

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 November 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	48 Albemarle Street, London, W1S 4DH		
Proposal	Use of part ground floor level and first to second floor levels for either continued office (Class B1) use or retail (Class A1) use or a sui generis use comprising retail, restaurant and bar elements; the installation of a full height extract duct on the rear elevation and installation of plant with associated acoustic screening on the flat roof area at rear first floor.		
Agent	Monmouth Planning Ltd.		
On behalf of	Tizzola Properties		
Registered Number	17/03502/FULL	Date amended/ completed	24 April 2017
Date Application Received	24 April 2017		
Historic Building Grade	Unlisted		
Conservation Area	Mayfair		

1. RECOMMENDATION

Grant conditional planning permission.

2. SUMMARY

48 Albemarle Street is an unlisted building located within the Mayfair Conservation Area and the Core Central Activities Zone (Core CAZ) but outside of the designated stress areas. The building currently comprises of basement and ground to fourth floor levels and is utilised as a retail unit at basement and ground floor levels, and office accommodation on the upper floors. Planning permission was recently granted on the 24th May 2016 for the use of the first to fourth floor levels as retail accommodation (Class A1).

Planning permission is now sought for the change of use of the first and second floors to allow for either continued office use; retail accommodation or a sui generis use comprising retail, restaurant and bar functions. Externally it is proposed to install plant on a flat roof at rear first floor level with associated acoustic screening and to install a high level extract duct on the rear elevation of the property to terminate at main roof level.

The key issue is:

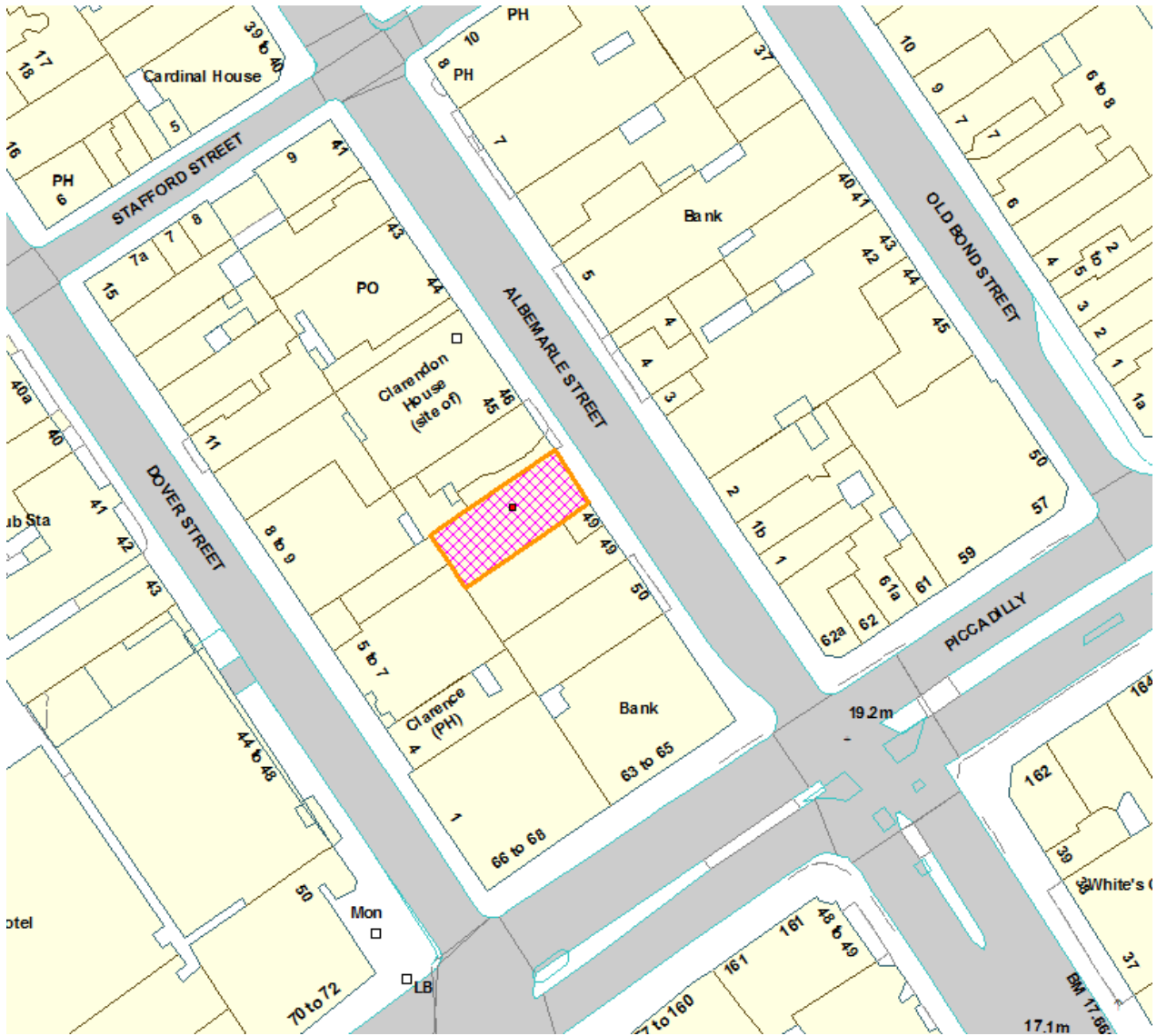
- The impact of the proposed use on the amenity of nearby sensitive occupiers and on the

character and function of the area.

- Potential noise transference from the proposed use through the building structure to adjoining sensitive properties.
- The impact of the proposed external alterations on the character and appearance of the Mayfair Conservation Area.

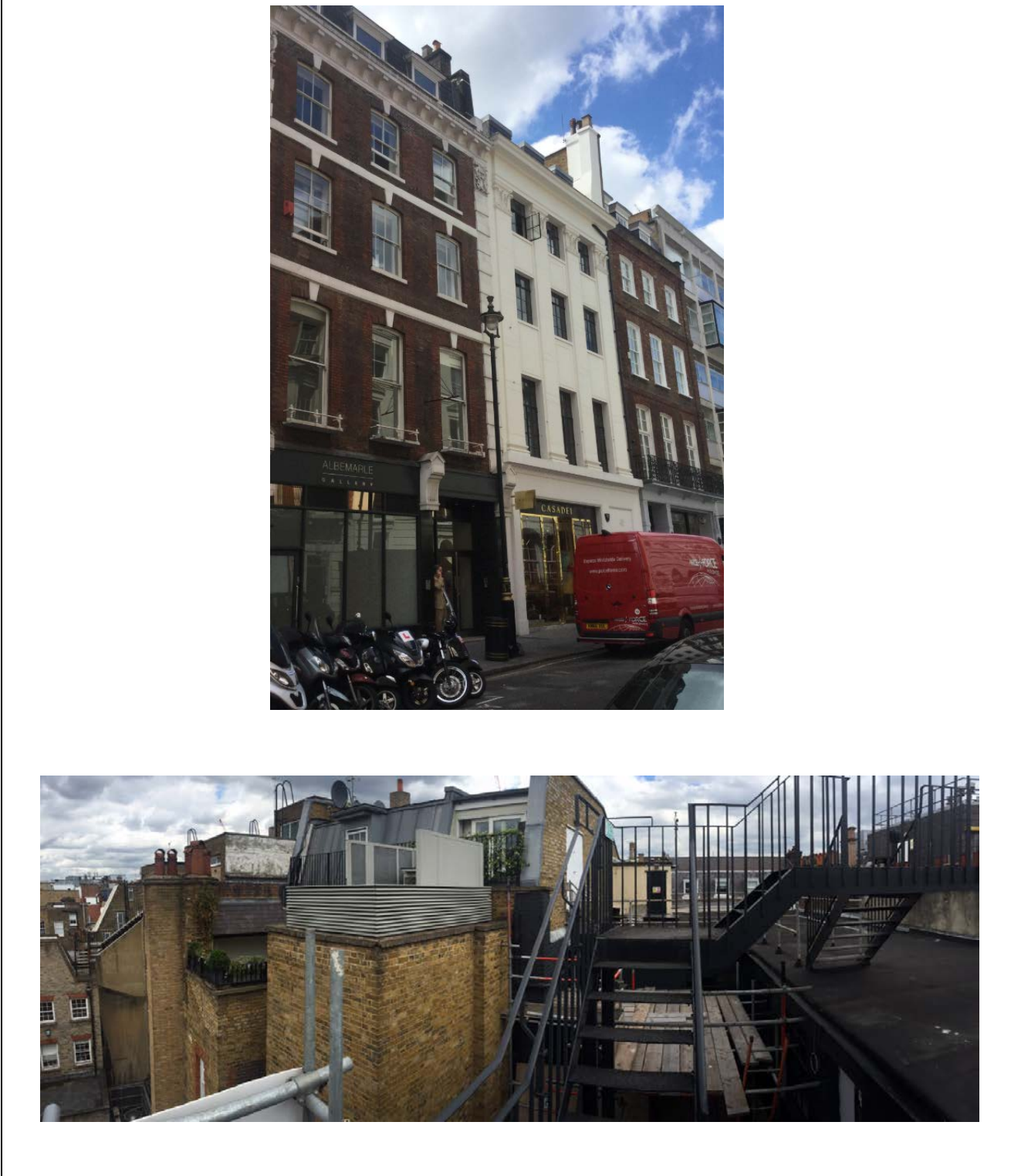
Subject to appropriate conditions it is considered the proposed office, retail or sui generis use would be acceptable in terms of the impact upon residential amenity in the vicinity and would not harm the character and function of this part of the Core CAZ. Furthermore, the proposed external alterations are considered to preserve the character and appearance of the Mayfair Conservation Area. The proposal is therefore acceptable in amenity, land use, transport, and design terms and the application is recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and City Plan policies.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S

No objection.

HIGHWAYS

Acceptable subject to conditions.

CLEANSING

Objection – insufficient detail has been provided with regard the waste and recycling storage.

ENVIRONMENTAL HEALTH

Acceptable subject to conditions.

METROPOLITIAN POLICE

No comment.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 123

Total No. of replies: 1

No. of objections: 1

No. in support: 0

Objection on the following grounds:

- Noise disruption and air pollution from the operation of the proposed plant.
- Odour nuisance to neighbouring residential properties from the kitchen operation.
- Potential for noise transference through the building structure to the neighbouring residential unit.
- Noise disruption from staff and customers outside the property.
- Clarification sought on emergency access.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

48 Albemarle Street is an unlisted building in the Mayfair Conservation Area and the Core CAZ but outside of any designated stress area. The building comprises basement, ground and four upper floors and is utilised as retail accommodation at basement and ground with office accommodation at first to fourth. Planning permission was granted on the 24th May 2016 for the use of the first to fourth floor levels as retail accommodation (Class A1) with works progressing on-site to part implement this consent to enable the creation of a retail unit at third and fourth floor levels (hairdressers).

The area of the first and second floor levels (with ground floor entrance) to which this application relates currently has lawful use as office accommodation (Class B1) as, whilst

strip out works have taken place on these floors, the approved retail use on these floors has not been implemented.

6.2 Recent Relevant History

Planning permission was granted on the 24th May 2016 for the; 'Use of the first, second, third and fourth floors as retail accommodation (Class A1)'.

7. THE PROPOSAL

Permission is sought for the change of use of the first and second floors of the property and ground floor entrance to either retail accommodation, continued office use or a sui generis use comprising retail, restaurant and bar functions. It is also proposed to install air conditioning equipment on a flat roof area at rear first floor level with associated acoustic enclosures and to install a high level extract duct on the rear elevation of the property to terminate at main roof level to provide extraction for the proposed kitchen with the sui generis use.

The table below details the proposed arrangements of the potential sui generis use:

	Sui generis use comprising ground floor entrance and first and second floor levels
Floor space (m2)	259m ²
No of covers	120
Hours of Operation	08:00 till 00:30 Monday to Saturday and 08:00 till 23:00 on Sundays and Bank Holidays.
Ventilation arrangements	New kitchen extract to be routed externally on the rear elevation to terminate at main roof level.
Refuse Storage arrangements	Relevant conditions proposed.

8. DETAILED CONSIDERATIONS

8.1 Land Use and Amenity

Office use

The proposal could result in the loss of general office accommodation (Class B1). The City Council has no policies seeking the protection or retention of general office accommodation in this location where the proposed change is to another commercial use. The potential loss of the office floor space is therefore considered acceptable in principle.

Retail use

As detailed above there is an extant consent for the retail use of the premises which was granted in May 2016. The potential increase in retail accommodation is welcomed at this location and accords with Policies S6 and S21 of the City Plan and SS4 of the UDP.

Sui Generis use

The proposed occupier of the sui generis use already operates 'Bar Termini' from 7 Old Compton Street which has been in operation since 2012. The proposed sui generis use has been detailed within the submitted Operational Management Plan. Within the ground floor entrance there would be a small reception area where customers would be met, the capacity of the first and second floors would be 60 covers per floor. The premises would be open for breakfast, lunch and dinner, the retail function of the operation would result from any cold food and drinks sold for consumption off the premises. Whilst this is likely to be small element of any operation the applicant would offer juices, cakes and Italian influenced goods which could be purchased and taken away.

The proposed use would measure 259m², an entertainment unit of this type and size located within the Core CAZ but outside of a designated stress area would be considered against Policies TACE8 of the UDP and S24 of the City Plan.

Policy S24 of the City Plan requires that, *'New entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.'* Policy TACE8 of the UDP has similar stipulations and relates to new entertainment uses which 'will generally be permissible'. Where the City Council considers the proposal will not have an adverse impact (including cumulative effects) resulting from noise, vibration, odour, late night activity or traffic implications permission may be granted but conditions would be required to restrict opening hours, capacity, servicing, arrangements for waste and recycling, any take-away from the premises, deliveries, music, bar areas and suitable arrangements should be made to prevent noise nuisance and to disperse cooking odours.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floor space to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The immediate vicinity of the site is characterised primarily by commercial uses with retail and restaurants on the lower floors and office accommodation on the upper floors. The site is located approximately 40m north of the junction with Piccadilly. The nearest residential properties are two flats within the adjoining property to the north (47 Albemarle Street) and a single residential flat within 50 Piccadilly to the south of the application site. Council records do not indicate any other residential units on this section of Albemarle Street between Piccadilly and Stafford Street.

One objection has been received to the application from the residential occupier of the residential unit at second and third floor level within 47 Albemarle Street. They are concerned with regard the installation of plant and the potential for noise disturbance, pollution and odour resulting from its operation. They are also concerned about the

potential for noise and disturbance from customers and staff entering and exiting the premises and noise transference through the building structure itself resulting from the sui generis operation.

It is proposed for the new entertainment premises to have 120 covers and opening hours of 08:00 till 00:30 Monday to Saturday and 08:00 till 23:00 on Sundays and Bank Holidays. Paragraph 8.88 of the UDP states; *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. As detailed above this is not considered a 'predominantly residential area' and being so close to Piccadilly it is likely there is a high footfall of pedestrians in this area late into the evening.

The nearest licensed premises include:

- A restaurant at 42 Albemarle Street with opening hours of 10:00 to 02:30 Monday to Saturday and 10:00 till 01:30 on Sundays;
- The King's Head public house at 10 Stafford Street with opening hours of 07:00 to 00:30 Monday to Thursday, 07:00 to 01:30 Friday to Saturday and 07:00 to 00:30 on Sundays; and
- A premises in the lower ground floor of 36 Albemarle Street licensed to open from 09:00 till 06:00 Monday to Saturday and 09:00 till 23:00 on Sundays.

The proposed opening hours are therefore considered acceptable and it is not considered the proposal would result in additional late night noise within the area especially in such close proximity to Piccadilly which will facilitate rapid dispersal of patrons leaving the premises.

The Operational Management Plan submitted in support of the application states that in order to ensure the operation of the premises causes no nuisance to neighbouring occupiers the applicant will:

- Not allow customers to drink outside the premises;
- Contain all waiting customers in the ground floor area;
- Have a member of staff within the ground floor entrance at all times (including SIA trained door staff at appropriate times);
- Any customers congregating outside the premises will be asked to move on;
- Appropriate acoustic mitigation will be installed as required;
- Any music will not be audible outside the premises;
- Staff are also able to call taxis when people pay their bills with the customer remaining in the premises until the taxi is available; and
- Comply with the requirements of this Operational Management Plan should the sui generis use be implemented (to be secured by condition).

A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties. This is to ensure there is no noise nuisance to the adjoining residential occupiers.

The proposed restaurant would have a new high level extract duct terminating at main roof level which would provide suitable odour dispersal above the height of all neighbouring residential windows. A condition is proposed to ensure that, if the sui generis use be implemented, the duct is provided and retained in association with this premises. Whilst an objection has been received in relation to the potential for odour nuisance from the operation to affect the neighbouring sensitive property, with this duct in place the objection is not considered sustainable.

A number of acoustic reports have been submitted by the applicant with regard noise transference through the building structure from the proposed sui generis use to the residential flat within 47 Albemarle Street at second and third floor levels. The objector within this neighbouring property (second and third floor level) has had these critiqued by his own acoustic consultant and has maintain his objection to the proposal, arguing that the proposed acoustic mitigation measures would be insufficient to ensure the operation of the use does not result in unacceptable noise transmission through the building structure.

Subsequent to the submission of the application, the acoustic consultant for the applicant has conducted noise testing within the first floor flat at 47 Albemarle Street and this has informed its analysis. In order to comply with the City Council's policy requirements with regard to internal noise levels in residential properties, it is proposed to install secondary glazing to the windows (which should also be fixed shut), acoustically treated fire doors on the rear elevation, and acoustic wall lining at first and second floor levels on the party walls between the application site and No. 47 Albemarle Street.

The Environmental Health Officer has reviewed all the submitted information and has determined that, with the identified acoustic mitigation measures installed, the proposal will be compliant with the relevant adopted policies. Conditions will be imposed to ensure that any noise transmission resulting from the proposal to the neighbouring sensitive uses accords with UDP Policies ENV 6, thereby preserving the residential amenity of this neighbouring resident (in accordance with City Plan Policy S29). Conditions are proposed to ensure that all the acoustic mitigation measures are installed as described before the unit operates and maintained in situ for as long as the premises is in operation. Whilst the objection is noted, the acoustic information from both parties has been fully assessed by the Environmental Health Officer and the proposal deemed acceptable subject to the conditions detailed above.

With the relevant safeguarding conditions detailed above and the modest opening hours of the entertainment use, it is not considered that the proposal would have a detrimental impact on the living conditions of neighbouring residents nor local environmental quality. The principle of the proposed entertainment premises is therefore considered to be in accordance with UDP Policy TACE8 and City Plan Policy S24.

8.2 Townscape and Design

No. 48 Albemarle Street is on the west side of the street and dates from the eighteenth century. It was refaced in the early twentieth century and has a painted stucco façade with metal-framed windows. To the rear the brick facades are painted black and are dominated by a metal fire escape. The rear of the property is visible from some of the neighbouring

properties, many of which have a variety of mechanical plant installations and full height flues/ducts.

In this context, the proposed location of the new plant at No. 48 is acceptable and in terms of its detailed design it has been sited to minimize its visual impact. Subject to the installation of GRP cladding around the high level extract duct finished to match the adjoining brickwork, the character and appearance of the building and surrounding conservation area will be maintained. This accords with UDP policies DES 1, DES 5 and DES 9.

8.3 Transportation/Parking

The site is located within a Controlled Parking Zone so anyone driving to the site will be subject to these restrictions. It is expected that most people visiting the site will use public transport.

Whilst the potential retail use would likely have the same servicing requirements of the office use, the potential entertainment use would likely result in additional servicing requirements. Whilst some information has been provided with regard deliveries in the Operational Management Plan, this only provides general information on the storage areas and management of staff requirements and delivery times. The Highways Planning Manager has requested the addition of a condition to any approval requiring the submission of a Servicing Management Plan to more fully detail the management of the servicing of the entertainment premises and how this will be managed to reduce any impact upon highways movements or the amenity of neighbouring sensitive occupiers. Such a condition is proposed.

Cycle parking has been shown on the half landing areas and a relevant condition is proposed to ensure this is provided and retained.

With these conditions in place the proposal is considered acceptable in transportation terms.

8.4 Economic Considerations

Any economic implication of the proposal is likely to be neutral.

8.5 Access

There is existing level access from the street to the ground floor of the property with an existing lift servicing the upper floors of the property. This arrangement would be retained and an accessible toilet would be provided at first floor level within the proposed entertainment use.

8.6 Other UDP/Westminster Policy Considerations

Plant

Four air conditioning units are proposed within associated enclosures on the rear first floor flat roof area and a high level extract duct is proposed on the rear elevation of the property

to terminate at main roof level. One existing item of plant on the rear flat roof area is to be removed. The proposed plant installation has been considered in the context of Policies ENV6 and ENV7 of the UDP and S29 and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

The initial acoustic assessment submitted in support of the application included background noise measurements from February 2017 in order to establish the design criteria for the new plant. It was noted that these measurements differed from the background noise measurements included in an earlier report when measurements were taken at the rear of the property in June 2016. Additional information was submitted to substantiate the February 2017 measurements and these measurements have now been accepted as accurate by Environmental Health with the June 2016 results described by the Environmental Health Officer as being 'an outlier as it presents noise data significantly at variance with the remaining three noise reports'.

The lowest background noise levels were recorded as 53dB, 54db and 52dB for the daytime, evening and night-time respectively. Taking into account the acoustic mitigation provided by the proposed enclosures the noise level from the plant is expected to be a maximum of 42dB at the nearest sensitive window which serves 47 Albemarle Street to the north.

Environmental Health has confirmed that the proposed plant will be compliant with the relevant criterion within UDP Policy ENV 7, raising no objection to the proposal. Conditions are proposed in relation to noise, vibration and the installation and retention of the acoustic mitigation features. An objection has been received to the application with regard the potential for noise disturbance from the plant installation but, as detailed above, all the proposed plant has been carefully considered by Environmental Health and noise levels will be compliant with the relevant policies.

The objector raised an issue about plant within the vicinity already causing a noise nuisance. However, this plant has been investigated by Environmental Health and found to be compliant with the relevant conditions attached to its planning consent. The objector has also questioned whether the duct is large enough for the restaurant. This is the duct which has been sought by the planning application and, if a materially different duct was required, its installation would need to be subject to a subsequent application. The objector has commented that the fan units for the duct are not been shown on the drawings. The applicant has confirmed that the fan associated with the duct will be located internally within the property. Considering the fan is within the premises, a condition is proposed requiring the submission of a supplementary acoustic report to demonstrate the fan operation is compliant with the standard noise criteria.

Refuse /Recycling

A suitable waste storage area has been identified on the proposed drawings for the entertainment use but the Cleansing Manager has requested the submission of a revised drawing to show the relevant bin capacities and labelled bins for general waste, food waste and recycling as well as the waste cooking oil storage. A condition is proposed requiring the submission of an amended drawing to show this.

Other

The objector has also asked for further information relating to emergency access for the proposed uses but this is a Building Control rather than a planning matter and would be assessed through the application of the building regulations.

8.7 London Plan

This application raises no strategic issues.

8.8 National Policy/Guidance Considerations

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

8.9 Planning Obligations

The application does not generate any requirement to secure any planning obligations.

9. BACKGROUND PAPERS

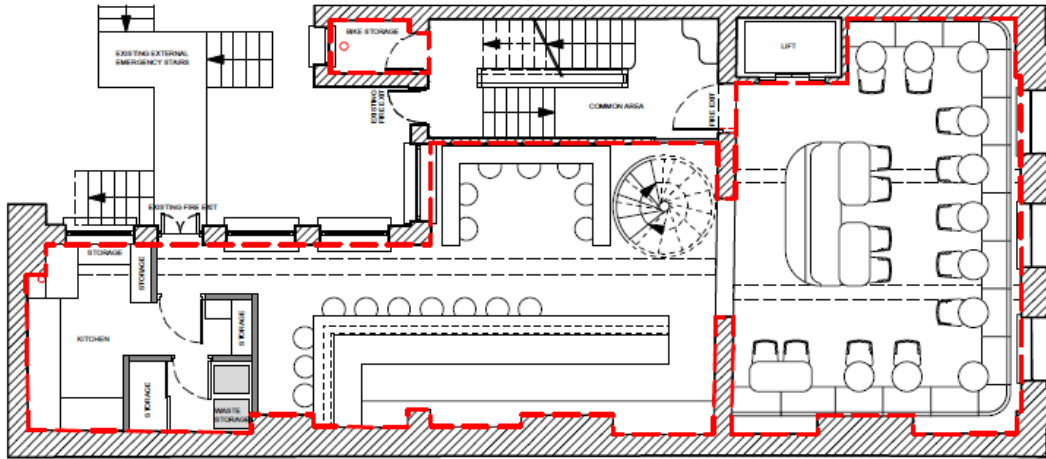
1. Application form
2. Response from Residents Society Of Mayfair & St. James's, dated 24 May 2017
3. Response from the Metropolitan Police (Designing Out Crime) dated 28 April 2017
4. Response from the Cleansing Manager dated 10 May 2017
5. Response from the Highways Planning Manager dated 17 May 2017
6. Responses from Environmental Health, dated 2 June 2017, 4 September 2017 and 14 September 2017
7. Letters from One Planning Consultants, 83-87 Pottergate, Norwich, dated 17th May 2017, 22 May 2017, Francis Taylor Building, Inner Temple dated 19 May 2017 and 8 September 2017, Cole Jarman, 24B High Street, Addlestone, Surrey dated 30 May 2017 and 8 September 2017 (all representing the occupier of the second and third floor flat, 47 Albemarle Street, London).

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

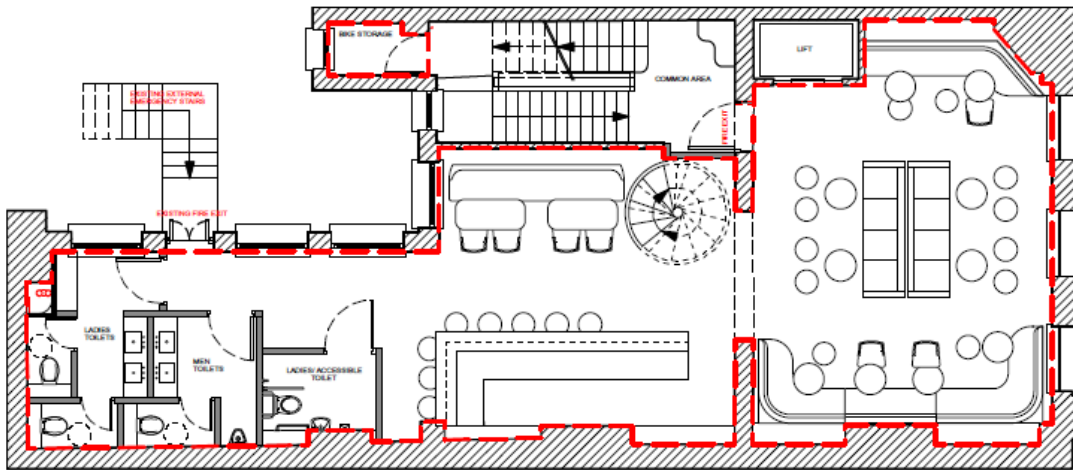
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MARK HOLLINGTON BY EMAIL AT mhollington2@westminster.gov.uk

10. KEY DRAWINGS

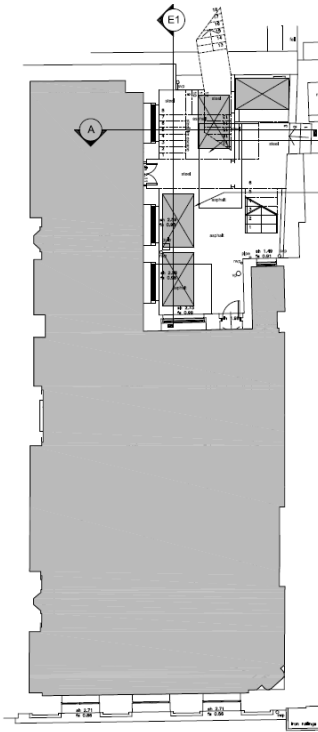
Proposed First Floor (sui generis use)



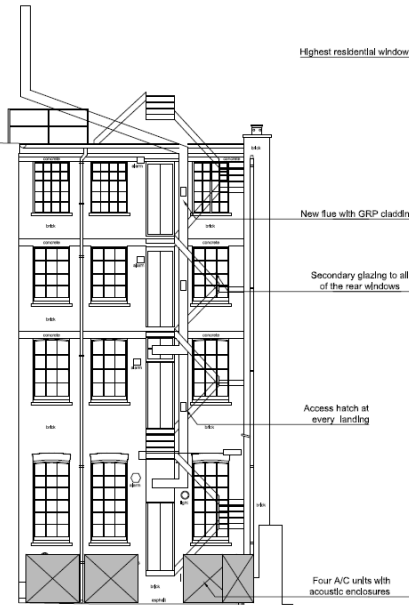
Proposed Second Floor (sui generis use)



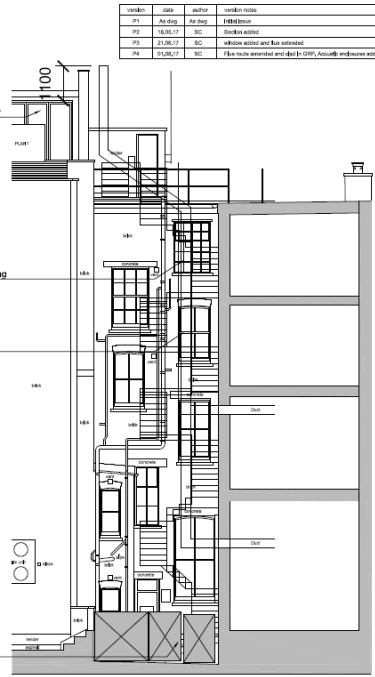
Proposed Rear Elevation



01 Proposed First Floor Plant Plan
Scale 1:100



02 Proposed Elevation E1
Scale 1:100



03 Proposed Section A
Scale 1:100

Version	Date	Author	Revision
P1	04.09.17	AK, DSG	Initial Issue
P2	04.08.17	SG	Structural notes
P3	23.08.17	SG	Window notes and Rev removed
P4	05.08.17	SG	Flus note amended and added to GRP, acoustic enclosure notes

0 1m 2.5m 5m
SCALE: 1:100

PLANNING

Orbit Architects

DRAFT DECISION LETTER

Address: 48 Albemarle Street, London, W1S 4DH

Proposal: Use of part ground floor level and first to second floor levels for either continued office (Class B1) use or retail (Class A1) use or a sui generis use comprising retail, restaurant and bar elements; the installation of a full height extract duct on the rear elevation and installation of plant with associated acoustic screening on the flat roof area at rear first floor.

Reference: 17/03502/FULL

Plan Nos: Operational Management Plan for Gazelle, Acoustic Report (REP(00)U001), Acoustic Report (REP(00)U002) Drawings: 100 P4, 101 RevP2, 102 RevP1, A1 Use (001_01 and 001_02), B1 Use (001_01 and 001_02), Mixed Use (003_05 and 003_06).

Case Officer: Matthew Giles

Direct Tel. No. 020 7641 5942

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:

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

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

- between 08.00 and 18.00 Monday to Friday; and
- 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 S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 4 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)
- 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 5 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)
- 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 6 You must apply to us for approval of a sample of the following parts of the development - proposed treatment for the extract duct (eg through the use of GRP) so that it matches the adjacent brickwork. You must not start any work on these parts of the development (nor install the duct) until we have approved what you have sent us. You must then carry out the work according to these approved details.
- 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 7 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)
- Reason:
In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)
- 8 Prior to the implementation of the sui generis use hereby approved you must provide each cycle parking space shown on the approved drawings. Thereafter the cycle spaces must be retained and the space used for no other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.

- 9 Prior to the operation of the sui generis use hereby approved you shall submit and have approved in writing by the local planning authority a detailed servicing management strategy (including hours of servicing) for the premises. All servicing shall be undertaken in accordance with the approved strategy.

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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 10 (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 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.

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 (November 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.

- 11 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.

- 12 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.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 13 You must remove all redundant plant and associated fixtures and fittings before the plant hereby approved is installed.

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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 14 Prior to the implementation of the sui generis use hereby approved you must install all the acoustic mitigation measures to the specification detailed within the approved acoustic reports and maintain them in this form for as long as the sui generis use is in operation.

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 (UDP), 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 (November 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.

- 15 Prior to the implementation of the sui generis use hereby approved you must install the high level extract duct as shown on the approved drawings and maintain it in this form for as long as the sui generis use is in operation.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 16 You must install the acoustic enclosures around the plant at rear first floor level at the same time as the plant is installed to the specification detailed in the acoustic report and as shown on the approved drawings. Thereafter the enclosures must be maintained in situ for as long as the plant remains in place.

Reason:

To safeguard the amenity of occupiers of adjoining premises by preventing noise and vibration nuisance and 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 Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and ENV6, ENV7, DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007.

- 17 Prior to the implementation of sui generis use hereby approved, all windows at first and second floor level shall be fixed shut and maintained in this form for as long as the sui generis use is in operation.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 18 The sui generis use hereby approved must be operated in accordance with the stipulations of the Operational Management Plan for Gazelle.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 19 If you choose to implement the sui generis use you must not allow more than 120 customers into the property at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 20 If you choose to implement the sui generis use hereby approved you must not play live or recorded music within premises that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 21 If you choose to implement the sui generis use hereby approved you must not open the premises to customers, and you must not allow customers on the premises, outside the hours:

- 08:00 till 00:30 Monday to Saturday; and
- 08:00 till 23:00 on Sundays and Bank Holidays.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 22 Prior to the implementation of the retail or sui generis use hereby approved 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 for each of the uses hereby approved. You must not commence either of these uses until we have approved what you have sent us. You must then provide the relevant 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 premises.

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)

- 23 Prior to the implementation of the sui generis use hereby approved you must apply to us for approval of details of a supplementary acoustic report demonstrating that the fans associated with the high level extract duct will comply with the Council's noise criteria as set out in Condition 10 of this permission. You must not commence the sui generis use hereby approved until we have approved what you have sent us.

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 (November 2016), by contributing to reducing excessive ambient noise levels.

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 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: districtsurveyors@westminster.gov.uk. Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which

relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply. The Equality and Human Rights Commission has a range of publications to assist you, see www.equalityhumanrights.com. The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit www.cae.org.uk. If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk. It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 3 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 4 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)
- 5 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.
- 6 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 7 Kitchen Extract Informative: , - The kitchen extract ducts should be designed to discharge vertically at highest roof level and clear of all existing and proposed windows in the vicinity. We accept systems with a flue height level which is higher than any building within 20 metres of the building housing the commercial kitchen. , - A scheme of odour reduction will need to be incorporated together with full height discharge if there are surrounding premises that are between 20 m - 50 m distance and which are also higher than the discharge point of the building housing the commercial kitchen., - All odour producing processes/cooking must be placed under the extract canopy hood in the kitchen to avoid low level odour escape from kitchen windows and doors., - All kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance at approximately 3 metre intervals and also complying with the H & S safe access standards (Informative 180CB).
- 8 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public. Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm , The following are available from the British Standards Institute - see <http://shop.bsigroup.com/> , , BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances , BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 9 Conditions 10 and 11 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)

- 10 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the relevant parts of the property can change between the A1, B1 and sui generis uses we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

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.