

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 20 November 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	334-348 Oxford Street, London, W1C 1JG		
<b>Proposal</b>	<p><b>Application 1:</b> Use of part of the ground floor (on the corner of Henrietta Place and Vere Street) as restaurant (Class A3) with associated external alterations to form new entrance.</p> <p><b>Application 2:</b> Use of an area of the public highway measuring 14.71m x 2.63m for placement of 25 tables, 50 chairs, 10 barriers and 8 planters on Vere street elevation in association with the ground floor restaurant.</p>		
<b>Agent</b>	Quod		
<b>On behalf of</b>	Debenhams Retail PLC		
<b>Registered Number</b>	<b>Application 1:</b> 18/03718/FULL <b>Application 2:</b> 18/00158/TCH	<b>Date amended/ completed</b>	<b>Application 1:</b> 10 May 2018
<b>Date Application Received</b>	<b>Application 1:</b> 04 May 2018 <b>Application 2:</b> 09 January 2018		<b>Application 2:</b> 28 March 2018
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	None		

## 1. RECOMMENDATION

### **Application 1:** Grant conditional planning permission.

1. Subject to 1. above, that Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway to enable this development to take place.
2. Subject to 1. and 2. above, that the Executive Director of City Management & Communities or other appropriate officer be authorised to take all necessary procedural steps in conjunction with the making of the order and to make the order as proposed if there are no unresolved objections to the draft order. The applicant will be required to cover all costs of the Council in progressing the stopping up order.

### **Application 2:** Grant conditional planning permission for a temporary period of one year.

## 2. SUMMARY

These applications relate to the north eastern corner of Debenhams department store, which is located at the western end of Oxford Street and public highway on Vere Street. Application 1 seeks permission for use of part of the rear ground floor of Debenhams department store fronting onto Henrietta Place and Vere Street as a restaurant. Application 2 is for the placing of tables and chairs on the highway on Vere Street in connection with the proposed restaurant.

The key issues for consideration are:

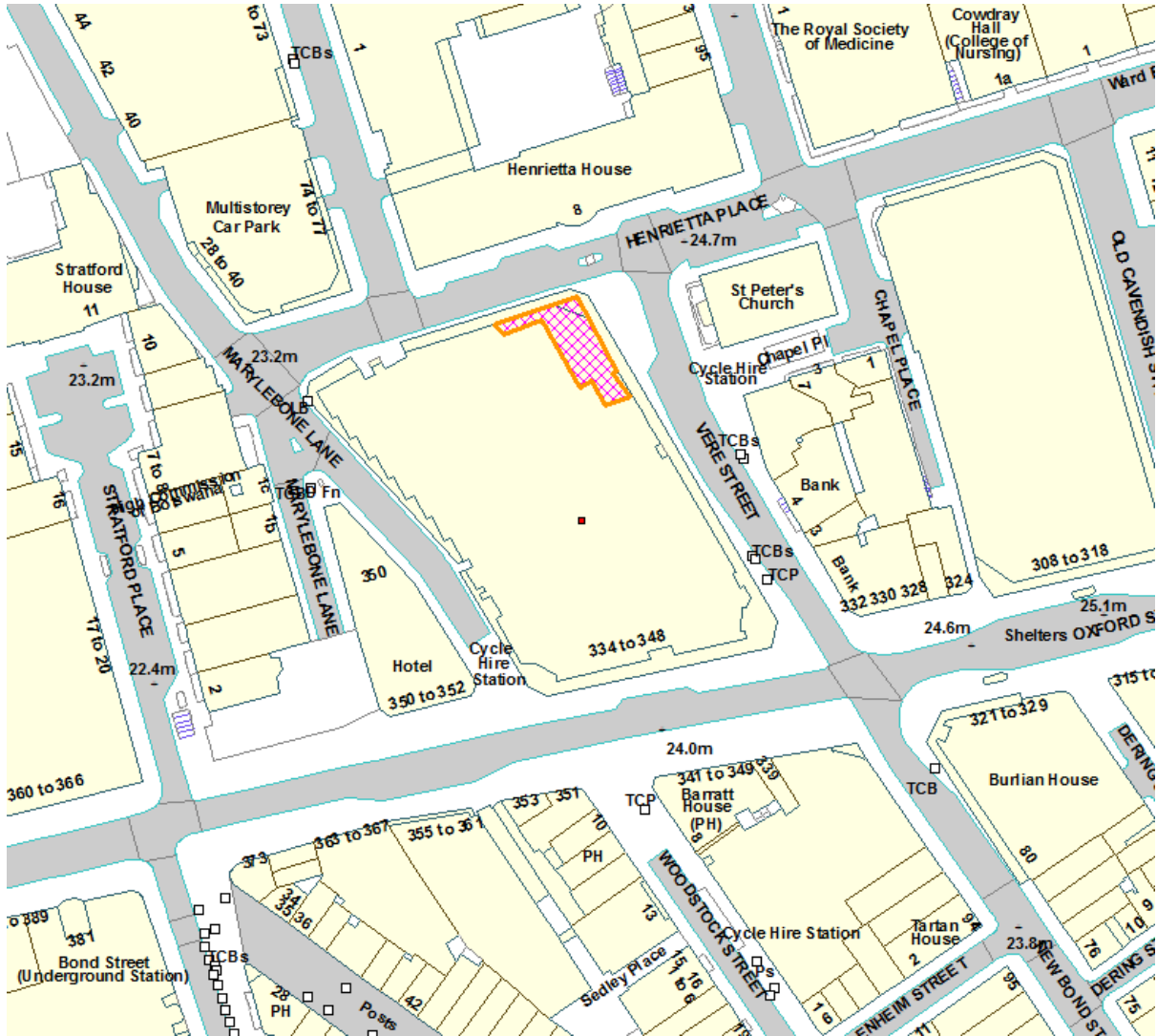
- The loss of retail floorspace in the WESRPA and on a Primary Shopping Frontage and on the character and function of the area,
- The impact of the proposed restaurant and external seating area on residential amenity of the surrounding area, and
- The impact of the external seating upon pedestrian movement and highways safety.

Debenhams department store fronts onto Oxford Street which is designated in the City Plan and Unitary Development Plan as being a prime shopping frontage. As such there is a very strong land use policy presumption to protect existing retail uses. In this case however the application will result in the loss of a small amount of retail floorspace at the rear of the block and would not impact on the Oxford Street frontage or the continued operation of the department store. In the circumstances the loss of retail is considered acceptable as it would not be detrimental to the character and function of the area. The provision of a restaurant would provide a service use that will compliment the retail function of Oxford Street and the West End Special Retail Policy Area (WESRPA). Subject to appropriate conditions the proposed restaurant use is considered acceptable.

The proposed tables and chairs on Vere Street would be compliant with Westminster Way and would not result in an obstruction to pedestrian movements. Use of the external seating would not adversely impact on residential amenity. The application is therefore considered acceptable.

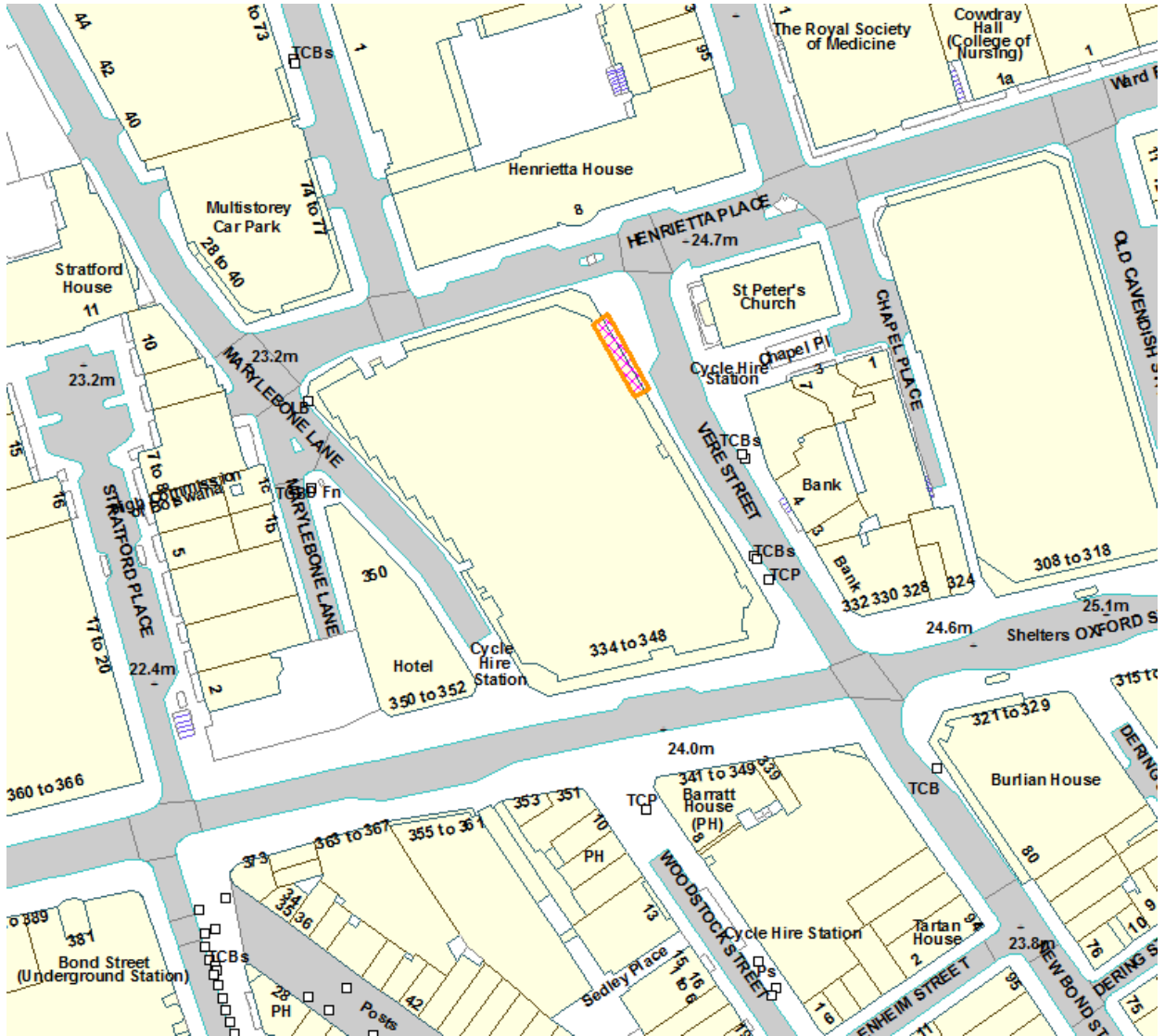
### 3. LOCATION PLANS

#### Application 1:



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Application 2:



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### Application 1:

MARYLEBONE ASSOCIATION

No objection

THAMES WATER

No objection

HIGHWAYS PLANNING

No objection subject to conditions

WASTE OFFICER

Request that details of refuse provision is secured by condition.

ENVIRONMENTAL HEALTH

No objection subject to conditions

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 3

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

### Application 2:

MARYLEBONE ASSOCIATION

Any response to be reported verbally

HIGHWAYS PLANNING

No objection subject to conditions

WASTE OFFICER

No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 8

Total No. of replies: 0

SITE AND PRESS NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is an unlisted building located in the Core Central Activities Zone (CAZ), the West End Special Retail Policy Area (WESPRA) and on a Primary Shopping Frontage. The site is not located in a designated Conservation Area and outside of an identified Stress Area.

The building is occupied by Debenhams and comprises of basement, ground and five upper floors. The building fronts Oxford Street to the south, Marylebone Lane to the west, Henrietta Place to the North, and Vere Street to the east.

Both applications relate to the north eastern corner of the site on the corner of Henrietta Place and Vere Street.

## 6.2 Recent Relevant History

There is no recent relevant planning history on this site.

During the consideration of this application, it has come to light that the north western corner of Debenhams is also being used for restaurant purposes, occupied by Chi Kitchen. There are no records of permission being granted for the restaurant use, This is now the subject of on-going enforcement investigations.

## 7. THE PROPOSAL

### Application 1:

Permission is sought to allow use of part of the ground floor (on the corner of Henrietta Place and Vere Street) as restaurant (Class A3). Floorspace figures are in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
<b>Retail (Class A1)</b>	264.5	0	-264.5
<b>Restaurant (Class A3)</b>	0	277	+277
<b>Total</b>	264.5	277	+12.5

The applicant argues that as the premises is a department store, by definition it accommodates a wide variety of brands and concessions and that Franco Manca the intended occupier is no different to any other retail or food and beverage concession presently in the Oxford Street Store or other department stores. They state that as the 'concession' would occupy 1.2% of the overall floorspace for the store (or 8.3% of the ground floor) it will be subservient, or ancillary, to the primary retail offer of the store.

However, although the restaurant would be accessed from within the department store, this could be closed off and the restaurant also has independent street access. It is proposed that the restaurant would operate longer hours than the Debenhams Store. The use is not therefore considered to be ancillary

The application includes the provision of a new entrance on Vere Street and infilling a chamfered corner at the junction of Henrietta Place and Vere Street.

### **Application 2:**

Permission is sought for use of an area of the public highway measuring 14.71m x 2.63m on Vere Street for placement of 25 tables, 50 chairs, 10 barriers and 8 planters at the northern end of Vere Street. The tables and chairs will be used in association with the proposed restaurant use considered under Application 1 in this report.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

#### **Application 1:**

##### **Loss of retail (Class A1) use**

City Plan Policy S21 protects retail floorspace through the Westminster except where the Council considers the unit is not viable, as demonstrated by long-term vacancy (18 months) despite reasonable attempts to let. Policy S7 of the City Plan seeks to maintain and enhance the unique status of the West End Special Retail Policy Area (WESPRA). UDP Policy SS3 seeks to enhance shopping in the International Centres' Primary Shopping Frontages. It states that planning permission will not, except in the most exceptional circumstances, be granted for a change of use from A1 use at basement, ground floor, or first floor level within the Primary Shopping Frontage.

The site is not vacant and the applicant does not advance the argument that the continued retail use is not viable. The applicants justification for the loss of retail is that the existing retail floorspace that would be lost (264m<sup>2</sup>) is only 1.2% of the overall floorspace of the Debenhams store, and 8.3% of the total ground floor area.

As the proposal would result in a loss of retail floorspace within WESPRA this is technically contrary to City Plan Policy S21. However, it is considered that in this location the loss of retail floorspace will not have a detrimental impact on the character and function of the area. There is no loss of a retail unit, as the Debenhams Store will remain, and the area subject to this application is not located on the Oxford Street (Primary Shopping) frontage itself, being at the rear of the building on the corner of Henrietta Place and Vere Street. As a result, it is considered that the loss of retail would not have a material and harmful impact on shopping provision on Oxford Street.

The proposed use is also considered to support and enhance the key retail function of Oxford Street, the WESPRA, and the Debenhams unit, which is in line with the goals of City Plan Policy S7. It is therefore considered that in this instance, the loss of retail floorspace is acceptable.

##### **Proposed restaurant (Class A3) use**

City Plan Policy S6 accepts that, in principle, entertainment uses are appropriate for the Core CAZ. City Plan Policy S24 and UDP Policies TACE 8-10 deal with entertainment uses. The TACE policies are on a sliding scale in which developments where TACE 8 is applicable would be generally permissible and where TACE10 is applied (where the



gross floorspace exceeds 500sqm) only in exceptional circumstances. Given the size of the development, it needs to be assessed against UDP Policy TACE 10.

City Plan Policy S24 requires proposals for new entertainment uses to demonstrate that they are appropriate in terms of 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. The policy states that new large-scale late-night entertainment uses of over 500sqm will not generally be appropriate within Westminster.

The policies aim to control the location, size and activities of entertainment uses in order to safeguard residential amenity, local environmental quality and the established character and function of the various parts of the City, while acknowledging that they provide important services in the City and contribute to its role as an entertainment centre of national and international importance.

The site is located within the Core CAZ but outside of a stress area. Given the size of the premises (277sqm), UDP policy TACE 8 is applicable. There are no residential properties in the immediate locality, the closest residential properties on Vere Street are at the opposite end, at No.1, adjacent to Oxford Street. There are not records of residential properties on this part of Henrietta Place.

The operational details of the proposed unit are summarised in the table below:

Opening Hours	Monday – Sunday (daily): 09:30-23:00 <i>(Debenhams Store opening hours are: Monday – Tuesday: 09:30 – 21:00, Wednesday – Saturday: 09:30 – 22:00, and Sunday: 12:00 – 18:00)</i>
Number of covers	100 (+50 external seats being assessed under Application 2)
Servicing and deliveries	Within the existing Debenhams servicing area (accessed from a servicing yard on Wellbeck Street, behind Henrietta House)

A full height ventilation extraction system will be installed which will run internally and discharge at roof level. Environmental Health have advised that this is acceptable. A condition is recommended requiring the ductwork to be installed prior to the restaurant use commencing and thereafter be permanently retained whilst the use is in operation.

Given the size of the premises and the absence of any residential properties close to the site, it is not considered that the proposals would have an adverse impact on the character or function of the area, or on residential amenity.

Subject to conditions restricting capacity, opening hours and other elements of possible restaurant operation (such as size of bar area etc.), the proposed use is considered acceptable.

**Application 2:**

Not applicable

## 8.2 Townscape and Design

### Application 1:

334-348 Oxford Street is an unlisted building. It abuts the Harley Street Conservation Area across Vere Street, and the Mayfair Conservation Area across Oxford Street. Immediately opposite the north east corner is St Peter's Church, a grade I listed building.

The application building was completed in 1971 to designs by Adrian V Montagu and Partners in association with V J Syborn of George Baines and Syborn Architects. The building which is unfaced concrete above ground floor is described in Pevsner as "big and dispiriting" The massive concrete block, with slot windows from first to third floors is now covered entirely with a 'kinetic façade'; perforated aluminium panels suspended as a curtain around each of the elevations, designed by the artist Ned Khan. At ground floor the building consists of a mixture of full height shop windows and doors, as well as service doors and louvered panels.

The north east corner of the building is chamfered with a single pillar supporting the overhanging first floor. The building, including the ground floor corner arrangement is considered to make a neutral contribution to the streetscape, and has a neutral impact on the setting of the Harley Street Conservation Area.

Infilling the corner and the proposed new entrance will not be harmful to the appearance of the building, or the setting of the adjacent listed building and conservation areas.

### Application 2:

Not applicable

## 8.3 Residential Amenity/ Daylight/ Sunlight and Sense of enclosure

### Application 1:

Not applicable

### Application 2:

Not applicable

## 8.4 Transportation/Parking

### Application 1:

Extension over the Highway

The proposal includes extending the ground floor footprint to match the building line of the upper floors. Currently, this ground floor corner is chamfered and provides public footway, with a supporting pillar located in this area.

Highway is often in the ownership of the adjoining landowners (for example, pavement lights) however land ownership does not void highway status. Under the Highways Act, as the area subject to the application has been open and passable for at least 20 years, it has gained the status of highway, even if it has not been maintained by the Council as Highway Authority.

In its current form the building allows pedestrians to pass under the overhang on the corner of Henrietta Place and Vere Street, the proposed alterations would represent a permanent loss of public highway and removal of this more direct pedestrian route.

City Plan Policy S41 Pedestrian Movement and Sustainable Transport seeks to ensure all development will prioritise pedestrian movement and the creation of a convenient, attractive and safe pedestrian environment, with particular emphasis in areas with high pedestrian volumes or peaks.

City Council UDP Policy TRANS 3 asserts that the City Council, in considering development proposals, will aim to secure an improved environment for pedestrians with particular regard to their safety, ease, convenience and directness of movement in the course of negotiations or securing planning agreements, including provision of appropriate facilities such as footway widening, connecting walkways, footbridge location and covered arcading.

The permanent loss of public highway almost always raises concerns especially in areas that experience high levels of pedestrian traffic (Oxford Street, Regents Street, etc.). However, given the proposals location (not on the Oxford Street frontage), street geometry, pedestrian footfall levels and the predominant pedestrian flow locations, on balance it is considered that objection is not be raised to the proposal.

If permission were granted the applicant would need to submit a stopping up order under the highways act, the outcome of which cannot be guaranteed.

#### Servicing

The existing Debenhams Store benefits from a service yard (accessed from Wellbeck Street) and goods receiving area with a tunnel (at basement level) linking this to the main building. All servicing of the proposed unit (including deliveries, waste collection etc.) will take place using this. The Highways Planning Manager has advised that the proposed servicing arrangements for the use are acceptable. A condition is recommended that the use is carried out in accordance with a servicing management plan which will ensure servicing is not from Henrietta Place or Vere Street.

#### Cycle Parking

The London Plan indicates that this A3 use requires a minimum of 2 cycle parking spaces to be provided. These spaces have been shown on the proposed drawings following a request from officers. While these spaces are not in the best location, it is considered that given the restraints of the area subject to the proposal, the position is acceptable. The provision of these spaces shall be secured by condition.

**Application 2:****Tables and Chairs on the Highway**

Tables and chairs on the footway are controlled by policy TACE 11 of the City of Westminster Unitary Development Plan (UDP) 2007. This states that permission will only be granted when such a proposal fulfils a number of criteria, including that they will not cause an obstruction, unacceptably intensify the existing use, have a detrimental effect on the character or appearance of the area nor cause a nuisance to residents.

The Council's 'Westminster Way – Public realm strategy, Design principles and practice' stipulates that proposals should retain a minimum clearance of 2m clear width to ensure that there is no obstruction for pedestrians. The Highways Planning Manager has assessed the application and advised that the pavement proposed for tables and chairs measures approximately 6.3m from the building line to the closest item of street furniture (an existing tree). The area proposed for tables and chairs will leave an available footway width of approximately 3.5m for pedestrian use. While the measurements provided by the applicant do not exclude the existing tree pit which surrounds the tree, the Highways Planning Manager has advised that the minimum required freeway will still be provided. Accordingly, they are satisfied that the proposals will not affect pedestrian directness of movement.

Subject to conditions requiring the furniture to be removed from the highway at night, the proposals are considered to comply with The Westminster Way (adopted November 2011), TACE 11 and TRANS 3.

**8.5 Economic Considerations**

The economic benefits generated by the applications are welcomed

**8.6 Access****Application 1:**

The proposed new entrance will allow access from Vere Street. Level access is provided at the location of the door with entrance steps located inside. A foldable wheelchair platform is shown on the proposed drawings to allow disabled access.

**Application 2:**

The proposed tables and chairs will not impact on access to the existing department store.

**8.7 Other UDP/Westminster Policy Considerations****Application 1:****Refuse /Recycling**

The Waste Officer has assessed the application and advised that the details, and additional details provided by the applicant regarding the storage of waste has not met the requirements of the Council for this use. Details of suitable waste storage for the use, including waste, recycling and oil storage, will be secured by condition.

### **Application 2:**

#### Noise

UDP Policy TACE11 states that planning permission for tables and chairs on the highway will only be granted when such developments will not cause a nuisance to residents or harm the amenity of the area (points 6 and 7). Policy S29 of the City Plan seeks to resist proposals that result in an unacceptable loss of residential amenity.

Council records indicate that the closest residential properties to the site are located some significant distance from corner proposed for both applications. The closest residential properties on Vere Street are at the opposite end, at No.1, adjacent to Oxford Street.

The applicant proposes to place the tables and chairs on the highway between 09:30 - 23:00 Monday to Sunday. Outside of these hours, the furniture will be stored within the unit. This is considered acceptable

### **8.8 London Plan**

The applications do not raise any strategic issues.

### **8.9 National Policy/Guidance Considerations**

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

### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of these applications.

### **8.11 Environmental Impact Assessment**

Not applicable

### **8.12 Other Issues**

#### **Consultation Responses**

Thames Water, while not a statutory consultee, have commented on application 1. They recommend the installation of a properly maintained fat trap on all catering establishments and the collection of cooking fats, oils, greases etc. by a contractor to prevent such waste causing drain blockages. They have also commented on the water pressure they aim to provide their customers. While these comments are noted, they are not matters which are considered within the Planning process. An informative is recommended suggesting that the applicant contacts Thames Water regarding the

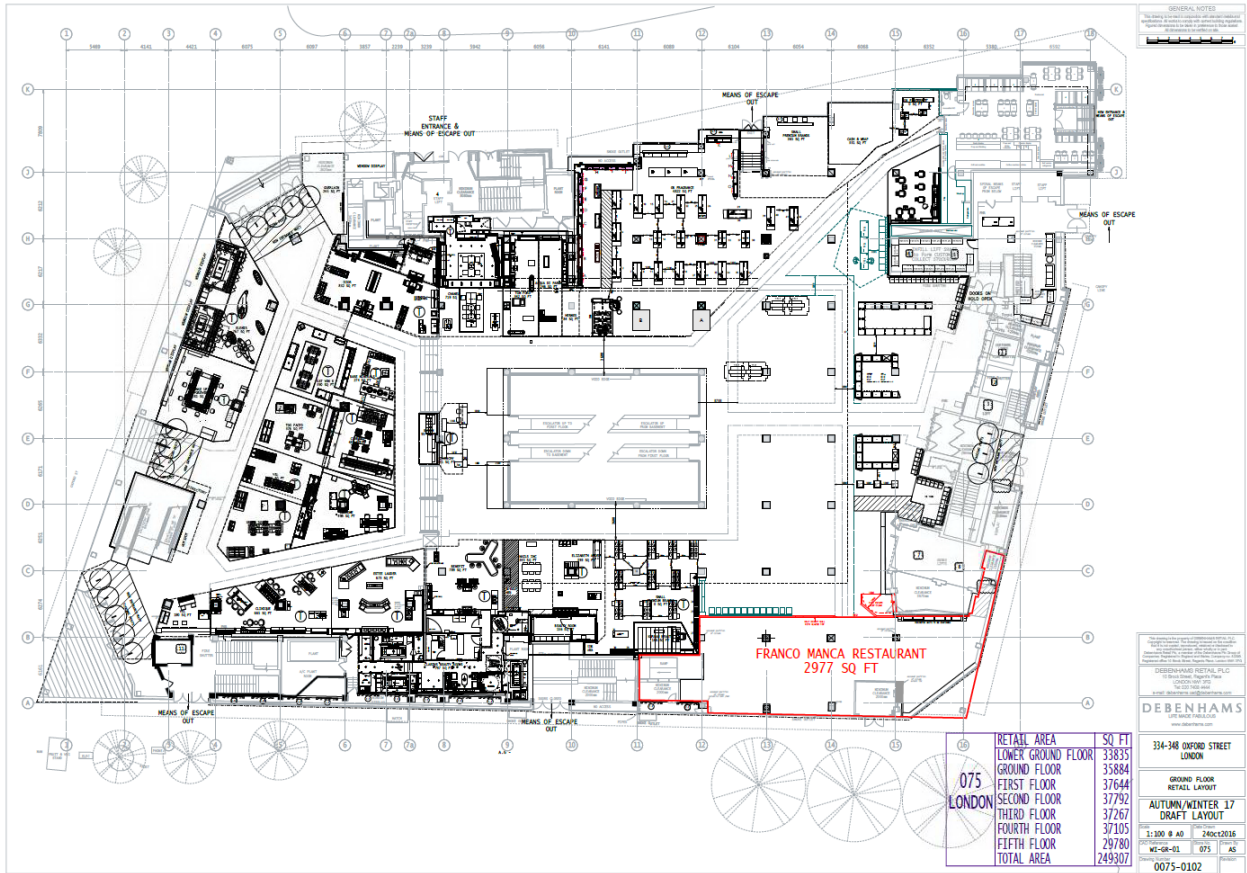
issues they have raised.

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

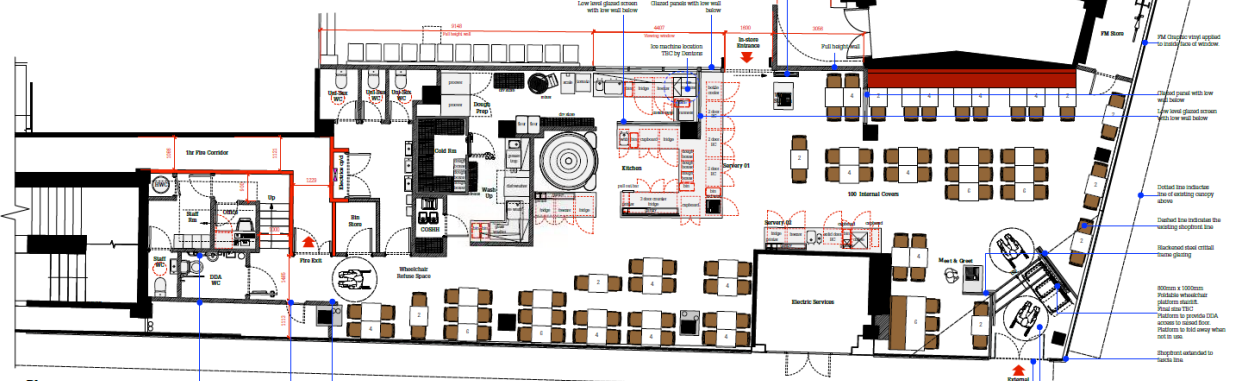
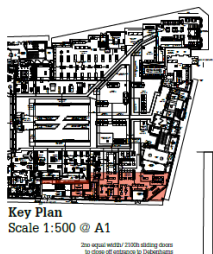
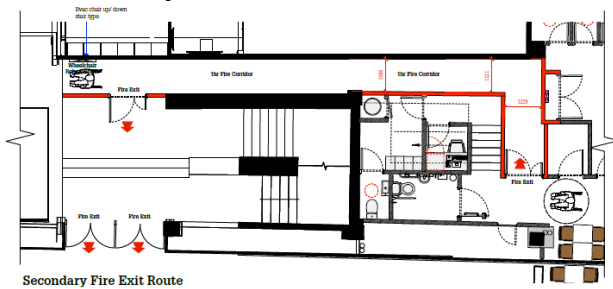
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MIKE WALTON BY EMAIL AT <a href="mailto:mwalton@westminster.gov.uk">mwalton@westminster.gov.uk</a>
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9. KEY DRAWINGS

Application 1:  
Full Ground Floor Plan Showing Proposed Area



### Detailed Proposed Ground Floor Plan

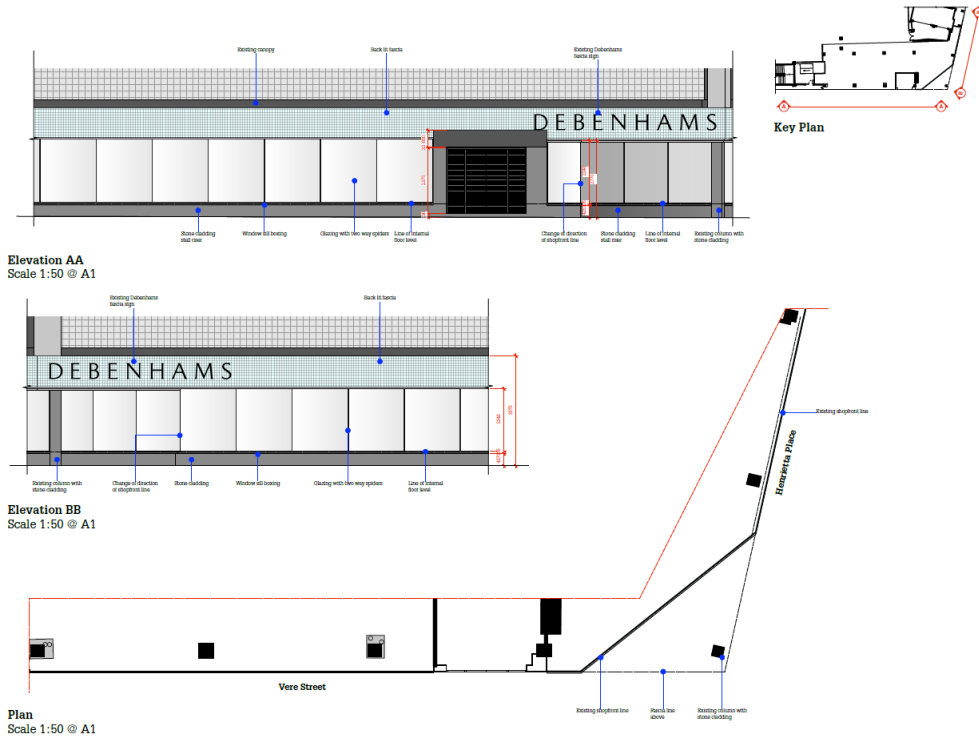


Plan Scale 1:50 @ A1

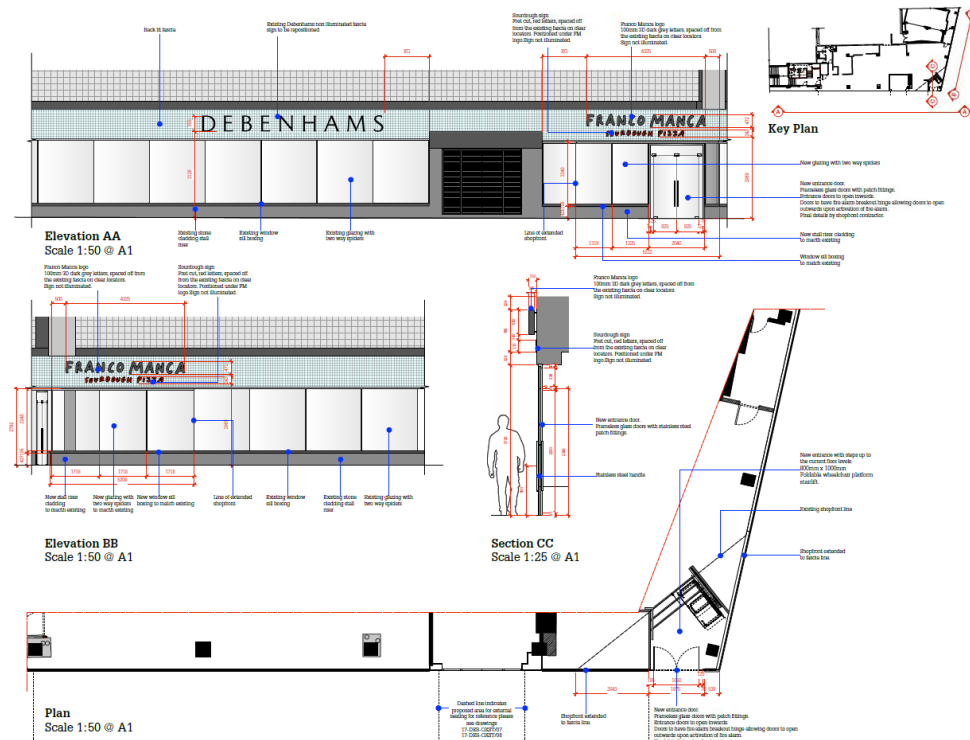
- 1. New fire exit route
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### Existing Shopfront Elevations



### Proposed Shopfront Elevations



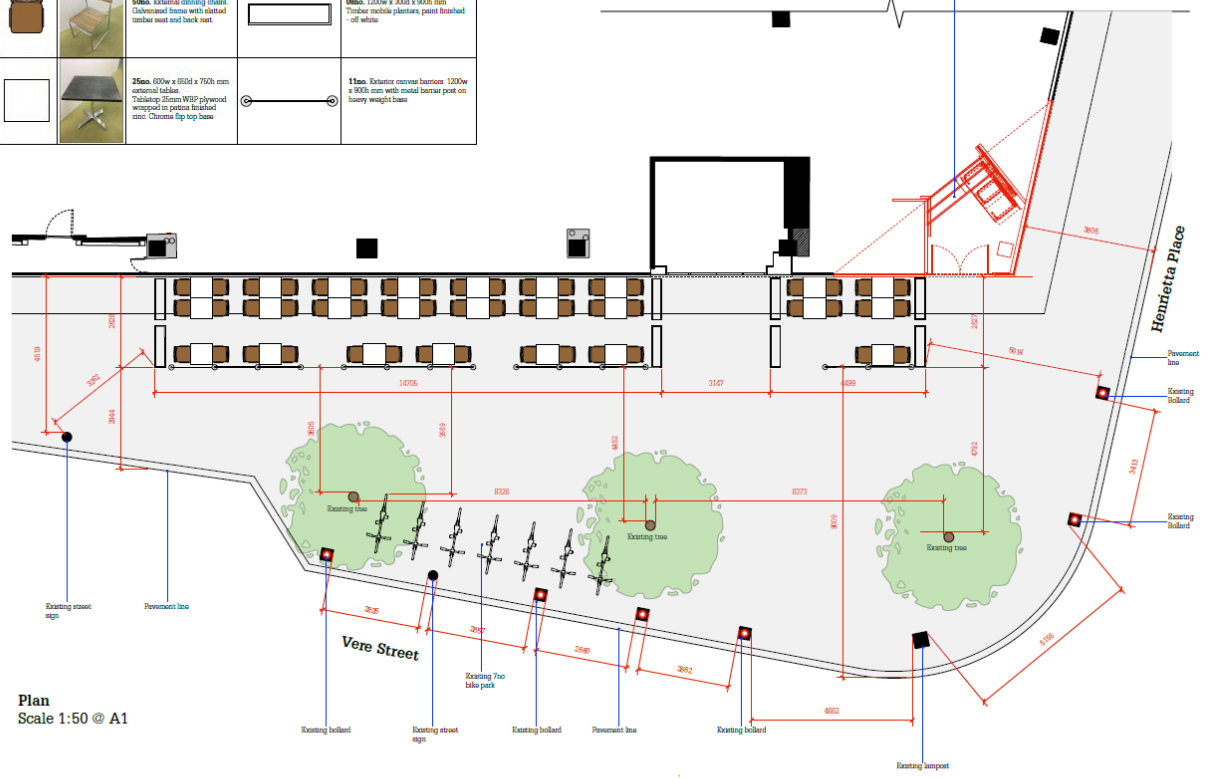
# Application 2: Proposed Outdoor Furniture Layout Plan

## Proposed Exterior Seating Plan



Furniture Legend			
	50nos. Extensile dining chairs Colourbond frame with slatted timber seat and back rest.		80nos. 1200w x 900d x 900h mm Timber venicle plymenst, paint finished - off white
	25nos. 600w x 600d x 750h mm optional tables Tabletop: 18mm WSP plywood wrapped in primer finished steel. Chrome flip top base		1 nos. Extensile concrete benches 1200w x 300d mm with metal burner post on heavy weight base

AREA DENOTED IN RED  
INDICATES FOOTPRINT OF  
FURNITURE COVERING  
ENTRANCE UNDER  
SEPARATE PLANNING  
APPLICATION



Plan  
Scale 1:50 @ A1

**APPLICATION 1 DRAFT DECISION LETTER**

**Address:** 334-348 Oxford Street, London, W1C 1JG

**Proposal:** Use of part of the ground floor (on the corner of Henrietta Place and Vere Street) as restaurant (Class A3) with associated external alterations to form new entrance.

**Reference:** 18/03718/FULL

**Plan Nos:** 0075-0102 ; 17-DEB-OXST/06 Rev. A ; 001-518-02 ; 001-518-03 ; FM COU/QUOD 1.1 ; Document titled "Service Management Plan for Class A3 Use"

**Case Officer:** Adam Jones **Direct Tel. No.** 020 7641 1446

**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 residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 Customers shall not be permitted within the restaurant premises before 09:30 or after 23:00 each day. (C12AD)

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 TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 6 You must not allow more than 100 covers inside the premises at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE 8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 8 You must carry out the measures included in your Servicing Management Plan titled "Service Management Plan for Class A3 Use" (and identified as being for Franco Manca at this site) at all times that the restaurant is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area and to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties. This is as set out in S24, S29, S32 and S42 of Westminster's City Plan (November 2016) and TACE 8, ENV 6, STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 9 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 restaurant. (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)

- 10 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

**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 2016 (R22FA)

- 11 You must not begin the use allowed by this permission until you have installed the duct shown on the approved drawings. You must then maintain it in the form shown for as long as the use remains in place.

**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)

**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 Thames Water with any questions or concerns regarding discharge of waste water or sewerage from the site and for further advice regarding installing and maintaining fat traps at catering establishments to prevent drain blockage.

Should there be the intention as part of these proposals to discharge ground water to the public network, this would require a Groundwater Risk Management Permit from Thames Water. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality)

- 3 The whole of the City of Westminster is a Smoke Control Area under the Clean Air Act 1993. Smoke through a chimney of a building can only be from authorised fuels or from an exempt appliance if non-authorised fuels are used. Authorised fuels and exempt appliances can be found at the following DEFRA website: <https://www.gov.uk/smoke-control-area-rules>
- 4 Prior to the commencement of development, the highway will need to be stopped up under s247 of Planning Act. The applicant should contact Jeff Perkins (0207 641 2642) in Highways Planning to progress the application for stopping up of the highway. If works commence prior to the finalisation of the stopping up process, an obstruction of the highway is still occurring.
- 5 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

- 6 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto: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](http://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](http://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](http://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.

- 7 The term 'clearly mark' in condition 9 means marked by a permanent wall notice or floor markings, or both.

The City Council Recycling and Waste Storage Requirements, sections 2.3.1 and 3.1, should be referred too for further advice on the storage requirements for this use. This document is available here:

<https://www.westminster.gov.uk/waste-storage-planning-advice>

Your details submitted must confirm the bin capacities for the storage of residual waste, food waste, waste cooking oil and recyclable materials for the development. The bins should be indicated on the drawing and marked "R", "O", "W" and "Waste Cooking Oil".

- 8 You must get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for any advertisements shown on the approved drawings, as required.

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.

**APPLICATION 2 DRAFT DECISION LETTER**

**Address:** 334 - 348 Oxford Street, London, W1A 1EF,

**Proposal:** Use of an area of the public highway measuring 14.71m x 2.63m for placement of 25 tables, 50 chairs, 10 barriers and 8 planters on Vere street elevation in association with the ground floor restaurant on the corner of Henrietta Place and Vere Street.

**Plan Nos:** 17-DEB-OXST/09 Rev. A

**Case Officer:** Adam Jones

**Direct Tel. No.** 020 7641 1446

**Recommended Condition(s) and Reason(s) or Reason(s) for Refusal:**

- 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 put the tables, chairs barriers and planters in any other position than that shown on drawing 17-DEB-OXST/09 Rev. A  
  
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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)
- 3 You can only put the tables, chairs, barriers and planters on the pavement between: 09:30 - 23:00 Monday to Sunday and Bank Holidays.  
  
Reason:  
To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.
- 4 This use of the pavement may continue until 30 November 2019. You must then remove the tables and chairs. (C25DA)  
  
Reason:  
We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this



activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 5 You can only put out on the pavement the tables, chairs, barriers and planters shown on drawing 17-DEB-OXST/09 Rev. A. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 6 The tables and chairs must only be used by customers of the ground floor unit at 334 - 348 Oxford Street (on the corner of Henrietta Place and Vere Street)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

**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 cannot put tables and chairs in the area unless you have a street trading licence.

If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter.

Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)

- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)

Item No.
<b>3</b>

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.