

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 7 February 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	9 New Cavendish Street, London, W1G 9UQ		
Proposal	Use of the basement and ground floor as a library (Class D1) for a temporary period until 30 June 2023 (Site includes 9-11 New Cavendish Street)		
Agent	Andrew Wilson		
On behalf of	Howard de Walden Estates Ltd		
Registered Number	16/10928/FULL	Date amended/ completed	18 November 2016
Date Application Received	16 November 2016		
Historic Building Grade	Unlisted		
Conservation Area	Harley Street		

1. RECOMMENDATION

1. Grant conditional permission for a temporary period until 30 June 2023.

2. SUMMARY

The application premises comprise two adjoining retail shops (Class A1) located on the north side of New Cavendish Street, which form part of the Marylebone High Street CAZ frontage. Until recently the units were occupied by a curtain/blind shop and a handbag/fashion retailer but these leases have now expired. Permission is sought for the use of the premises as Marylebone public library (Class D1) for a temporary period of six years pending the permanent relocation of the library. The units would be amalgamated but no external alterations are proposed. The key issues in this case are:

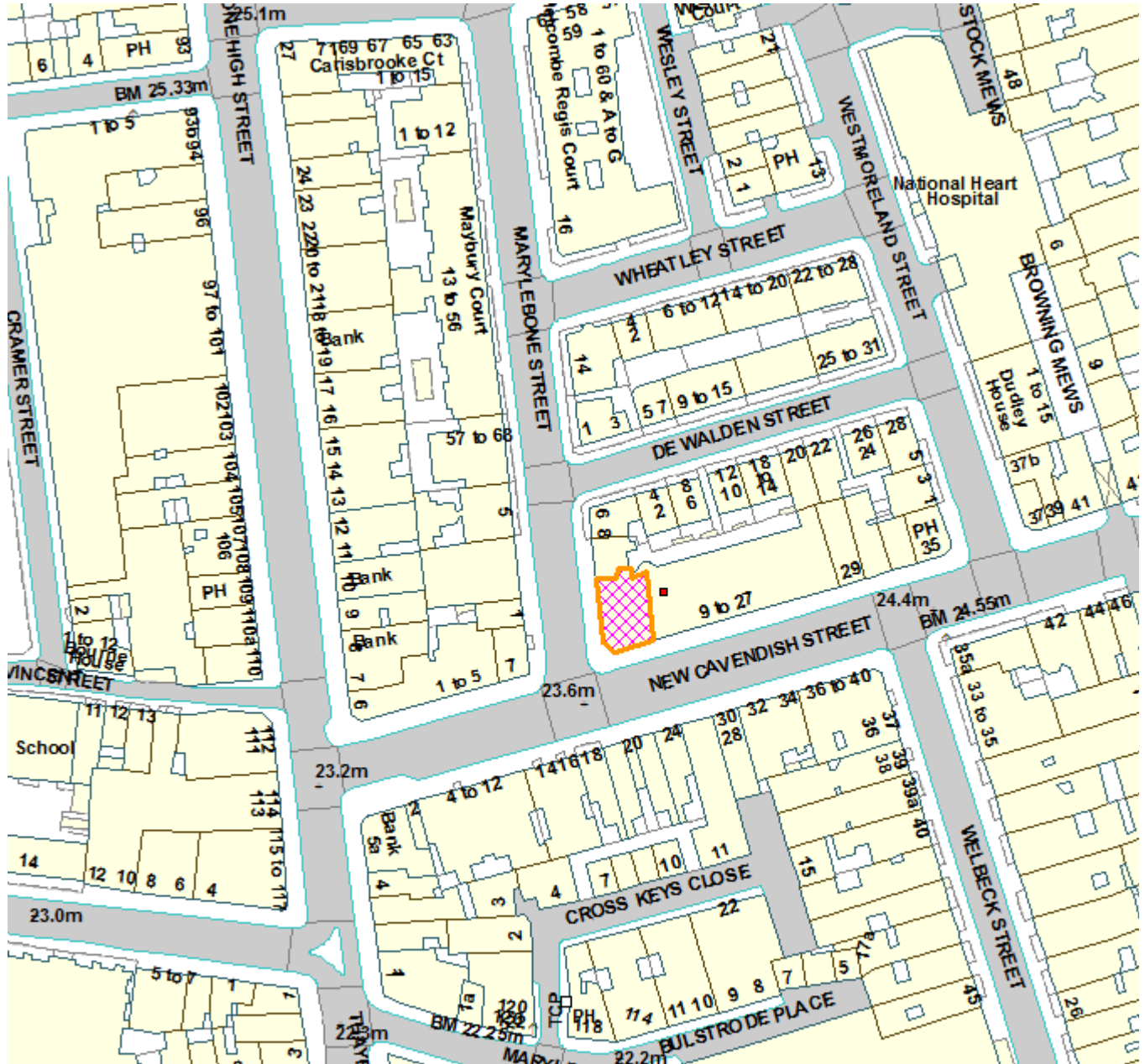
- * the acceptability of the temporary loss of the existing retail accommodation
- *the acceptability of the library in land use terms
- * the impact of the proposals on local residential amenity

The Council's shopping policies would normally protect the existing retail floorspace at the

site and permission has twice been refused permission for proposals resulting in the loss of the retail use at 11 New Cavendish Street, although the designation of the shopping street has since changed. A public library is an appropriate town centre use which would complement the strong retail character of this vibrant shopping area. It is not considered that the temporary loss of these retail units would have an adverse long term adverse impact on the vitality or character of the shopping frontage and, given the pressing need to find a temporary home for the library, it is considered that a departure from the Council's normal retail policies can be justified. Subject to conditions, it is not considered that the proposed library would adversely affect the amenity of neighbouring residents and nor is it considered that the use would have an adverse impact on the operation of the highway network or parking demand in the area.

The application is considered acceptable in land use, amenity and highways terms and permission is recommended for a temporary period until 30 June 2023 whereupon the retail use would resume.

3. LOCATION PLAN



4. PHOTOGRAPHS



5. CONSULTATIONS

MARYLEBONE ASSOCIATION

Any response to be reported verbally

CLEANSING

Details of refuse/recycling storage required

HIGHWAYS PLANNING

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 138

Total No. of replies: 1

No. of objections: 1

No. in support: 0

Library should be located in a “public” building

Proposed location is inappropriate in a commercial/residential street.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application premises are two adjoining basement and ground floor shop units located on the north side of New Cavendish Street, at its junction with Marylebone Street, within the Harley Street conservation area. The shops form part of a 1970s development (i.e. 9 to 27 New Cavendish Street) comprising eight shop units with two residential entrances at ground floor level and 23 flats above. The corner unit (no. 9) is vacant. This unit was previously occupied as a curtain shop which has relocated to 108 George Street. At the time of writing this report (January 2017) the lease on the handbag shop (no. 11) was due to expire. It is not known where, or if, this shop will be relocated.

The western end of New Cavendish Street is characterised by retail uses on both sides of the street, where it runs into Marylebone High Street. The application premises form part of a Secondary Frontage (namely nos.3-45 New Cavendish Street) within the Marylebone High Street District Shopping Centre as designated in the Unitary Development Plan Adopted January 2007). However, Marylebone High Street has been now been re-designated as a CAZ frontage within the City Plan (November 2016) and the premises form part of this CAZ frontage, which

includes the properties at nos.1-45 New Cavendish Street and also the properties forming the return frontage at nos. 2-8 Marylebone Street.

The upper floors of neighbouring properties are principally in residential use and there are residential developments to the rear of the site in De Walden Street and at the northern end of Marylebone Street.

6.2 Recent Relevant History

9 New Cavendish Street

None relevant

11 New Cavendish Street

23.12.2002. Permission was refused for the continued use of the basement and ground floors as a tanning shop (Class A2) with ancillary retail accommodation as the Council considered that the loss of a retail unit would be detrimental to the retail character and function of the area.

2.12.2003. An appeal against the above City Council's decision was dismissed.

30.11.2004. Appeal against the Enforcement Notice in respect of the above was dismissed.

22.02.2005. Permission was again refused for the use of the basement and ground floors as a tanning salon with retail sales as it continued to be considered that the loss of retail would harm the retail character and function of the area.

7. THE PROPOSAL

The application proposes the temporary change of use of the application site to a public library (Class D1) for a temporary period until 30 June 2023 (approximately six years).

Marylebone Library was previously located at Council House, Marylebone Road. Council House has (since August 2013) been leased to the London Business School for educational use, hence a new site has to be found for the library. Permission was subsequently granted for the use of the lower floors of Macintosh House, Beaumont Street as a temporary library. An alternative temporary site is now for the library as Macintosh House has been sold for redevelopment, and the library is required to vacate the building. The current application premises would provide a temporary home for the library while a decision is made on a permanent location for the library.

The application does not involve any external alterations to the building. Internal works would be required to amalgamate the shop units and fit out the library. The applicants would undertake the internal conjoining works to create a shell unit ready for fitting out. Upon completion of these works, the applicants would grant a lease to the City Council enabling the premises to be converted to library. The lease will include a break clause allowing it to be terminated if a permanent home for the library is established within six years.

On the expiry of the temporary permission, the application premises would revert to their lawful retail use.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Loss of retail floorspace

The proposal would result in the loss of 251 sqm (GIA) of retail floorspace within two neighbouring shop units on part of the Marylebone High Street CAZ frontage, as designated in the City Plan (November 2016).

UDP policy SS5 seeks to maintain an appropriate balance of town centre uses in the CAZ and on the CAZ frontages outside of the Primary Shopping Frontages and, to achieve this objective, aims protect existing basement and ground floor retail uses. Permission for the introduction of non-A1 town centre use will only be granted where the proposals would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality

Proposals for non-A1 uses must not lead to, or add to, a concentration of three or more consecutive non-A1 uses. In assessing proposals for a change of use the Council will consider the existing number and range of shops, the viability of the remaining shops within the frontage and the potential for the creation of a dead frontage.

City Plan policy S21 seeks to protect existing retail uses throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let.

Both of the existing shop units have been occupied until recently, but as a curtain/blind shop and a handbag retailer, rather than as local convenience shops. The shopping frontage, including neighbouring properties on Marylebone Street comprises 14 shop units, 10 of which (including the application premises) are currently in Class A1 retail use. There are retail units on either side of the application

premises, and the proposals would not lead to a concentration of three or more non-A1 uses within the frontage.

The entire frontage on the south side of the street, opposite the site, running between Marylebone High Street and Welbeck Street, comprises 12 retail units (Class A1) and also forms part of the Marylebone High Street CAZ frontage. With the exception of the application premises, there are no other vacant shop units within the New Cavendish street frontages. It is clearly an important shopping street where A1 uses should be protected as much as possible, as evidenced by the Council's previous decisions to refuse to allow the loss of a shop at the application site, which was supported on appeal by the Inspectorate.

There is no suggestion from the applicant that the application premises could not be let for retail use. Indeed, it is their intention that the premises revert to retail use once the proposed library use ceases, as would be the case with any temporary change of use. It is therefore the case that the permanent loss of these retail shops would not be acceptable. However, the temporary harm caused by the removal of the shops for a maximum period of six years (a permanent home for the library may be found before then) is considered to be outweighed by the pressing need for the library to be retained within Marylebone. The proposed library use would complement the retail character of the street, and potentially attract additional customers to New Cavendish Street. In these circumstances, the need to accommodate a library use in the shorter term is considered to override concerns about the temporary loss of retail floorspace and a departure from the Council's normal retail policies is considered to be justified in this case.

8.1.2 Proposed library

The proposed public library falls within the definition of a social and community use. UDP Policy SOC1 requires proposals for new social and community facilities to be located close to the communities which they serve, and to be easily accessible on foot, by cycle and by public transport. Such facilities should not harm the amenity of the surrounding area, including the effect of any traffic generated.

Under UDP Policy SOC7, new libraries should include facilities for local community arts or social activities, where appropriate, such as spaces for performances, rehearsals, meetings and exhibitions. The supporting text recognises the City Council's responsibility for the development of public library services to achieve compliance with national standards. Policy S34 of the City Plan encourages the provision of new social and community facilities throughout Westminster.

An objection has been received on the grounds that temporary library should be located in a "public" building and that the proposed location, in a commercial/residential street, is inappropriate. Whilst this is the Council's ambition in the longer term to find a superior location, there is no such accommodation

available at present and the current proposal for a temporary library in New Cavendish Street must be considered on its own merits.

The application site is close to residential concentrations, easily accessible by pedestrians, and has good transport links. It is located approximately 250m from the existing, temporary, library in Macintosh House and is close to other amenities in the area, being just to the east of the Marylebone High Street shopping centre. A library is considered to be an appropriate town centre use and, subject to consideration of its impact upon the amenity of the area, including the effects of any traffic generated, the proposed library use is considered acceptable for the temporary period proposed.

8.2 Townscape and Design

No external alterations are proposed.

8.3 Residential Amenity

8.3.1 Impact of library use

UDP policy ENV 6 requires new development to incorporate design features and operational measures to protect adjacent noise sensitive properties and does not permit development that would cause noise disturbance in tranquil areas. Where necessary, conditions will be imposed to ameliorate the impact of the development, including restrictions on the hours of operation. Policy ENV7 requires the applicant to demonstrate that the development will be designed and operated so that any noise from plant or internal activities will achieve acceptable standards in relation to noise levels at the nearest noise sensitive properties. Under City Plan policy S29 new developments should maximise opportunities to contribute to health and well-being, including supporting opportunities for improved life chances. Proposals that result in an unacceptable material loss of residential amenity will be resisted.

The library would open between 09.30 and 20.00 on Monday, Tuesday, Thursday and Friday, between 10.00 and 20.00 on Wednesday, between 09.30 and 17.00 on Saturday and from 13.30 to 17.00 on Sunday. These proposed opening hours are similar to those for retail uses and the level of activity associated with the proposed library is likely to be comparable to that of the lawful retail uses on the site. Subject to conditions to limit the hours of library opening and to prevent the premises from being used as anything other than a library, it is not considered that the proposal would have an adverse impact upon the amenities of the area or of neighbouring residents.

8.4 Transportation/Parking

8.4.1 Parking

It is anticipated that the majority of visitors using the library will arrive on foot and it is not considered that the use would have a detrimental impact on the highway network.

The application premises are well situated in relation to public transport - there are underground stations at Baker Street, approximately 600m to the north, and Oxford Circus and Bond Street, approximately 600m to the south. Similarly, there are numerous bus routes in close proximity on Marylebone Road to the north, Baker Street to the west, Portland Place to the east and Oxford Street to the south providing easy access to all parts of Westminster.

No parking is proposed in association with the use. However, there are numerous "Pay by Phone" car spaces in New Cavendish Street and surrounding streets and several public car parks in close proximity to site including Cramer Street Car Park, Cavendish Square Car Park and Welbeck Street Car Park. There is also a motorcycle parking bay in New Cavendish Street, within 100m of the premises, along with three on-street disabled parking bays.

No cycle parking is proposed as part of the proposed development. The Highways Planning Manager has requested that a minimum of 2 staff cycle spaces be provided. However, there is a cycle hire docking station within 150m of the application premises as well as cycle parking stands providing 18 spaces for public cycle parking use in this part of New Cavendish Street. In these circumstances, given the temporary nature of the use and the need to maximise the amount of floorspace given over to core library functions, it is considered unnecessary to require cycle parking provision.

8.4.2 Servicing

The applicants anticipate that the library use will generate up to five deliveries/collections per day during the week. There are single yellow lines located directly outside the premises where vehicles may stop for the purposes of loading and unloading.

8.5 Economic Considerations

Any economic benefits generated by the proposals are welcomed.

8.6 Access

The application premises benefit from easy pavement access from surrounding streets with level access into the accommodation at pavement level. There are three disabled parking bays in New Cavendish Street within approximately 100m of the premises.

Equality legislation requires public buildings to make their facilities and services accessible to all members of the community and the applicants have confirmed that the fit out proposals will incorporate all reasonable steps to achieve this – including, as necessary, wheelchair lift, accessible WC provision, hearing loops and height adjustable furniture.

8.7 Other UDP/Westminster Policy Considerations

8.7 1 Refuse /Recycling

Refuse collections in New Cavendish Street is well served for refuse collections with these taking place daily between 10.00am and 12.00pm. In addition there are weekly collections of recyclable waste on Thursdays between 7.00am and 2.00pm.

The applicants acknowledge that detailed fit out proposals for the proposed accommodation will need to include provision for the storage of waste and recyclable materials. They have confirmed that the library is committed to maximising the opportunities for recycling. Given that the fit out proposals are still in development, the applicants have requested that details of refuse and recycling storage provision be reserved by condition. There is considered to be adequate space on the site to accommodate refuse/recycling storage and a condition is therefore recommended requiring the approval of refuse/recycling storage arrangements before the proposed use commences.

8.8 London Plan

This application raises no strategic issues.

8.9 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.10 Planning Obligations

No planning obligations are triggered by the proposals

8.11 Environmental Impact Assessment

Environmental Impact issues have been covered elsewhere in the report

8.12 Other issues

The objector has queried whether the Council is in a position to pay the market rent for the application premises. This is not a material planning consideration.

9. BACKGROUND PAPERS

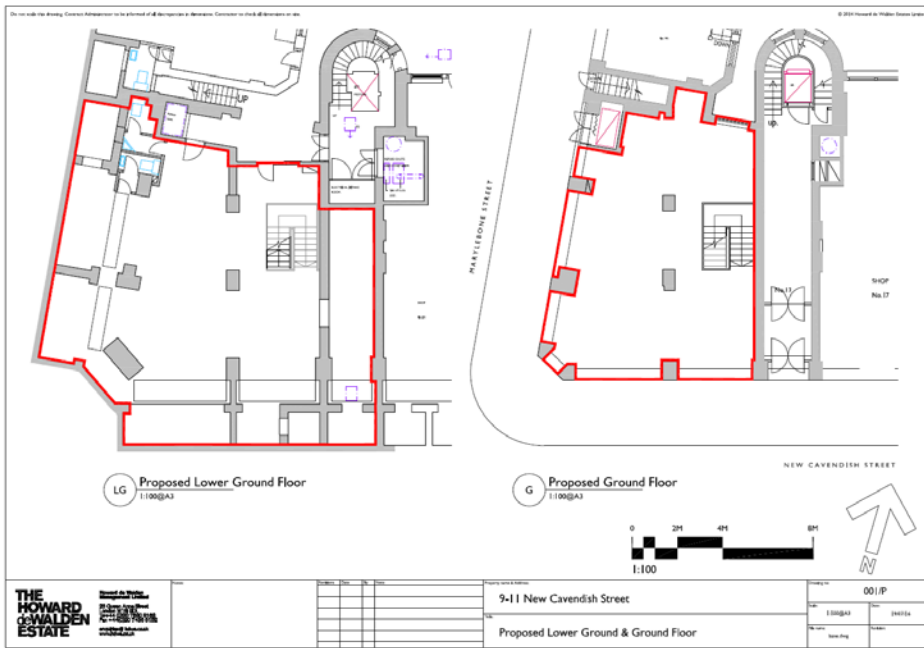
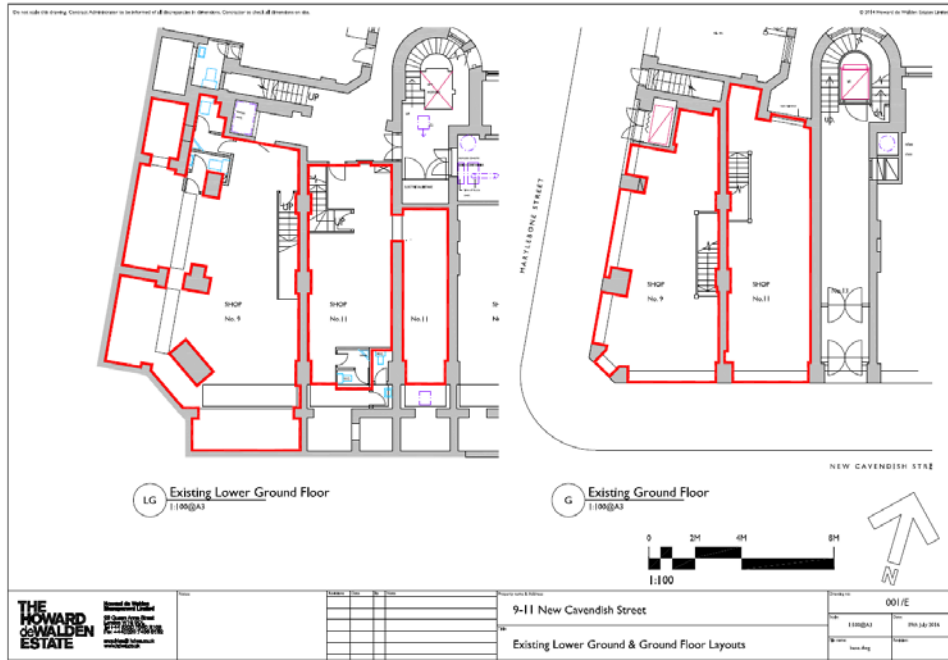
1. Application form
2. Memorandum from Highways Planning dated 24 January 2017
3. Memorandum from Project Officer (Waste) dated 24 January 2017
4. Response from the occupier 3 Marylebone Street dated 12 January 2017

Selected relevant drawings

(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: SARA SPURRIER BY EMAIL AT sspurrier@westminster.gov.uk.

10. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 9 New Cavendish Street, London, W1G 9UQ

Proposal: Use of the basement and ground floor as a library (Class D1) for a temporary period until 30 June 2023 (Site includes 9-11 New Cavendish Street)

Reference: 16/10928/FULL

Plan Nos: 001/P

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

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 apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the library. (C14EC)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

3 The library use allowed by this permission can continue until 30 June 2023. After that the part of the building we have approved for library use must return to its previous use. (C03BA)

Reason:

The use is not as set out in SS5 of our Unitary Development Plan that we adopted in January 2007 and S21 of the City Plan (November 2016). Use for more than a limited

period would be harmful to the objectives of the Plan (R03AB)

4 You must use the property only for library purposes. You must not use it for any other purpose, including any within Class D1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it). (C05AB)

Reason:

To make sure that the development is completed and used as agreed, and to make sure that it meets SOC 1, SOC 7, ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R07AB)

5 Library customers shall not be permitted on the premises except between 09.30 and 20.00 on Mondays, Tuesdays, Thursdays and Fridays; between 10.00 and 20.00 on Wednesdays; between 09.30 and 17.00 on Saturdays and from 13.30 to 17.00 on Sundays.

Reason:

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

Informative(s):

1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

2 You are reminded that upon or before the expiry of this temporary permission, the premises shall revert to their lawful retail use (Class A1).

3 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

4 You must get planning permission for any tanks, equipment, lift motor rooms, railings or other additions to the property. (I21AA)

Item No.
8

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.