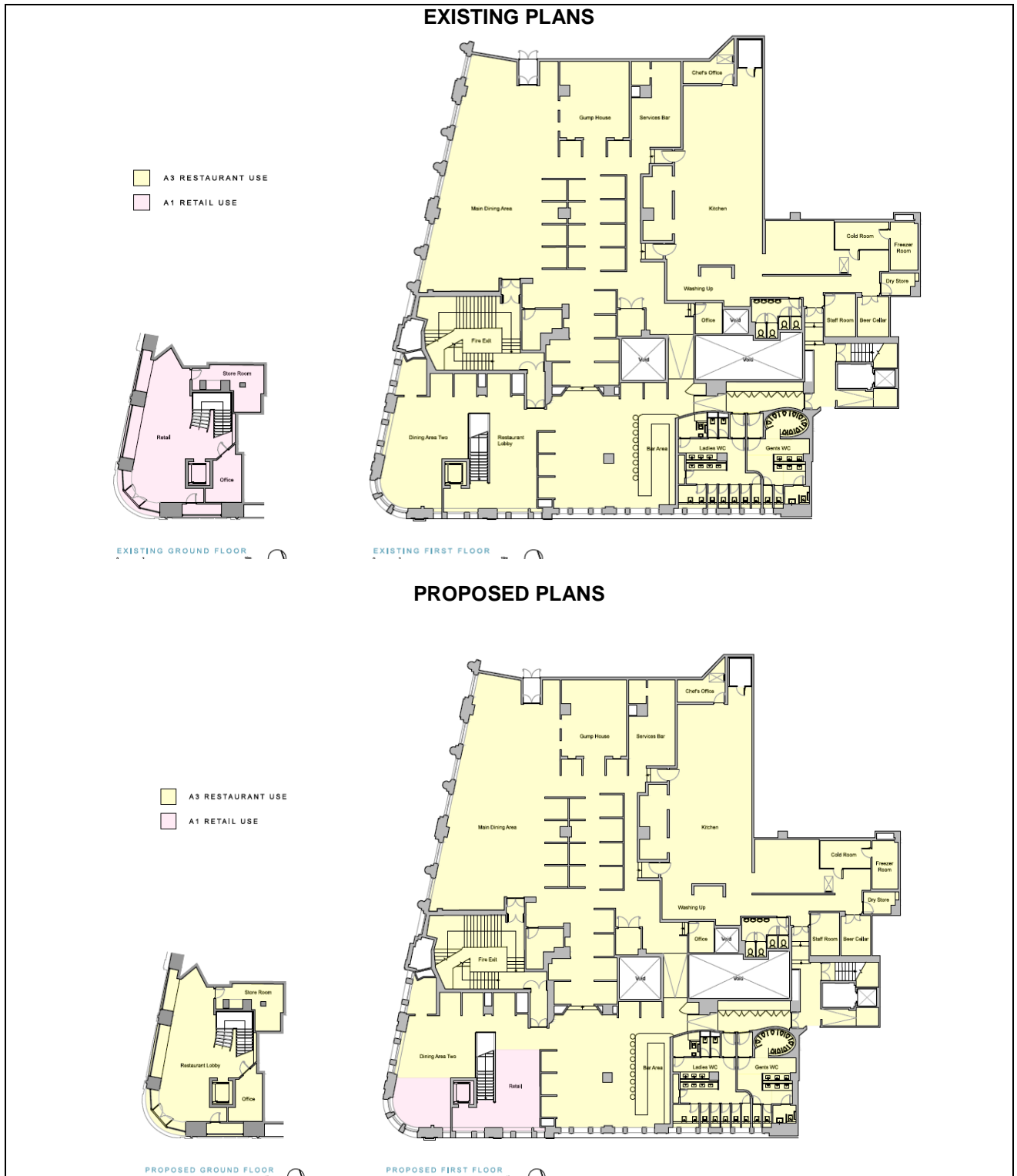
6. BACKGROUND PAPERS

1. Application form

(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: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

7. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 7-14 , Coventry Street, London, W1D 7DH

Proposal: Variation of Conditions 1 and 7 of planning permission dated 19 June 2012 (RN: 12/02627/FULL) for Use of the first floor (mezzanine) as a restaurant (Class A3) with retail (Class A1) accommodation at ground floor level. Associated external alterations including the installation of plant at roof level. Namely, to vary the approved drawings to allow the relocation of the approved ancillary retail use (Class A1) from ground floor to first floor (mezzanine) level, and to enable the use of the ground floor level for Class A3 (restaurant) use in connection with the existing restaurant.

Reference: 16/09194/FULL

Plan Nos: 16022 005 P2

Case Officer: Josephine Palmer

Direct Tel. No. 020 7641 2723

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 You must not sell any take-away food or drink on the premises, even as an ancillary part of the primary Class A3 use. (C05CB)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 3 You must not allow more than 430 customers into the restaurant at first floor level and 20 customers at ground floor level, at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 4 You must not open the restaurant premises to customers, and you must not allow customers on the premises, outside the following times: between 09.00 and 23.30 on Monday to Thursday; 09.00 and 01.00 Fridays and Saturdays and Bank Holidays and 09.00 and 00.30 on Sundays. (C12BC)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and TACE 10 of our Unitary

Development Plan that we adopted in January 2007. (R12AC)

- 5 (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 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 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 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 L A90, 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.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of

Westminster's City Plan (July 2016), 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.

- 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 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 7 The retail accommodation as shown on drawing 16022-005-P2 must be permanently maintained.

Reason:

To make sure that the development is completed and used as agreed, and to make sure that it meets SS5 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

- 8 You must carry out the measures included in your management plan hereby approved at all times that the restaurant is in use. (C05KA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 10 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 9 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 protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 10 No goods must be sold/displayed on the pavement and display boards must not be put out on the pavement.

Reason:

In the interests of public safety as set out in S41 of Westminster's City Plan (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24BC)

- 11 All servicing must take place between 07:00 and midnight on Monday to Friday and 08:00 and midnight on Saturday and Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 12 You must apply to us for approval of details showing how you will maintain an active display area at ground floor level. You must not use the ground floor area for restaurant purposes until we have approved what you have sent us. You must then maintain the display area according to the approved details.

Reason:

To protect the appearance and character of the shopping street as set out in SS 17 of our Unitary Development Plan that we adopted in January 2007. (R26IA)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You may need separate licensing approval for the restaurant premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)
- 3 You must make sure that any other activities taking place in the class A3 (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class A3 to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)
- 4 Conditions 5&6 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)
- 5 You are encouraged to employ Westminster residents.

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.