



Appeal Decision

Site visit made on 2 May 2017

by **Alexander Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23rd June 2017

Appeal Ref: APP/X5990/W/17/3168220

Unit 4 Bishop's Quarters, Bishop's Bridge Road, London W2 6ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by BMO Developments Ltd. against the decision of City of Westminster Council.
- The application Ref 16/09313/FULL, dated 28 September 2016, was refused by notice dated 21 December 2016.
- The application sought planning permission for the reconfiguration of the ground floor and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ café units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works without complying with conditions attached to planning permission Ref 13/12442/FULL, dated 9 October 2014.
- The conditions in dispute are Nos 16 and 17 which state that:
 - 16. *'You must use Units 3 and 5 (as annotated on drawing 17 Rev.13) only for restaurant/ cafe use within Class A3 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).'*
 - 17. *'You must use Units 1, 2, 4 and 6 (as annotated on drawing 17 Rev.13) only for retail shop use within Class A1 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).'*
- The reasons given for the conditions are:
 - 16. *'To maintain the character, function and vitality of the Core Frontage and Secondary Frontage of Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in January 2007 and Policies S21 and S24 in Westminster's City Plan: Strategic Policies that we adopted in January 2013.'*
 - 17. *'To maintain the character, function and vitality of the Core Frontage and Secondary Frontage of Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in January 2007 and Policies S21 and S24 in Westminster's City Plan: Strategic Policies that we adopted in January 2013.'*

Decision

1. The appeal is allowed and planning permission is granted for the reconfiguration of the ground floor and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ café units (Class A3) at ground floor

level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works, dated 9 October 2014 at Unit 4 Bishop's Quarters, Bishop's Bridge Road, London W2 6ES in accordance with the application Ref 16/09313/FULL made on the 28 September 2016 without complying with conditions Nos 16 and 17 set out in planning permission Ref 13/12442/FULL granted on 9 October 2014 by the City of Westminster Council, but otherwise subject to the conditions contained within the Schedule attached.

Main Issue

2. The main issue is the whether the conditions are reasonable and necessary in the interests of maintaining the vitality and viability of the Porchester Road Local Centre.

Procedural Matters

3. A Deed of Variation has been submitted with the appeal to vary the S106 agreement associated with the approved scheme¹. I will discuss this matter later in my decision.

Reasons

4. The appeal proposal seeks to amalgamate units 4 and 5. This would involve the removal of the dividing wall between the two units as indicated on the approved plans for planning permission 13/12442/FULL. The approved use for unit 4 is A1 and unit 5 is A3. There would be no change in the proportion of floorspace for each of the approved A1 and A3 uses for these units, granted under planning permission 13/12442/FULL.
5. In order to facilitate this, the appellant seeks to vary condition 16 to read, 'You must use unit 3 (as annotated on Proposed Ground Floor Layout: AAYA-180-I-101) only for restaurant/ café use within Class A3 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)'. It also seeks to vary condition 17 to read, 'You must use Units 1, 2 and 5 (as annotated on Proposed Ground Floor Layout: AAYA-180-I-101) only for retail shop use within Class A1 of the Town and Country Planning (Use Classes) order 1987 as amended April 2005 (or for any equivalent class in any order that may replace it'.
6. Furthermore, in order to safeguard the already approved use of unit 4 and ensure its intended use is not lost, the appellant seeks to add a new condition to read, 'Unit 4 will be used for both Use Class A1 and Use Class A3 as designated on the drawing Proposed Ground Floor Layout: AAYA-180-I-101. The location and amount of both use classes (A1 and A3) will not deviate from the drawing Existing Ground Floor Plan at 1:100: AAYA-180-I-102. Every time the operator changes the LPA must be notified in writing to ensure the floorspaces of A1 and A3 are retained as denotated'.

¹ LPA Ref 13/12442/FULL

7. Saved Policy SS7 of the City of Westminster Unitary Development Plan (UDP) 2007 seeks to protect Local Shopping Centres. It goes on to set four requirements to satisfy when considering the loss of an A1 use. Furthermore, Policy S21 of the Westminster City Plan (WCP) seeks to retain existing A1 retail throughout Westminster.
8. The proposal would result in units 4 and 5 being occupied by a single business. However, there would be two distinct, separate areas; the retail area in unit 4 and the restaurant area occupying unit 5. The only difference to that which is already approved would be the removal of a dividing wall between the two units and therefore the ability to move freely between them.
9. In addition to the internal alterations and functions, from the outside, the two units would have their own individual entrances off Bishops Bridge Road. I note that there may not be window displays. However, the display units and layout of unit 4 would clearly be identified as a retail unit. In any event, a window display strategy could be sought by way of an appropriately worded condition ensuring that it has a suitable display.
10. The Council have referred to the limited range of goods on offer in the retail unit and questions its long term commercial viability. However, it seems to me that this is no different than many other specialist goods businesses and whether or not the business succeeds is not a matter which has had any bearing on my consideration of the planning merits of the proposal.
11. The proposal would retain the already approved A1 floorspace, and an appropriately worded condition could secure as such. Furthermore, the unit would retain the appearance of a retail unit. Whilst it would be linked with the A3 use, it would be clearly distinguishable.
12. Therefore, I do not consider that the proposal would reduce the range of local convenience shops or undermine the balance of A1 to non-A1 uses within the centre. In addition, it would not result in more than three non-A1 units located consecutively in a frontage.
13. There is some conflict with Saved policy SS7 and Policy S21, in that the proposal would technically result in the loss of an A1 unit. However, the retained retail function and the distinguishable frontages of the two elements of the mixed use would not significantly harm the vitality or viability of the Porchester Road Local Centre. As such, I do not find that it conflicts with the thrust of these policies.

Other Matters

14. I have had regard to the planning permission referred to me by the Council regarding unit 2. However, there is no evidence before me of the layout of this proposed scheme and it would appear that it was contained within a single unit, whereas the appeal proposal does not alter the approved A1/A3 floor space.
15. The Deed of Variation signed and dated 9 June 2017 supplements the original s106 agreement and ensures that it remains in force should the appeal be successful. The planning obligations in the s106 agreement have to meet the tests in the Community Infrastructure Levy Regulations (CIL) Regulation 122 in order for them to be taken into account in my determination of this appeal. These tests are that the obligation is necessary to make the development

acceptable in planning terms; directly related to the development; and, fairly and reasonable related in scale and kind to the development. These tests are also identical to those set out in paragraph 204 of the Framework. From the evidence before me, I am satisfied that the planning obligations meet the tests in CIL Regulation 122 and paragraph 204 of the Framework.

16. The appeal site lies within the Bayswater Conservation Area and is close to the Queensway Conservation Area and Hallfield Estate Conservation Area. The Council have raised no objection to the proposal in respect of whether it preserves or enhances the character or appearance of the Conservation Areas. As the proposal would not involve any external alterations, I find that it would have a neutral effect on the significance of the Conservation Areas and therefore would preserve their character and appearance.

Conditions

17. The Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Section 73 allows the decision maker to attach new conditions, to not attach conditions that were previously imposed or to attach modified versions of them. In this case the decision relates to two separate conditions.
18. I have considered both of these conditions and find that their suggested varied wording would not harm the vitality or viability of the Porchester Road Local Centre. I note that the Council's suggested varied wording refers to a different drawing to that referred to by the appellant. I find that drawing 468 provides greater clarity and therefore I shall include this in the varied condition.
19. I note that the details required in a number of the original conditions has already been submitted and approved by the Council. I have amended these conditions accordingly, as suggested by the Council.
20. In addition, I have regard to the appellant's suggested additional condition which would secure the unit as an A1/A3 and its respective floorspace as set out in the approved plans. I have also had regard to the Council's suggested additional conditions, to which the appellant has not raised any objections. I find that these conditions are necessary in order to protect the vitality and viability of the Porchester Road Local Centre and therefore shall impose them accordingly. For the sake of clarity, I have used the Council's suggested conditions as opposed to the appellant's.

Conclusion

21. For the reasons given above I conclude that the appeal should succeed. As a result I will vary the respective planning permission by varying the disputed conditions and impose the additional conditions suggested by the appellant and the Council.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 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.
- 2) 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.Noisy work must not take place outside these hours. (C11AA)
- 3) You must carry out the development in accordance with the facing materials that we approved on 11 February 2015 (14/12071/ADFULL), 13 July 2015 (15/02293/ADULL and 15/03869/ADFULL).
- 4) You must carry out the development in accordance with the details of new shopfronts and associated framing, ground level uplighters to facades, the recycling centre recess/ enclosure to Porchester Road elevation and recycling centre shutters that we approved on 13 July 2015 (15/03869/ADFULL) and 30 November 2015 (15/06305/ADFULL).
- 5) You must illuminate Porchester Walk and install CCTV in accordance with the Lighting strategy and details of CCTV we approved on 13 July 2015 (15/03869/ADFULL) and you must permanently retain and maintain the lighting and CCTV to Porchester Walk in accordance with the approved details.
- 6) (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

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

expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

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

(a) A schedule of all plant and equipment that formed part of this application;

(b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;; (c) Manufacturer specifications of sound emissions in octave or third octave detail;

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

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

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

(g) The lowest existing L A90, 15 mins measurement recorded under (f) above;

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

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

- 7) 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.
- 8) You must carry out the development and install the mechanical plant in in accordance with the supplementary acoustic report and noise attenuation measures that we approved on 30 November 2015 (15/06305/ADFULL). If any attenuation measures were approved, you must install these in accordance with the details we approve prior to occupation of the new retail units and thereafter permanently retain and maintain the attenuation measures in the approved locations.
- 9) 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.

- 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.
- 11) You must provide the reconfigured service yard area shown on the approved plans prior to occupation of the new retail units. Thereafter you must only use the service yard area to service the retail units hereby approved and the residential accommodation within the Colonnades.
- 12) You must permanently operate the development and manage the service yard in accordance with the Servicing Management Plan that we approved on 11 February 2015 (14/12071/ADFULL), unless or until we approve an alternative Servicing Management Plan in writing.
- 13) You must hang all doors or gates so that they do not open over or across the road or pavement.
- 14) You carry out the development in accordance with the hard landscaping scheme for the surfacing of any part of the site not covered by buildings that we approved on 10 February 2015 (14/12605/ADFULL).
- 15) You must provide the publicly accessible disabled toilet at ground floor level, as shown on drawing 17 Rev.12 prior to occupation of the new and enlarged retail units. Thereafter the toilet must be permanently retained and maintained in this location and it must be open accessible from the public highway and available for public use between 07.30 and 23.00 daily.
- 16) You must use Unit 3 (as annotated on drawing 468) only for restaurant/ cafe use within Class A3 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).
- 17) You must use Units 1, 2 and 5 (as annotated on drawing 468) only for retail shop use within Class A1 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).
- 18) Customers shall not be permitted within the ground floor level retail shop units (Units 2 and 5) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 18.00 on Sundays, bank holidays and public holidays.
- 19) Customers shall not be permitted within the restaurant/ cafe unit (Unit 3) and mixed retail shop and restaurant unit (Unit 4) before 08.00 or after 23.30 Monday to Saturday (not including bank holidays and public holidays) and before 09.00 or after 22.30 on Sundays, bank holidays and public holidays.
- 20) No tables and chairs shall be placed outside of the retail units hereby approved on the forecourt of the building (where it does not form part of the public highway) without our written approval. You must apply to us for approval of the location, number, appearance, hours of use and location of storage for any tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades that you propose to place on the forecourt of the building. You must not place the table and chairs or associated structures outside the

retail units until we have approved what you have sent us. You must then only place the tables and chairs in the locations we approve in accordance with the details of their use and appearance that we approve.

- 21) All of the retail units hereby approved shall achieve a BREEAM 'Very Good' rating or higher (or any such national measure of sustainability for commercial design that replaces that scheme of the same standard). Within 3 months of occupation of each of the retail units you must submit to us for our approval a copy of a Building Research Establishment (or equivalent independent assessment) Final Post Construction Stage Assessment and Certificate, confirming that the retail units, when built, have achieved a BREEAM 'Very Good' rating or higher.

If the submitted assessment does not demonstrate that the retail units have achieved a BREEAM 'Very Good' rating or higher, you must also submit to us for our approval a report that sets out remediation measures that are to be carried out so that the retail units will achieve this rating or higher. The submitted remediation report (if required) must also provide a time frame within which the specified remediation works will be carried out. You must not carry out any remediation works until we have approved the remediation report. You must then carry out the remediation works in accordance with the remediation report that we approve.

- 22) You must provide the recycling centre (annotated 'Relocated recycling bins' on drawing 17 Rev.13) at ground floor level prior to occupation of the new and enlarged retail units. Thereafter the recycling centre must be permanently retained in this location.
- 23) You must carry out the development in accordance with the waste and recycling storage for the supermarket (Unit 1) that we approved on 13 July 2015 (15/02293/ADFULL). You must then provide the stores for waste and materials for recycling according to these details prior to occupation of the supermarket (Unit 1) and thereafter permanently retain them for the storage of waste and recycling from the operation of the supermarket.
- 24) Prior to occupation of the ground floor retail units (Units 2 to 5 as shown on drawing 468) you must provide the store for waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark them and make them available at all times to everyone working in these retail units.
- 25) Prior to occupation of the retail units you must provide the storage area within the service yard for residential waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark this area and make it available at all times to everyone living in the residential part of the Colonnades.
- 26) Notwithstanding the drawings approved on 9 October 2014 (13/12442/FULL), in accordance with the non-material amendment approved 9 February 2015 (15/00810/NMA), you must not form any windows in the eastern elevation of the supermarket at first floor level (Unit 1) or the ground floor retail unit (Unit 5 - as numbered on drawing 468).

- 27) Customers shall not be permitted within the retail supermarket unit (Unit 1) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays), before 10.00 or after 18.00 on Sundays and before 08.00 or after 20.00 on bank holidays and public holidays.
- 28) You must use Unit 4 (as annotated on drawing 468) only for mixed retail shop and restaurant use (Sui Generis) and for no other use. The area shaded grey on drawings 468 and AAYA - 180- I - 101 shall only be used for the retail sale of goods and shall not be used to provide restaurant covers.
- 29) You must not occupy Unit 4 for mixed retail and restaurant use until a detailed scheme for the shop windows of the retail shop part of the unit (where shaded grey on drawing 468) has been submitted to and approved in writing by the local planning authority. The scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows. The development shall thereafter be carried out in accordance with the approved scheme and no further modifications shall be made.
- 30) You must not occupy Unit 4 for mixed retail and restaurant use until we have approved in writing appropriate arrangements to secure the following:
 - i. Provision and adherence to a shop front and advertisement strategy.
 - ii. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
 - iii. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
 - iv. Provision and adherence with a façade cleaning strategy.

In the case of each of the above benefits, you must include in the arrangements details of when you will provide the benefits, and how you will guarantee this timing. You must only carry out the development according to the approved arrangements.



Your ref: BMO DEVELOPMENTS LTD.
My ref: 16/09313/FULL

Please reply to: Oliver Gibson
Tel No: 020 7641 2680
Email: northplanningteam@westminster.gov.uk

Ms Catriona Fraser
GLHearn
280 High Holborn
London
WC1V 7EE
England

Development Planning
Westminster City Hall
PO Box 732
Redhill, RH1 9FL

21 December 2016

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990
REFUSAL OF PERMISSION TO DEVELOP

The City Council has considered your application and REFUSES to permit the development referred to below as shown on the plans submitted.

Your attention is drawn to the Applicant's Rights.

SCHEDULE

Application No: 16/09313/FULL

Application Date:

Date Received: 28.09.2016

Date Amended: 28.09.2016

Plan Nos: Drawings and Documents Previously Approved under RN: 13/12442/FULL: 10 Rev.03, 11 Rev.03, 12 Rev.04, 13 Rev.02, 14 Rev.03, 16 Rev.09, 17 Rev.13, 18 Rev.07, 19 Rev.06, 26 Rev.02, 34 Rev.03, 36 Rev.01, 37 Rev.03, 38 Rev.06, 41 Rev.01, 42 Rev.01, 43 Rev.01, 44 Rev.05, 45 Rev.01, 46 Rev.03, 48 Rev.02, 50 Rev.01, 52 Rev.01, 53 Rev.01, 54 Rev.01, 56 Rev.01, 57 Rev.01, 58, 59, Design and Access Statement, Supporting Planning Statement dated December 2013, Consultation Statement and Transport Statement dated 11 December 2013 (Issue 3/ Ref: TR8131062/RH/DW/006) as amended by TR8130862/SP02 Rev.C, TR8130862/SP03 Rev.C and additional parking occupancy data provided in email from GL Hearn dated 4 March 2014.

As Amended by Drawings and Documents Submitted with Current Application: AAYA-180-I-101, AAYA-180-I-102, 468, 469, Ground Floor - Layout Retail Area drawing (unnumbered), Supporting Letter from AAYA dated 27 September 2016 (setting out proposed retail shop use) and Planning Statement by GL Hearn dated 28 September 2016.

Address: The Colonnades, 26 Porchester Road, London, W2 6ES

Proposal: Variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, to allow amalgamation of Units 4 and 5 facing Bishop's Bridge Road to form one retail unit for use as a mixed retail shop and restaurant use (Sui Generis) (Site also known as Unit 4,

Bishop's Quarter, Bishop's Bridge Road).

See next page for reasons for refusal.

Yours faithfully



John Walker
Director of Planning

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



Reason(s) for Refusal:

- 1 Your plans would result in the loss of a dedicated Class A1 retail unit, which would have a negative impact on the retail character of the Secondary Frontage of the Porchester Road Local Centre. This would not meet policy S20 of Westminster's City Plan (November 2016) and SS7 of Westminster's Unitary Development Plan (January 2007).

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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.





City of Westminster

TOWN AND COUNTRY PLANNING ACT 1990 PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

Applicant's Rights and General Information

1. Applicant's Rights (refusals and conditional approvals)

a) *Appeals to the Planning Inspectorate*

If your application has been **refused** by the City Council or **granted subject to conditions** that you are not happy with, you have the right to appeal to the Planning Inspectorate (under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990). The Planning Inspectorate is an Executive Agency reporting to the Secretary of State for Communities and Local Government.

The time limits for submitting an appeal may vary. The period after the date of the City Council's decision within which an appeal must be received by the Secretary of State is:

- **28 days** in the case of an appeal against refusal of a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice.
- **8 weeks** in the case of an appeal against refusal of advertisement consent.
- **12 weeks** in the case of appeals made under s78(1) against refusal of any 'householder application' – that is,
 - refusal of an application for planning permission to alter or extend a house, or for works within the curtilage of a house.
 - Refusal to approve details submitted as required by a condition imposed on a permission granted for a householder application.
 - Refusal of prior approvals relating to dwelling houses, including the neighbours' consultation scheme for larger home extensions under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order.
- **12 weeks** in the case of 'minor commercial applications that is,
 - refusal of an application for development of an existing building or part of a building currently in use for any purposes in Classes A1, A2, A3, A4 and A5 where the proposal does not include a change of use, a change to the number of units, development that is not wholly at ground floor level and/or does not increase the gross internal area of the building.
 - Interested parties have no right to comment on an appeal with regards to a minor commercial development (specifically a shopfront).
- **6 months** in the case of all other appeals made under s78(1) or s20 of the above Acts relating to a decision on a planning application or listed building consent application. The 6 month time limit also applies to any appeal made under s78 (2) of the Act in respect of a failure to give a decision within the statutory period.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



If you want to appeal, you must use the correct appeal form from the following list: Planning, Householder, Minor Commercial, Listed Building Consent or Certificate of Lawful Use or Development.

The Planning Inspectorate has an online appeals service: <https://www.gov.uk/planning-inspectorate>
The Inspectorate will publish details of your appeal on the internet. This may include a copy of the application form and associated documents and the completed appeal documents. Please ensure that you only provide information, including personal information, that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure that you have their permission to do so. Alternatively, you can obtain a form from the **Customer Support Team, Planning Inspectorate, 3/08a, Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN Tel: 0303 444 5000**. An extension of time for lodging an appeal is unlikely to be granted except in special circumstances. There is a guide and other useful advice about appeals on line at <https://www.gov.uk/appeal-planning-decision>

APPROVAL OF DETAILS:

If your application has been granted and is subject to the approval of details reserved by condition please use the form 'Application For Approval Of Details Reserved By Condition' in order to discharge the relevant details. This form can be downloaded from the City Council's web site at www.westminster.gov.uk/planning

b) Purchase Notices

In certain circumstances the owner of a property has the right to serve a Purchase Notice on the City Council or the Department for Communities and Local Government. A Notice may be served if, following a refusal or a conditional approval, the owner considers the land cannot be put to a reasonably beneficial use in either its existing state or through development which has or would be permitted. A Purchase Notice would require the City Council to purchase the owner's interest in the land in accordance with the relevant provisions of the Acts (Part VI of the Town and Country Planning Act 1990 and Sections 32-37 of the Planning (Listed Buildings and Conservation Areas) Act 1990).

2. General information relating to all approvals

a) Other legislative requirements

This decision has been made by the City Council as the local planning authority. You are reminded of the need to comply with other relevant regulations and statutory provisions and respect the rights of other owners/occupiers provided by relevant property legislation.

Transportation: If your proposal involves works which affect the public highway you should consult the City Council as Highways Authority. This includes works to, over or below any carriageway, footway or public forecourt. You should contact the Highways Planning Team by email highwaysplanning@westminster.gov.uk or telephone 020 7641 3326. If your proposal is related to paving works and/or is associated with an agreement under Section 106 of the Town and Country Planning Act 1990 please telephone: 020 7641 2920.

Highways Licensing: For general enquiries about temporary structures on the highway, such as hoardings, skips, the excavation and storage of materials on the highways, please telephone 020 761 2000.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



Building Control: You are advised to contact Westminster District Surveyors immediately to find out whether your proposal will require consent under the Building Regulations: Tel: 020 7641 6500 Email :districtsurveyors@westminster.gov.uk.

Building Regulation forms and further information is available on the Council's web site: <http://www.westminster.gov.uk/services/environment/landandpremises/buildings/forms/>

Land Drainage: Where major works are involved, Land Drainage Consent may be required under the Water Resources Act 1991 and Thames Region Land Drainage By Laws 1981. You are advised to contact the Environment Agency, Apollo Court ,2 Bishop's Square Business Park, St Albans Road West Hatfield AL10 9EX Tel: 03708 506 506 or email:enquiries@environment-agency.gov.uk.

b) Provision of access and facilities for disabled people

Designing new buildings and adapting existing buildings to meet the needs of people with disabilities results in a safer and more convenient environment for all. General advice is available from planning and building control officers who can also direct you to appropriate sources of technical/specialist advice.

Note:

- The Plain English Crystal Mark applies to those conditions, reasons and informatives in this letter which have reference number with the prefix C, R, X or I.
- The terms 'you' and 'your' include anyone who owns or occupies the land or is involved with the development.
- The terms 'us' and 'we' refer to the Council as local planning authority.



CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 6 December 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bayswater	
Subject of Report	The Colonnades, 26 Porchester Road, London, W2 6ES,		
Proposal	<p>Application 1 Variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, to allow amalgamation of Units 4 and 5 facing Bishop's Bridge Road to form one retail unit for use as a mixed retail shop and restaurant use (Sui Generis) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).</p> <p>Application 2 Details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades to be placed on the forecourt of the building pursuant to Condition 20 of planning permission dated 9 October 2014 (13/12442/FULL) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).</p>		
Agent	GL Hearn		
On behalf of	BMO Developments Ltd.		
Registered Number	16/09313/FULL (Application 1) & 16/09312/ADFULL (Application 2)	Date amended/ completed	28 September 2016
Date Application Received	28 September 2016		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		

1. RECOMMENDATION

Application 1 (Variation of Conditions 16 and 17)

1. Grant conditional permission, subject to:
 - a) A deed of variation to ensure the continued provision of the following planning obligations that were secured with the original planning permission dated 9 October 2014:
 - i. Notice of commencement of development.
 - ii. Provision and adherence to a shop front and advertisement strategy.
 - iii. Provision of public realm improvements to all external parts of the application site.
 - iv. Provision of highway works, to include the replacement of the pavement of the public highway and reorganise street furniture and street signage in Porchester Road and Bishop's Bridge Road.
 - v. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
 - vi. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
 - vii. Provision of financial contribution of £50,800 towards Crossrail prior to commencement of development.
 - viii. Provision of costs for monitoring of agreement.
 2. If the S.106 planning obligation has not been completed by 17 January 2017 then:
 - a) The Director shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director is authorised to determine and issue such a decision under Delegated Powers; however, if not;
 - b) The Director shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

Application 2 (Tables and Chairs on Forecourt)

Approve details.

2. SUMMARY

The application site comprises part of the ground floor of The Colonnades shopping frontage, which on Bishop's Bridge Road forms part of the Secondary Frontage of the Porchester Road Local Centre. The site is also located within the Queensway/ Bayswater Stress Area.

Application 1 seeks permission for variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL), which granted permission for reconfiguration of the ground and first floors of the retail frontages of the Colonnades at the junction of Bishops Bridge Road and Porchester Road. The approved scheme principally sought to provide a larger supermarket premises

(Class A1) at part ground floor and first floor level, with the ground floor retail accommodation reconfigured to provide three retail shop units (Class A1) and two restaurant/ cafe units (Class A3). This permission has been implemented and the shop units to which this permission relates have been created at ground floor level.

The current application (Application 1) seeks to vary the aforementioned conditions to allow amalgamation of Units 4 and 5 at ground floor level facing Bishop's Bridge Road so that they would comprise a single mixed use retail shop and restaurant use (Sui Generis), rather than a small retail shop unit (Class A1) and a larger restaurant unit (Class A3), which was the arrangement of uses that was previously approved.

Application 2 seeks approval of details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures pursuant to Condition 20 of the planning permission dated 9 October 2016. The tables and chairs proposed would be placed on the forecourt area of The Colonnades in Bishop's Bridge Road in relation with the mixed retail shop and restaurant use that is proposed by Application 1.

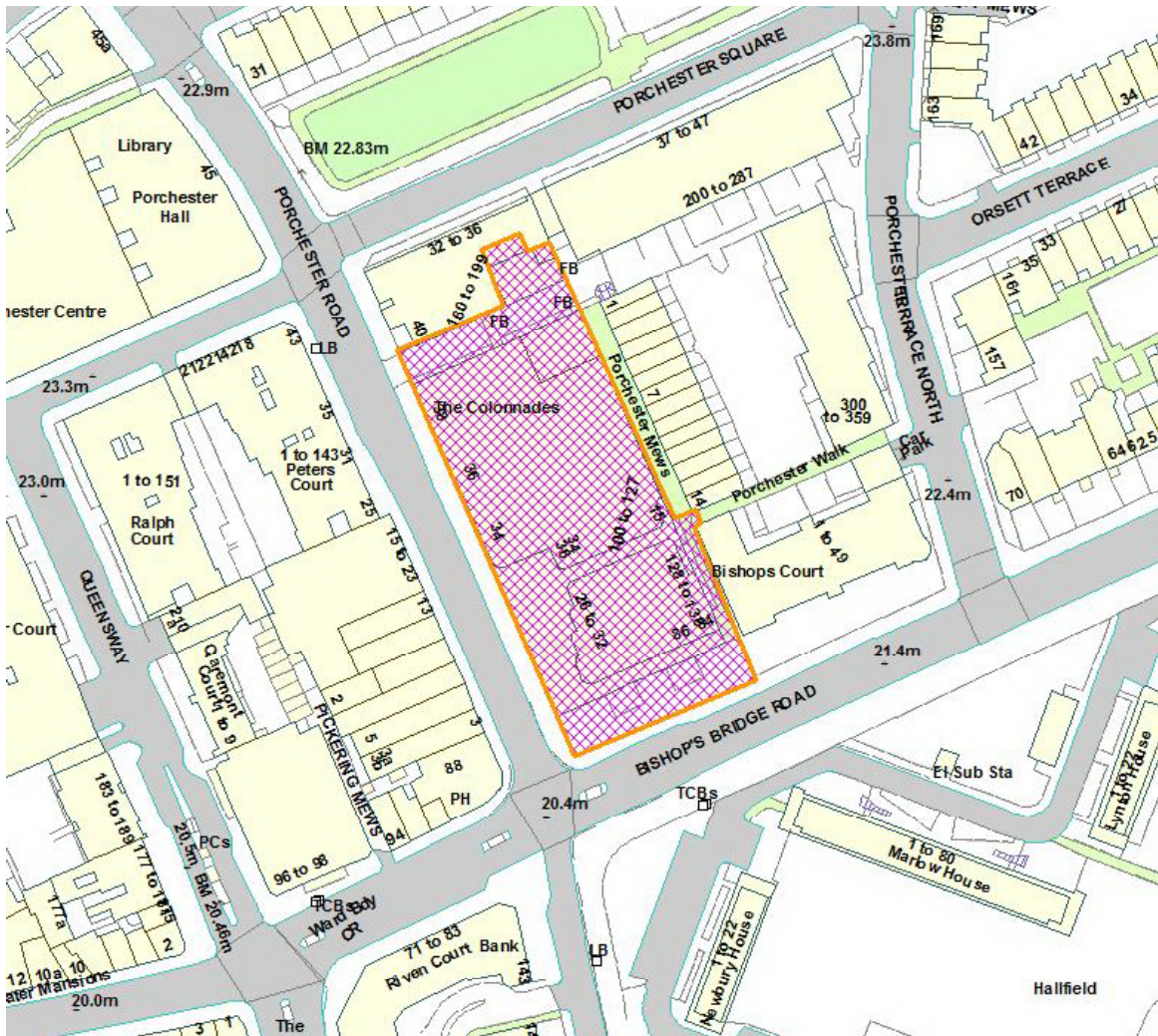
The key issues in these cases are:

- The acceptability of losing the existing self contained Class A1 retail shop use within the Secondary Frontage of the Porchester Road Local Centre.
- The impact of the proposed tables and chairs on the amenity of neighbouring residents.
- The impact of the proposed tables and chairs on the operation of the public highway.

Given the applicant's proposal to provide a dedicated retail shop area within the combined unit, which is to be secured by condition, it is considered that the use of Units 4 and 5 (as numbered in the previously approved scheme) as a mixed retail shop and restaurant use is acceptable in land use terms and would not harm the retail character and function of the Porchester Road Local Centre. As such, Application 1 is recommended for approval.

Given the limited hours of use proposed, the external tables and chairs proposed in Application 2 would not harm the amenity of neighbouring residents or the operation of the public highway. Therefore this application is also recommended for approval.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



View from corner of Bishop's Bridge Road and Porchester Road.



View of Bishop's Bridge Road frontage (Units 4 and 5 are the two left hand glazed frontages).

5. CONSULTATIONS

Application 1 (Variation of Conditions 16 and 17)

WARD COUNCILLORS (BAYSWATER)
Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION
Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER
Any response to be reported verbally.

CLEANSING MANAGER
No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED
No. Consulted: 245.
Total No. of replies: 1.
No. of objections: 1.
No. in support: 0.

One email received raising objection on all or some of the following grounds:

- Noise and disturbance and anti social behaviour from late and early morning operating hours. Notes that Bishops Court has habitable rooms, including bedrooms facing the application premises.
- Opening hours should be strictly regulated.

ADVERTISEMENT/ SITE NOTICE: Yes.

Application 2 (Tables and Chairs on the Forecourt)

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION
Any response to be reported verbally.

CLEANSING MANAGER
No objection.

DESIGNING OUT CRIME ADVISOR
Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED
No. Consulted: 163.
Total No. of replies: 2.
No. of objections: 2.
No. in support: 0.

Two emails received raising objection on all or some of the following grounds:

- Late opening hours would harm the amenity of neighbouring residents in terms of noise disturbance.
- Previous tenants of The Colonnades, prior to its refurbishment, opened late and caused noise disturbance to neighbouring properties.
- Concerned that previous issues with noise disturbance will recommence.
- Noise disturbance from music and as a result of alcohol license.
- Note proximity of habitable rooms, including bedrooms, in Bishop's Court to application site.
- Opening hours should be strictly regulated.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises part of the ground floor of The Colonnades shopping frontage, the Bishop's Bridge Road facade of which forms part of the Secondary Frontage of the Porchester Road Local Centre. In addition, the site is located within the Queensway/ Bayswater Stress Area when considering the impact of new entertainment uses.

The application relates to Units 4 and 5 of the reconfigured shopping frontages of The Colonnades, which have been formed on site following construction works in 2015 and early 2016, but have yet to be occupied. As approved the lawful use of Unit 4 (the smaller unit) is as a retail shop (Class A1), whilst the lawful use of Unit 5 is as a restaurant (Class A3). The previously approved ground floor plan is provided in Section 10 of this report.

The building within which the retail units are located is not listed, but is within the Bayswater Conservation Area.

The tables and chairs proposed by Application 2 would be located on the private forecourt of The Colonnades and would not be on the public highway.

6.2 Recent Relevant History

6.2.1 Reconfiguration of The Colonnades Retail Floorspace

9 October 2014 – Permission granted for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works (13/12442/FULL).

The above permission was granted following completion of a S106 agreement to secure the following planning obligations (i) provision and adherence to a shop front and advertisement strategy; (ii) provision of public realm improvements to all external parts of

the application site; (iii) provision of highway works; (iv) provision, access and ongoing future maintenance of a publicly accessible disabled toilet; (v) provision, access and ongoing future maintenance of accommodation for a 'recycling centre'; and (vi) provision of financial contribution of £50,800 towards Crossrail.

20 October 2015 – Application refused for use of Unit 2 (a Class A1 unit facing Porchester Road) as mixed gym, shop and juice bar (Sui Generis) (15/06926/FULL). Application refused by the Planning Applications Committee on grounds of loss of retail shop use from within the Core Frontage of the Porchester Road Local Centre.

6.2.2 Previous Tables and Chairs Permissions

23 August 2001 – Permission granted for one year for use of the public highway to the Bishop's Bridge Road frontage (7.2m x 5.5m) for the placing of 10 tables and 24 chairs with sun umbrellas in connection with Pizza Express at corner of Bishop's Bridge Road and Porchester Road (01/01745/TCH). Permitted hours were between 11.00 and 23.00 hours daily.

Above permission in connection with Pizza Express premises was renewed in 2002 (02/06226/TCH), 2004 (04/02907/TCH), 2006 (06/04305/TCH) and 2007 (07/04693/TCH).

19 September 2007 – Permission granted for a one year period for placing of 6 tables and 24 chairs in front of the Berdees café premises at No.84 Bishop's Bridge Road next to Bishop's Court in an area measuring 5.5 metres (deep) and 5.7 metres (width). Permitted hours were between 08.00 and 23.00 hours daily.

15 July 2010 – Application refused for use of the public highway (7.7m x 5.6m) for the placing of 10 tables and 20 chairs and installation of open canopy (3m x 6m x 2.5m) in connection with Marhba cafe and restaurant (located in former Pizza Express premises). Proposed hours were between 0900 and 0000 hours Monday to Sunday (09/07428/TCH). Permission refused on noise amenity grounds due to the hours of use proposed.

4 April 2011 – Application refused for use of the public highway in an area measuring 7.7m x 5.6m for the placing of 10 tables and 20 chairs in connection with Marhba Cafe and Restaurant between the hours of 09.00 and 23.00 daily. Permission refused on late night noise and disturbance grounds (10/08481/TCH).

3 January 2012 - Appeal against the City Council's decision of 4 April 2011 was allowed and tables and chairs were permitted on the highway for a one year period between 09.00 and 23.00 hours daily.

29 October 2013 – Permission granted for a one year period for the use of an area of pavement measuring 7.7m x 5.6m for the placing of 10 tables and 20 chairs in connection with Marhba Cafe and Restaurant between the hours of 09.00 and 23.00 daily (13/02378/TCH).

7. THE PROPOSAL

7.1 Application 1 (Variation of Conditions 16 and 17)

The application seeks permission for variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL), which granted permission for reconfiguration of the ground and first floors of the retail frontages of the Colonnades at the junction of Bishops Bridge Road and Porchester Road. The approved scheme principally sought to provide a larger supermarket premises (Class A1) at part ground floor and first floor level, with the ground floor retail accommodation reconfigured to provide three retail shop units (Class A1) and two restaurant/ cafe units (Class A3). This permission has been implemented and the shop units to which this permission relates have been created at ground floor level to the Bishop's Bridge Road frontage of the site.

The current application seeks to vary the aforementioned conditions to allow amalgamation of Units 4 and 5 at ground floor level facing Bishop's Bridge Road so that they would comprise a single mixed use retail shop and restaurant use (Sui Generis), rather than a small retail shop unit (Class A1) and a larger restaurant unit (Class A3), which was the arrangement of uses that was previously approved.

The application has been submitted by restaurant management company AAYA, which operates the Turkish restaurant brand 'Babaji'. Subject to the outcome of this application AAYA intend to open a branch of 'Babaji' at The Colonnades in Units 4 and 5. AAYA advise that to date only one 'flagship' branch of 'Babaji' has been opened on Shaftsbury Avenue, with a second 'flagship' branch due to open in Dubai in December 2016. To provide a retail shop element to the operation, the applicant advises that the branch at The Colonnades would include a baklava shop that provides a range of baklava and associated products. The retail area would be located at the front of the combined unit and would ensure the retail shop element of the use has a presence immediately behind the shop front. The applicant's description of the proposed use is provided in the background papers for information.

7.2 Application 2 (Tables and Chairs on Forecourt)

Application 2 seeks approval of details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures pursuant to Condition 20 of the planning permission dated 9 October 2016. The tables and chairs proposed would be placed on the forecourt area of The Colonnades in Bishop's Bridge Road in relation with the mixed retail shop and restaurant use that is proposed by Application 1.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Change of Use of Units 4 and 5 (Application 1)

The scheme previously approved in October 2014 sought to provide a balance of retail shop (Class A1) and restaurant uses (Class A3) at ground floor level within the Core Frontage (to Porchester Road) and Secondary Frontages (to Bishop's Bridge Road) within the Porchester Road Local Centre. To achieve this, of the five ground floor units three

were proposed to be Class A1 retail shop units and two were proposed to be Class A3 restaurant units.

The current application seeks to amalgamate the smallest of the retail shop units (Unit 4) in to the neighbouring restaurant unit (Unit 5), which are on the Bishop's Bridge Road frontage of the site within the Secondary Frontage of the Local Centre.

The applicant proposes to retain a retail shop function within the area of the approved Unit 4. The retail shop function would comprise a shop selling varieties of baklava that will be baked on the premises, with display shelving and a retail sales counter. The applicant advises that the retail shop offering would be not dissimilar to a patisserie. The baklava retail shop would complement the intended use of the restaurant floor area (within the area of Unit 5) as a Turkish restaurant.

As the proposed mixed use would retain a retail shop function within the area previously approved as a self-contained retail shop unit, it is considered that the proposed use would retain sufficient retail character and function within the Secondary Frontage of the Local Centre so as not to undermine the vitality and viability of the centre. The proposal would not result in the loss of any local convenience shops and would not result in more than three non-A1 units located consecutively in a frontage as the eastern most unit to the Bishop's Bridge Road frontage has a lawful use as a Class A1 retail shop.

Conditions are however recommended to prevent the use of the retail shop area (marked in grey on the submitted plans) as additional restaurant seating and to require the provision of a retail display in the windows of the retail shop part of the mixed use. Subject to these conditions it is considered that the mixed retail shop and restaurant use proposed is acceptable and would accord with Policy SS7 in the UDP and S21 in the City Plan.

The application site is located within the Queensway/ Bayswater Stress Area, within which additional controls are placed on entertainment premises, including restaurants. However, the floor area proposed for restaurant use would be no greater than that previously approved in October 2014 and therefore there would be no material increase in noise and disturbance from persons entering and leaving the premises as a result of the current proposal. For this reason the proposed use is considered to accord with Policy TACE9 in the UDP and S24 in the City Plan.

8.1.2 Provision of Tables and Chairs (Application 2)

The principle of providing tables and chairs has been established in land use terms by the planning application dated 9 October 2014 (13/12442/FULL), subject to the details of the tables and chairs being agreed pursuant to Condition 20. Indeed, prior to redevelopment of The Colonnades, there had been a long history of tables and chairs being placed on the previously larger forecourt of the site in Bishop's Bridge Road, as well as part of the public highway. It should be noted that prior to reconfiguration of The Colonnades, the City Council as local planning authority had no control over the tables and chairs placed on the private forecourt and these were often used late into the night.

Condition 20 of the October 2014 permission states:

'No tables and chairs shall be placed outside of the retail units hereby approved on the forecourt of the building (where it does not form part of the public highway) without our written approval. You must apply to us for approval of the location, number, appearance, hours of use and location of storage for any tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades that you propose to place on the forecourt of the building. You must not place the table and chairs or associated structures outside the retail units until we have approved what you have sent us. You must then only place the tables and chairs in the locations we approve in accordance with the details of their use and appearance that we approve.'

The current approval of details application (Application 2) proposes the placement of 16 tables and 32 chairs between the fixed planters outside Units 4 and 5. The applicant proposes that the tables and chairs would be placed on the forecourt and in use between 08.00 and 22.30 hours Monday to Saturday and between 09.30 and 22.30 hours on Sundays and Bank Holidays. The external tables and chairs are to be stored within the premises outside of these hours. The impacts of the proposed tables and chairs on the amenity of neighbouring residents and the operation of the public highway are considered in Sections 8.3 and 8.4 of this report.

8.2 Townscape and Design

Application 1 does not raise any design considerations.

The tables and chairs and other furniture proposed as part of Application 2 are of a good standard and would not detract from the appearance of this building or the character and appearance of the Bayswater Conservation Area.

8.3 Residential Amenity

The closest residential properties to the application sites (Applications 1 and 2) are on the upper floors of The Colonnades and to the east along Bishop's Bridge Road, where Bishop's Court forms the neighbouring building.

In terms of Application 1, the proposed mixed use would not increase the restaurant area used for seating relative to that previously approved in 2014 and therefore the degree of noise and disturbance generated by customers entering and leaving the premises would not be materially greater than would be the case under the 2014 permission. As such, the proposed missed use forming Application 1 would accord with Policies ENV6 and TACE 9 in amenity terms.

In terms of Application 2 (tables and chairs), as noted in Section 8.1.2, prior to reconfiguration of the Colonnades the private forecourt of the site in Bishop's Bridge Road was used to place a significant number of tables and chairs outside a lawful restaurant unit at the corner of Bishop's Bridge Road and Porchester Road (which was occupied by Pizza Express and the Marhba café), without the need for planning permission. As a consequence these uncontrolled tables and chairs were often used late into the night causing noise disturbance to neighbouring residents. Tables and chairs were also permitted on the public highway, in addition to those on the private forecourt that did not require planning permission, and these were controlled by condition to use between 09.00 and 23.00 hours daily.

Set in this context, Condition 20 of the October 2014 permission offers the opportunity to control the tables and chairs on the retail forecourt in Bishop's Bridge Road going forward, which was not previously within the gift of the City Council as local planning authority. As such, concerns that the tables and chairs would cause significant late night disturbance, as was the case prior to reconfiguration of The Colonnades, cannot be supported as the hours of use of all the tables and chairs would be subject to planning control.

The applicant proposes the use of the forecourt to provide 16 tables and 32 chairs within an area defined by existing fixed planters. The tables and chairs would be used by diners at the restaurant element of the proposed mixed use and the opening hours would be between 08.00 and 22.30 hours Monday to Saturday and between 09.00 and 22.30 hours on Sundays and Bank Holidays. The external tables and chairs would be stored within the application premises outside of these hours.

In the context of the previous history of external tables and chairs to this frontage of the site and as all the tables and chairs would be subject to planning control, it is considered that the hours of use of the tables and chairs that are proposed are acceptable in amenity terms and would not cause significant noise disturbance to neighbouring residents. As such, objections on noise disturbance grounds cannot be supported and the proposal would accord with Policies ENV6 and TACE11 in the UDP and S32 in the City Plan.

8.4 Transportation/Parking

The change of use proposed by Application 1 would not have any significant impact on the highway network. Given there would be no increase in the floor area available within the mixed use unit for restaurant covers. The servicing of the combined unit would be serviced via the servicing bay accessed via Porchester Road, as was envisaged during the original application.

The tables and chairs proposed in Application 2 would be located on private forecourt and would not narrow the available width of public highway along Bishop's Bridge Road. Consequently the proposal accords with the guidance in the Supplementary Planning Document 'Westminster Way' and Policy TRANS11 in the UDP in terms its impact on the public highway.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

The retail unit and forecourt area benefit from level access from the public highway and therefore the applications do not raise any significant access concerns.

8.7 Other UDP/Westminster Policy Considerations

None relevant.

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

As set out in the recommendation in Section 1 of this report, should the committee resolve to grant conditional permission for Application 1, it is necessary for a deed of variation to be completed to ensure the continued provision of the planning obligations secured by the original permission. The heads of terms of the original S106 agreement dated 9 October 2014 (as amended by a previous deed of variation dated 4 September 2015) are as follows:

- ix. Notice of commencement of development.
- x. Provision and adherence to a shop front and advertisement strategy.
- xi. Provision of public realm improvements to all external parts of the application site.
- xii. Provision of highway works, to include the replacement of the pavement of the public highway and reorganise street furniture and street signage in Porchester Road and Bishop's Bridge Road.
- xiii. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
- xiv. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
- xv. Provision of financial contribution of £50,800 towards Crossrail prior to commencement of development.
- xvi. Provision of costs for monitoring of agreement.

8.11 Environmental Impact Assessment

The proposed development is of insufficient scale to require an Environmental Impact Assessment.

8.12 Other Issues

None relevant.

9. BACKGROUND PAPERS

Application 1 (Variation of Conditions 16 and 17)

1. Application form.
2. Memo from the Cleansing Manager dated 21 October 2016.
3. Email from occupier of 17 Bishops Court, 76 Bishops Bridge Road dated 10 October 2016.
4. Supporting letter from the applicant (AAYA) dated 27 September 2016.

Application 2 (Tables and Chairs on Forecourt)

1. Application form.
2. Memo from the Cleansing Manager dated 12 October 2016.
3. Email from the occupier of 25 Bishops Court, 76 Bishops Bridge Road dated 25 October 2016.
4. Email from the occupier of 17 Bishops Court, 76 Bishops Bridge Road dated 30 October 2016.

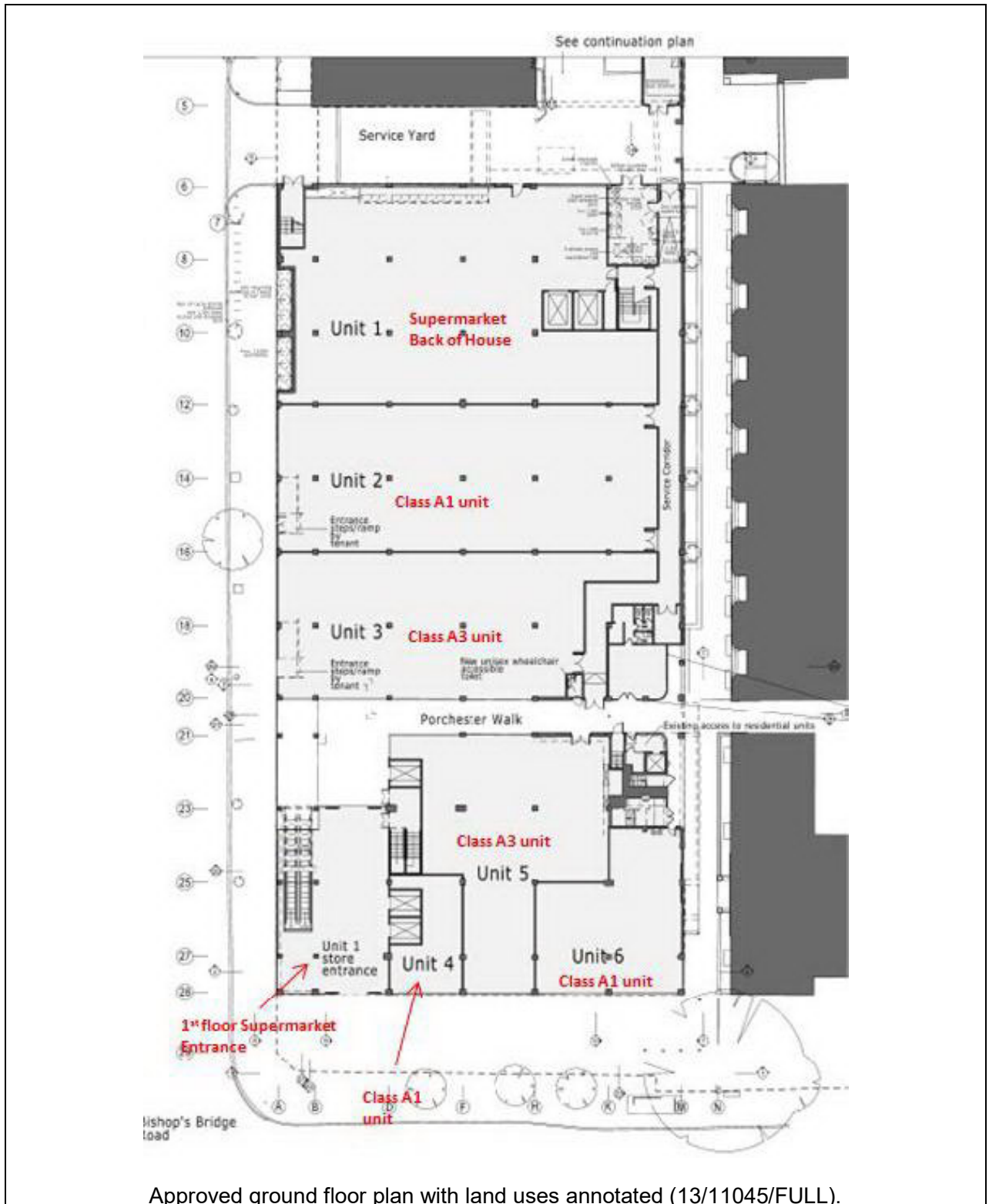
Selected relevant drawings

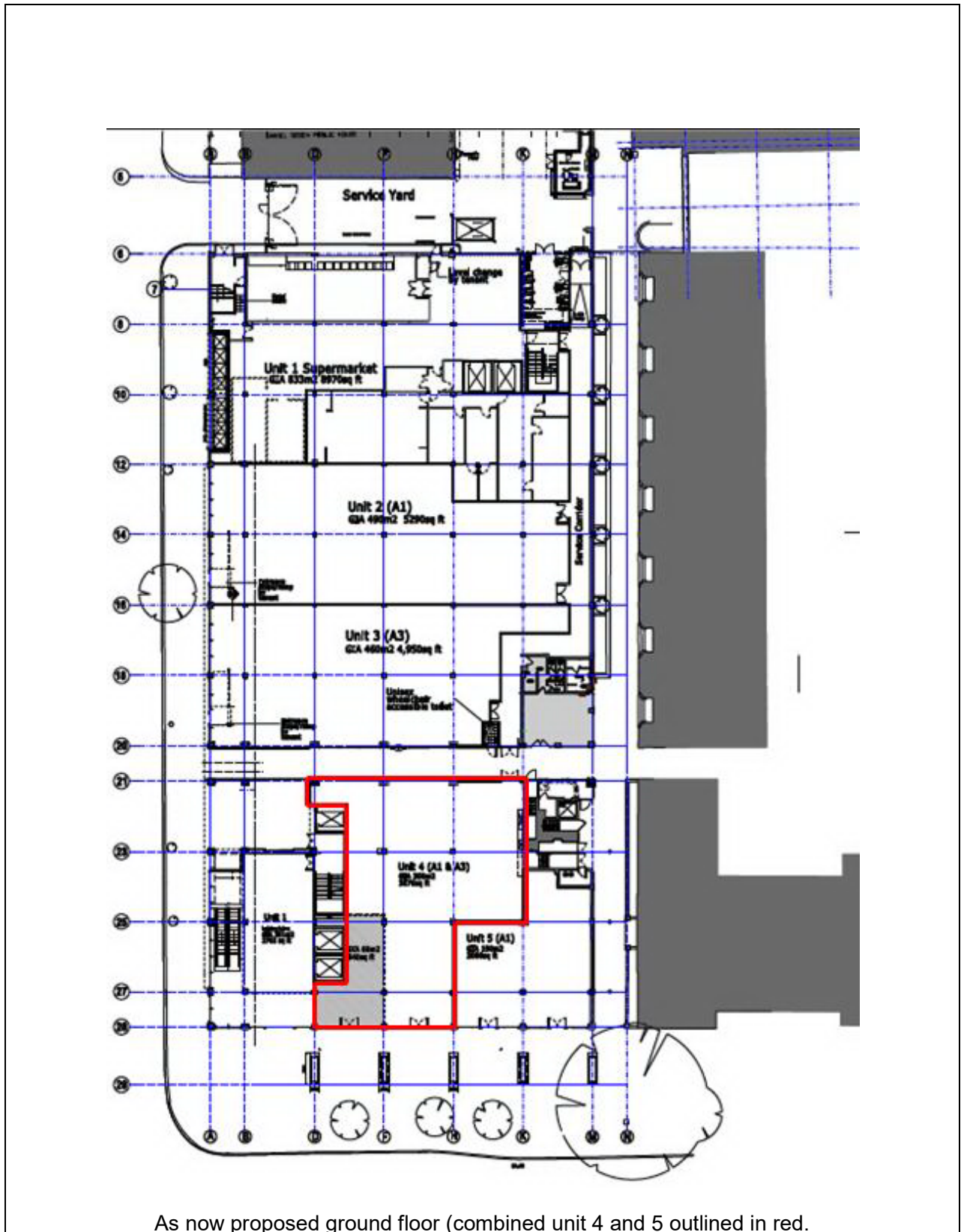
As approved and as proposed floor plans and tables and chairs plans.

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

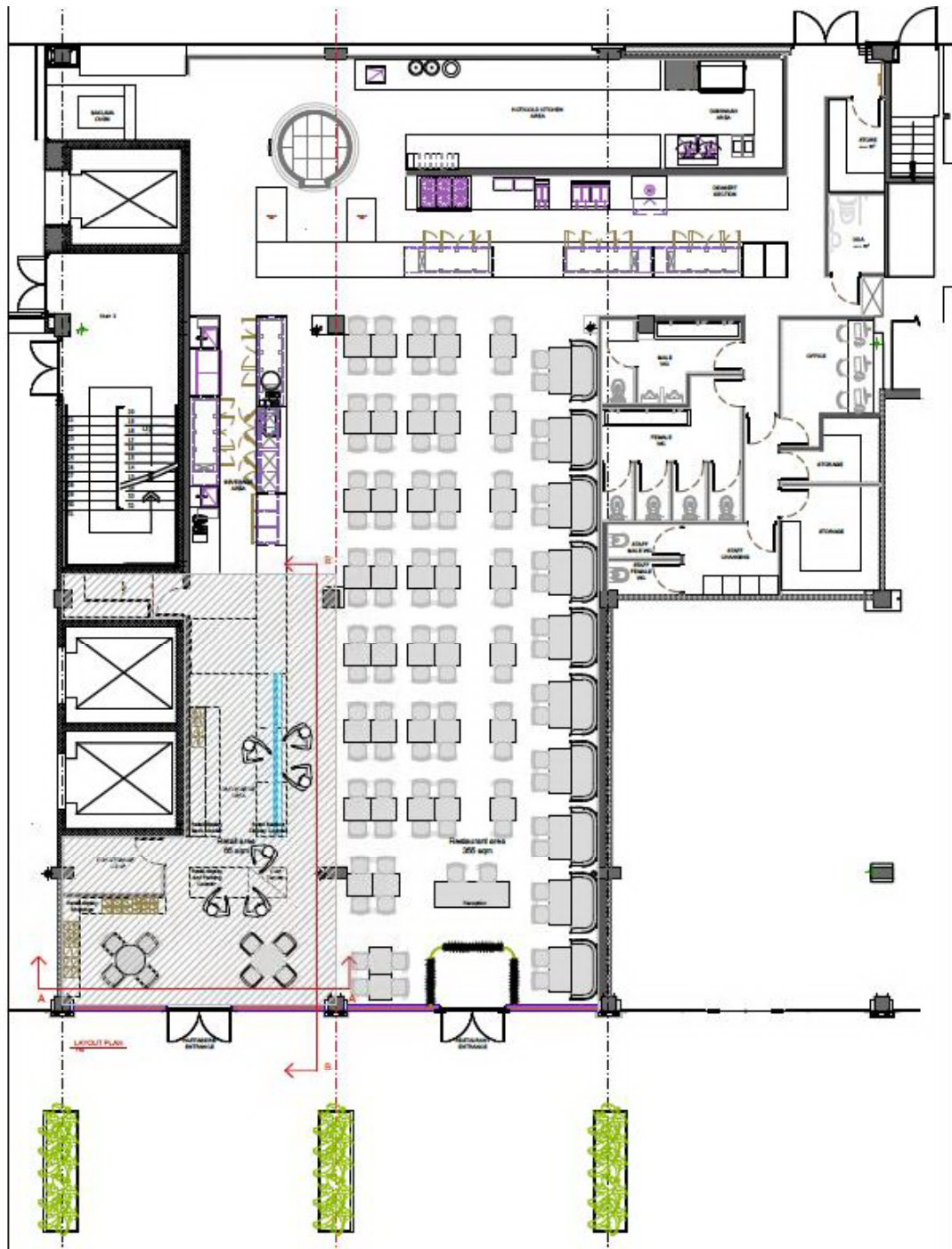
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk.

10. KEY DRAWINGS

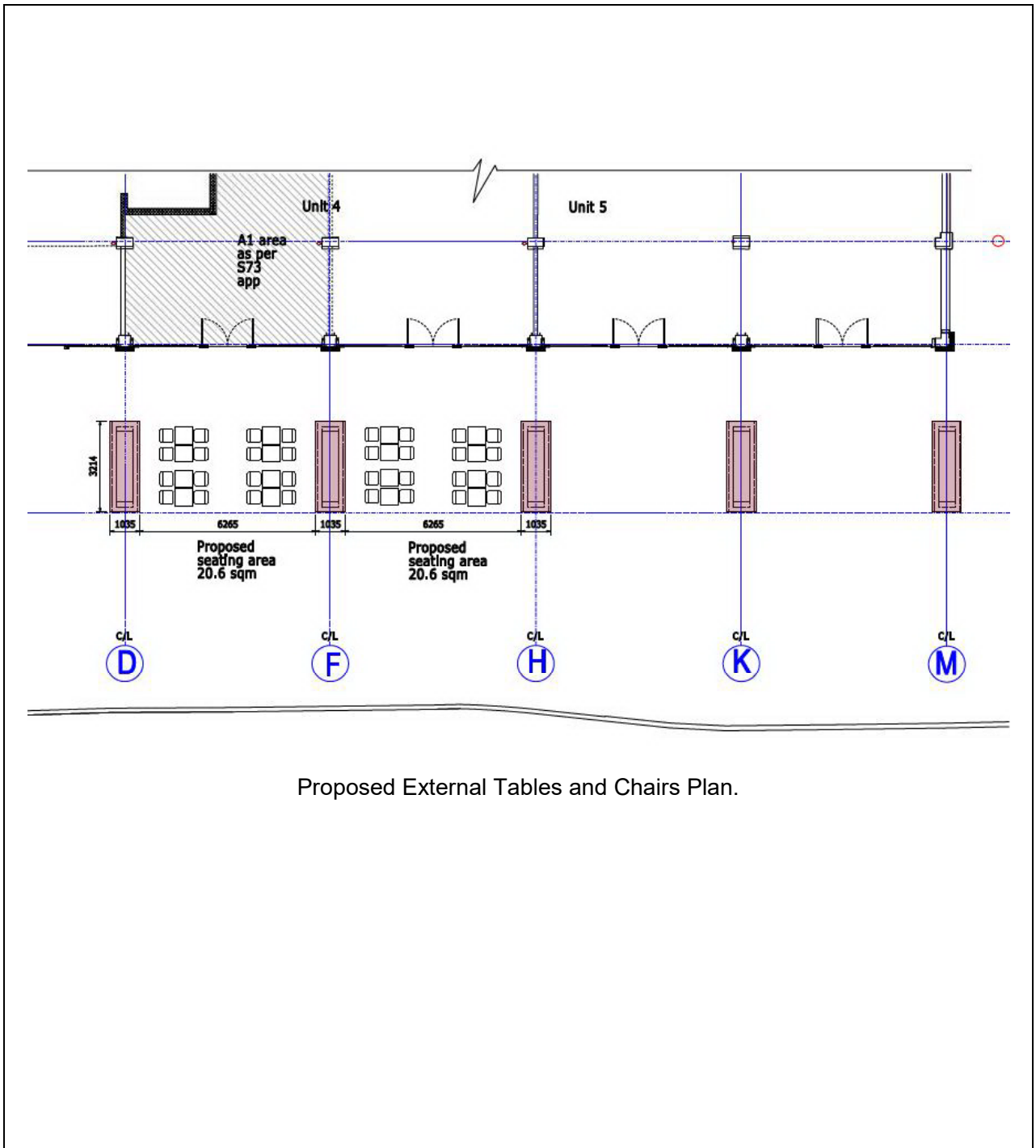




As now proposed ground floor (combined unit 4 and 5 outlined in red).



Detailed layout plan of proposed mixed retail shop and restaurant Use.



Proposed External Tables and Chairs Plan.

DRAFT DECISION LETTER – APPLICATION 1 (VARIATION OF CONDITIONS 16 AND 17)

Address: The Colonnades, 26 Porchester Road, London, W2 6ES,

Proposal: Variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, to allow amalgamation of Units 4 and 5 facing Bishop's Bridge Road to form one retail unit for use as a mixed retail shop and restaurant use (Sui Generis) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).

Reference: 16/09313/FULL

Plan Nos: **Drawings and Documents Previously Approved under RN: 13/12442/FULL:** 10 Rev.03, 11 Rev.03, 12 Rev.04, 13 Rev.02, 14 Rev.03, 16 Rev.09, 17 Rev.13, 18 Rev.07, 19 Rev.06, 26 Rev.02, 34 Rev.03, 36 Rev.01, 37 Rev.03, 38 Rev.06, 41 Rev.01, 42 Rev.01, 43 Rev.01, 44 Rev.05, 45 Rev.01, 46 Rev.03, 48 Rev.02, 50 Rev.01, 52 Rev.01, 53 Rev.01, 54 Rev.01, 56 Rev.01, 57 Rev.01, 58, 59, Design and Access Statement, Supporting Planning Statement dated December 2013, Consultation Statement and Transport Statement dated 11 December 2013 (Issue 3/ Ref: TR8131062/RH/DW/006) as amended by TR8130862/SP02 Rev.C, TR8130862/SP03 Rev.C and additional parking occupancy data provided in email from GL Hearn dated 4 March 2014. **As Amended by Drawings and Documents Hereby Approved:** AAYA-180-I-101, AAYA-180-I-102, 468, 469, Ground Floor - Layout Retail Area drawing (unnumbered), Supporting Letter from AAYA dated 27 September 2016 (setting out proposed retail shop use) and Planning Statement by GL Hearn dated 28 September 2016.

Case Officer: Oliver Gibson

Direct Tel. No. 020 7641 2680

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 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.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must carry out the development in accordance with the facing materials that we approved on 11 February 2015 (14/12071/ADFULL), 13 July 2015 (15/02293/ADULL and 15/03869/ADFULL).

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 Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 carry out the development in accordance with the details of new shopfronts and associated framing, ground level uplighters to facades, the recycling centre recess/ enclosure to Porchester Road elevation and recycling centre shutters that we approved on 13 July 2015 (15/03869/ADFULL) and 30 November 2015 (15/06305/ADFULL).

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 Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 illuminate Porchester Walk and install CCTV in accordance with the Lighting strategy and details of CCTV we approved on 13 July 2015 (15/03869/ADFULL) and you must permanently retain and maintain the lighting and CCTV to Porchester Walk in accordance with the approved details.

Reason:

To prevent anti-social behaviour, maintain the safety of pedestrians and make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan adopted July 2016 and DES 1, DES5, DES9 and TRANS3 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be

intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:, (a) A schedule of all plant and equipment that formed part of this application;,, (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;,, (c) Manufacturer specifications of sound emissions in octave or third octave detail;,, (d) The location of most affected noise sensitive receptor location and the most affected window of it;,, (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;,, (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;,, (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;,, (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;,, (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 7 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.

- 8 You must carry out the development and install the mechanical plant in accordance with the supplementary acoustic report and noise attenuation measures that we approved on 30 November 2015 (15/06305/ADFULL). If any attenuation measures were approved, you must install these in accordance with the details we approve prior to occupation of the new retail units and thereafter permanently retain and maintain the attenuation measures in the approved locations.

Reason:

To maintain the appearance of the building and the Bayswater Conservation Area in accordance with Policies DES1, DES5, DES6 and DES9 in our Unitary Development Plan that we adopted in January 2007 and Policies S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and 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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 9 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.

- 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 2015.

- 11 You must provide the reconfigured service yard area shown on the approved plans prior to occupation of the new retail units. Thereafter you must only use the service yard area to service the retail units hereby approved and the residential accommodation within the Colonnades. (C23AA)

Reason:

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

- 12 You must permanently operate the development and manage the service yard in accordance with the Servicing Management Plan that we approved on 11 February 2015 (14/12071/ADFULL), unless or until we approve an alternative Servicing Management Plan in writing.

Reason:

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

- 13 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 (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 14 You carry out the development in accordance with the hard landscaping scheme for the surfacing of any part of the site not covered by buildings that we approved on 10 February 2015 (14/12605/ADFULL).

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan adopted July 2016 and DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R30CD)

- 15 You must provide the publicly accessible disabled toilet at ground floor level, as shown on drawing 17 Rev.12 prior to occupation of the new and enlarged retail units. Thereafter the toilet must be permanently retained and maintained in this location and it must be open accessible from the public highway and available for public use between 07.30 and 23.00 daily.

Reason:

To provide safe and secure public toilet facilities in accordance with Policies DES1, SOC8 and TRANS3 in our Unitary Development Plan that we adopted in January 2007 and Policy S41 in Westminster's City Plan that we adopted in July 2016.

- 16 You must use Unit 3 (as annotated on drawing 468) only for restaurant/ cafe use within Class A3 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).

Reason:

To maintain the character, function and vitality of the Core Frontage and Secondary Frontage of

Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in January 2007 and Policies S21 and S24 in Westminster's City Plan that we adopted in July 2016.

- 17 You must use Units 1, 2 and 5 (as annotated on drawing 468) only for retail shop use within Class A1 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).

Reason:

To maintain the character, function and vitality of the Core Frontage and Secondary Frontage of Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in January 2007 and Policies S21 and S24 in Westminster's City Plan that we adopted in July 2016.

- 18 Customers shall not be permitted within the ground floor level retail shop units (Units 2 and 5) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 18.00 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 19 Customers shall not be permitted within the restaurant/ cafe unit (Unit 3) and mixed retail shop and restaurant unit (Unit 4) before 08.00 or after 23.30 Monday to Saturday (not including bank holidays and public holidays) and before 09.00 or after 22.30 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan adopted July 2016 and ENV 6, ENV 7, SS7 and TACE9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 20 No tables and chairs shall be placed outside of the retail units hereby approved on the forecourt of the building (where it does not form part of the public highway) without our written approval. You must apply to us for approval of the location, number, appearance, hours of use and location of storage for any tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades that you propose to place on the forecourt of the building. You must not place the table and chairs or associated structures outside the retail units until we have approved what you have sent us. You must then only place the tables and chairs in the locations we approve in accordance with the details of their use and appearance that we approve.

Reason:

To prevent obstruction to pedestrian movement across the site, protect the amenity of neighbouring

residents and ensure that the appearance of the tables and chairs and associated structures are appropriate in accordance with S28, S32 and CS41 of Westminster's City Plan that we adopted in July 2016 and DES1, ENV6 and TRANS3 in our Unitary Development Plan we adopted in January 2007.

- 21 All of the retail units hereby approved shall achieve a BREEAM 'Very Good' rating or higher (or any such national measure of sustainability for commercial design that replaces that scheme of the same standard). Within 3 months of occupation of each of the retail units you must submit to us for our approval a copy of a Building Research Establishment (or equivalent independent assessment) Final Post Construction Stage Assessment and Certificate, confirming that the retail units, when built, have achieved a BREEAM 'Very Good' rating or higher.

If the submitted assessment does not demonstrate that the retail units have achieved a BREEAM 'Very Good' rating or higher, you must also submit to us for our approval a report that sets out remediation measures that are to be carried out so that the retail units will achieve this rating or higher. The submitted remediation report (if required) must also provide a time frame within which the specified remediation works will be carried out. You must not carry out any remediation works until we have approved the remediation report. You must then carry out the remediation works in accordance with the remediation report that we approve.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan that we adopted in July 2016. (R44AC)

- 22 You must provide the recycling centre (annotated 'Relocated recycling bins' on drawing 17 Rev.13) at ground floor level prior to occupation of the new and enlarged retail units. Thereafter the recycling centre must be permanently retained in this location.

Reason:

To provide suitable waste and recycling facilities in this part of the City in accordance with Policy ENV12 in our Unitary Development Plan that we adopted in January 2007 and Policy S44 in Westminster's City Plan that we adopted in July 2016.

- 23 You must carry out the development in accordance with the waste and recycling storage for the supermarket (Unit 1) that we approved on 13 July 2015 (15/02293/ADFULL). You must then provide the stores for waste and materials for recycling according to these details prior to occupation of the supermarket (Unit 1) and thereafter permanently retain them for the storage of waste and recycling from the operation of the supermarket. (C14EC)

Reason:

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

- 24 Prior to occupation of the ground floor retail units (Units 2 to 5 as shown on drawing 468) you must provide

the store for waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark them and make them available at all times to everyone working in these retail units. (C14FB)

Reason:

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

- 25 Prior to occupation of the retail units you must provide the storage area within the service yard for residential waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark this area and make it available at all times to everyone living in the residential part of the Colonnades. (C14FB)

Reason:

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

- 26 Notwithstanding the drawings approved on 9 October 2014 (13/12442/FULL), in accordance with the non-material amendment approved 9 February 2015 (15/00810/NMA), you must not form any windows in the eastern elevation of the supermarket at first floor level (Unit 1) or the ground floor retail unit (Unit 5 - as numbered on drawing 468).

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 27 Customers shall not be permitted within the retail supermarket unit (Unit 1) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays), before 10.00 or after 18.00 on Sundays and before 08.00 or after 20.00 on bank holidays and public holidays.

Reason:

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

- 28 You must use Unit 4 (as annotated on drawing 468) only for mixed retail shop and restaurant use (Sui Generis) and for no other use. The area shaded grey on drawings 468 and AAYA - 180- I - 101 shall only be used for the retail sale of goods and shall not be used to provide restaurant covers.

Reason:

To maintain the character, function and vitality of the Secondary Frontage of Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in

January 2007 and Policies S21 and S24 in Westminster's City Plan adopted in July 2016.

- 29 You must not occupy Unit 4 for mixed retail and restaurant use until a detailed scheme for the shop windows of the retail shop part of the unit (where shaded grey on drawing 468) has been submitted to and approved in writing by the local planning authority. The scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows. The development shall thereafter be carried out in accordance with the approved scheme and no further modifications shall be made.

Reason:

To protect the appearance and character of the shopping street and to maintain the retail character and function of the Porchester Road Local Centre as set out in SS7 of our Unitary Development Plan that we adopted in January 2007 and S21 in Westminster's City Plan that we adopted in July 2016. (R261A)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to notice of commencement, a shop front and advertisement strategy, public realm improvements, highway works, provision of a publicly accessible disabled toilet, provision of a recycling centre, financial contribution towards Crossrail and monitoring costs.
- 3 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the

City Council (as highway authority). (I09AC)

- 4 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 5 You are reminded that tables and chairs placed on the public highway (i.e. not on the private forecourt) in connection with retail units require the benefit of planning permission.

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.

DRAFT DECISION LETTER – APPLICATION 2 (EXTERNAL TABLES AND CHAIRS)

Address: The Colonnades, 26 Porchester Road, London, W2 6ES,

Proposal: Details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades to be placed on the forecourt of the building pursuant to Condition 20 of planning permission dated 9 October 2014 (13/12442/FULL) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).

Reference: 16/09312/ADFULL

Plan Nos: 460 Rev.02, 461 Rev.02, 462 Rev.02, 463, 464 Rev.01, 465 Rev.06, 466 Rev.02, 467, 468, 469, AAYA Example Furniture Sheet and Planning Statement from GL Hearn (as amended in terms of hours of use by email from Catriona Fraser of GL Hearn dated 22 November 2016).

Case Officer: Oliver Gibson

Direct Tel. No. 020 7641 2680

Recommended Condition(s) and Reason(s)**Informative(s):**

- 1 This permission fully meets Condition 20 of the planning permission dated 9 October 2014. (I11AA)
- 2 For the avoidance of doubt the tables and chairs permitted on the forecourt in Bishop's Bridge Road have been approved on the following basis:
 - a) They are to be placed in the locations shown on drawing 462 Rev.02.,
 - b) The tables and chairs are only to be used by customers of the restaurant element of the mixed use within Units 4 and 5.
 - c) The tables and chairs may only be used between the hours of 08.00 and 22.30 hours Monday to Saturday and between the hours of 09.00 and 22.30 on Sundays and Bank Holidays.
 - d) The tables and chairs are removed from the forecourt and stored with the premises outside of the hours of use specified in (c).

Any change in the operation of the tables and chairs from the summary above will necessitate a further application for approval of details of tables and chairs pursuant to Condition 20 of the planning permission dated 9 October 2014.

Item No.
7

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.

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 6 December 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved Bayswater	
Subject of Report	The Colonnades, 26 Porchester Road, London, W2 6ES,		
Proposal	<p>Application 1 Variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, to allow amalgamation of Units 4 and 5 facing Bishop's Bridge Road to form one retail unit for use as a mixed retail shop and restaurant use (Sui Generis) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).</p> <p>Application 2 Details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades to be placed on the forecourt of the building pursuant to Condition 20 of planning permission dated 9 October 2014 (13/12442/FULL) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).</p>		
Agent	GL Hearn		
On behalf of	BMO Developments Ltd.		
Registered Number	16/09313/FULL (Application 1) & 16/09312/ADFULL (Application 2)	Date amended/ completed	28 September 2016
Date Application Received	28 September 2016		
Historic Building Grade	Unlisted		
Conservation Area	Bayswater		

1. RECOMMENDATION

Application 1 (Variation of Conditions 16 and 17)

1. Grant conditional permission, subject to:
 - a) A deed of variation to ensure the continued provision of the following planning obligations that were secured with the original planning permission dated 9 October 2014:
 - i. Notice of commencement of development.
 - ii. Provision and adherence to a shop front and advertisement strategy.
 - iii. Provision of public realm improvements to all external parts of the application site.
 - iv. Provision of highway works, to include the replacement of the pavement of the public highway and reorganise street furniture and street signage in Porchester Road and Bishop's Bridge Road.
 - v. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
 - vi. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
 - vii. Provision of financial contribution of £50,800 towards Crossrail prior to commencement of development.
 - viii. Provision of costs for monitoring of agreement.
 2. If the S.106 planning obligation has not been completed by 17 January 2017 then:
 - a) The Director shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director is authorised to determine and issue such a decision under Delegated Powers; however, if not;
 - b) The Director shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

Application 2 (Tables and Chairs on Forecourt)

Approve details.

2. SUMMARY

The application site comprises part of the ground floor of The Colonnades shopping frontage, which on Bishop's Bridge Road forms part of the Secondary Frontage of the Porchester Road Local Centre. The site is also located within the Queensway/ Bayswater Stress Area.

Application 1 seeks permission for variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL), which granted permission for reconfiguration of the ground and first floors of the retail frontages of the Colonnades at the junction of Bishops Bridge Road and Porchester Road. The approved scheme principally sought to provide a larger supermarket premises

(Class A1) at part ground floor and first floor level, with the ground floor retail accommodation reconfigured to provide three retail shop units (Class A1) and two restaurant/ cafe units (Class A3). This permission has been implemented and the shop units to which this permission relates have been created at ground floor level.

The current application (Application 1) seeks to vary the aforementioned conditions to allow amalgamation of Units 4 and 5 at ground floor level facing Bishop's Bridge Road so that they would comprise a single mixed use retail shop and restaurant use (Sui Generis), rather than a small retail shop unit (Class A1) and a larger restaurant unit (Class A3), which was the arrangement of uses that was previously approved.

Application 2 seeks approval of details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures pursuant to Condition 20 of the planning permission dated 9 October 2016. The tables and chairs proposed would be placed on the forecourt area of The Colonnades in Bishop's Bridge Road in relation with the mixed retail shop and restaurant use that is proposed by Application 1.

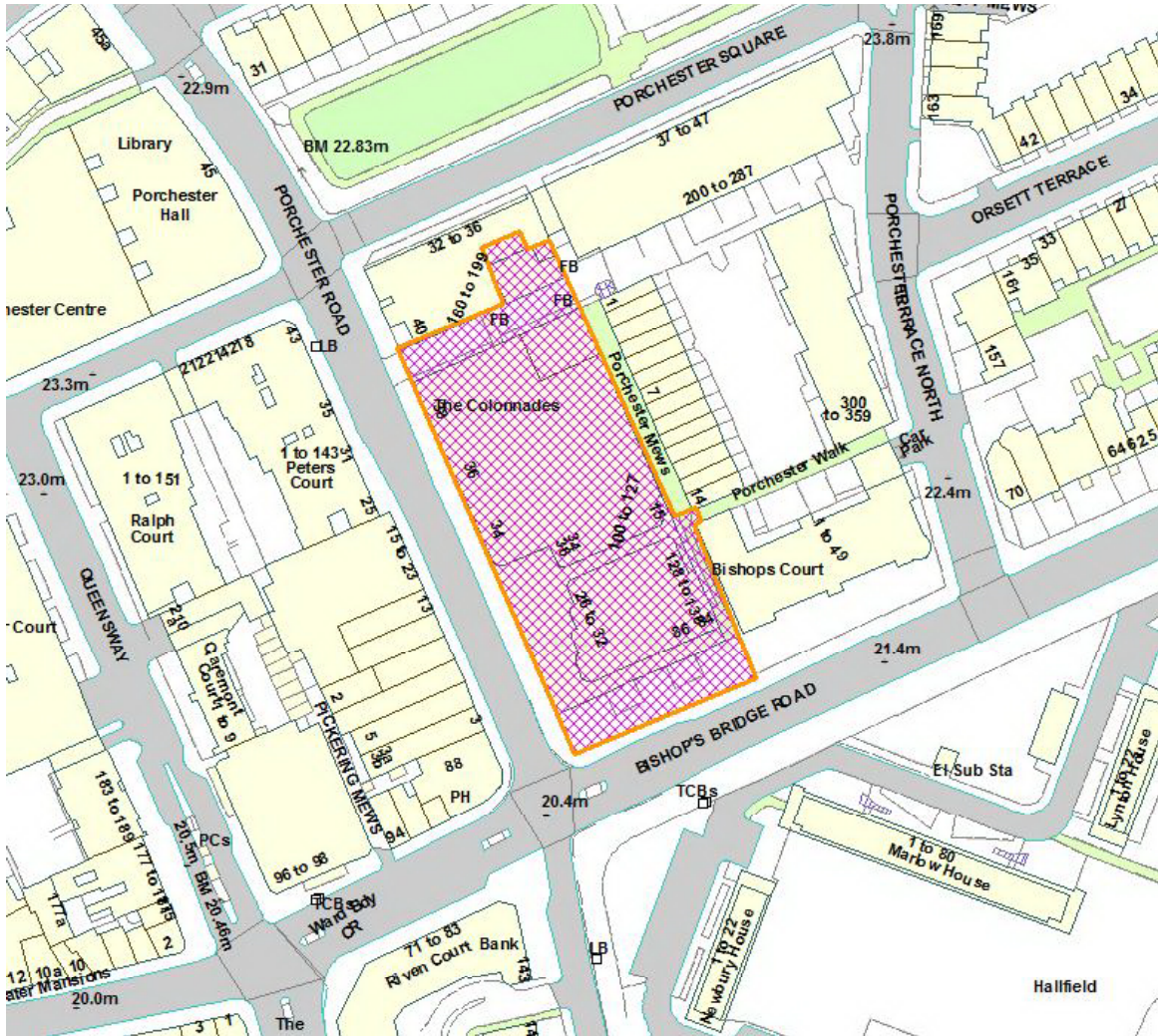
The key issues in these cases are:

- The acceptability of losing the existing self contained Class A1 retail shop use within the Secondary Frontage of the Porchester Road Local Centre.
- The impact of the proposed tables and chairs on the amenity of neighbouring residents.
- The impact of the proposed tables and chairs on the operation of the public highway.

Given the applicant's proposal to provide a dedicated retail shop area within the combined unit, which is to be secured by condition, it is considered that the use of Units 4 and 5 (as numbered in the previously approved scheme) as a mixed retail shop and restaurant use is acceptable in land use terms and would not harm the retail character and function of the Porchester Road Local Centre. As such, Application 1 is recommended for approval.

Given the limited hours of use proposed, the external tables and chairs proposed in Application 2 would not harm the amenity of neighbouring residents or the operation of the public highway. Therefore this application is also recommended for approval.

3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and /or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



View from corner of Bishop's Bridge Road and Porchester Road.



View of Bishop's Bridge Road frontage (Units 4 and 5 are the two left hand glazed frontages).

5. CONSULTATIONS

Application 1 (Variation of Conditions 16 and 17)

WARD COUNCILLORS (BAYSWATER)
Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION
Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER
Any response to be reported verbally.

CLEANSING MANAGER
No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED
No. Consulted: 245.
Total No. of replies: 1.
No. of objections: 1.
No. in support: 0.

One email received raising objection on all or some of the following grounds:

- Noise and disturbance and anti social behaviour from late and early morning operating hours. Notes that Bishops Court has habitable rooms, including bedrooms facing the application premises.
- Opening hours should be strictly regulated.

ADVERTISEMENT/ SITE NOTICE: Yes.

Application 2 (Tables and Chairs on the Forecourt)

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION
Any response to be reported verbally.

CLEANSING MANAGER
No objection.

DESIGNING OUT CRIME ADVISOR
Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER
Any response to be reported verbally.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED
No. Consulted: 163.
Total No. of replies: 2.
No. of objections: 2.
No. in support: 0.

Two emails received raising objection on all or some of the following grounds:

- Late opening hours would harm the amenity of neighbouring residents in terms of noise disturbance.
- Previous tenants of The Colonnades, prior to its refurbishment, opened late and caused noise disturbance to neighbouring properties.
- Concerned that previous issues with noise disturbance will recommence.
- Noise disturbance from music and as a result of alcohol license.
- Note proximity of habitable rooms, including bedrooms, in Bishop's Court to application site.
- Opening hours should be strictly regulated.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site comprises part of the ground floor of The Colonnades shopping frontage, the Bishop's Bridge Road facade of which forms part of the Secondary Frontage of the Porchester Road Local Centre. In addition, the site is located within the Queensway/ Bayswater Stress Area when considering the impact of new entertainment uses.

The application relates to Units 4 and 5 of the reconfigured shopping frontages of The Colonnades, which have been formed on site following construction works in 2015 and early 2016, but have yet to be occupied. As approved the lawful use of Unit 4 (the smaller unit) is as a retail shop (Class A1), whilst the lawful use of Unit 5 is as a restaurant (Class A3). The previously approved ground floor plan is provided in Section 10 of this report.

The building within which the retail units are located is not listed, but is within the Bayswater Conservation Area.

The tables and chairs proposed by Application 2 would be located on the private forecourt of The Colonnades and would not be on the public highway.

6.2 Recent Relevant History

6.2.1 Reconfiguration of The Colonnades Retail Floorspace

9 October 2014 – Permission granted for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works (13/12442/FULL).

The above permission was granted following completion of a S106 agreement to secure the following planning obligations (i) provision and adherence to a shop front and advertisement strategy; (ii) provision of public realm improvements to all external parts of

the application site; (iii) provision of highway works; (iv) provision, access and ongoing future maintenance of a publicly accessible disabled toilet; (v) provision, access and ongoing future maintenance of accommodation for a 'recycling centre'; and (vi) provision of financial contribution of £50,800 towards Crossrail.

20 October 2015 – Application refused for use of Unit 2 (a Class A1 unit facing Porchester Road) as mixed gym, shop and juice bar (Sui Generis) (15/06926/FULL). Application refused by the Planning Applications Committee on grounds of loss of retail shop use from within the Core Frontage of the Porchester Road Local Centre.

6.2.2 Previous Tables and Chairs Permissions

23 August 2001 – Permission granted for one year for use of the public highway to the Bishop's Bridge Road frontage (7.2m x 5.5m) for the placing of 10 tables and 24 chairs with sun umbrellas in connection with Pizza Express at corner of Bishop's Bridge Road and Porchester Road (01/01745/TCH). Permitted hours were between 11.00 and 23.00 hours daily.

Above permission in connection with Pizza Express premises was renewed in 2002 (02/06226/TCH), 2004 (04/02907/TCH), 2006 (06/04305/TCH) and 2007 (07/04693/TCH).

19 September 2007 – Permission granted for a one year period for placing of 6 tables and 24 chairs in front of the Berdees café premises at No.84 Bishop's Bridge Road next to Bishop's Court in an area measuring 5.5 metres (deep) and 5.7 metres (width). Permitted hours were between 08.00 and 23.00 hours daily.

15 July 2010 – Application refused for use of the public highway (7.7m x 5.6m) for the placing of 10 tables and 20 chairs and installation of open canopy (3m x 6m x 2.5m) in connection with Marhba cafe and restaurant (located in former Pizza Express premises). Proposed hours were between 0900 and 0000 hours Monday to Sunday (09/07428/TCH). Permission refused on noise amenity grounds due to the hours of use proposed.

4 April 2011 – Application refused for use of the public highway in an area measuring 7.7m x 5.6m for the placing of 10 tables and 20 chairs in connection with Marhba Cafe and Restaurant between the hours of 09.00 and 23.00 daily. Permission refused on late night noise and disturbance grounds (10/08481/TCH).

3 January 2012 - Appeal against the City Council's decision of 4 April 2011 was allowed and tables and chairs were permitted on the highway for a one year period between 09.00 and 23.00 hours daily.

29 October 2013 – Permission granted for a one year period for the use of an area of pavement measuring 7.7m x 5.6m for the placing of 10 tables and 20 chairs in connection with Marhba Cafe and Restaurant between the hours of 09.00 and 23.00 daily (13/02378/TCH).

7. THE PROPOSAL

7.1 Application 1 (Variation of Conditions 16 and 17)

The application seeks permission for variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL), which granted permission for reconfiguration of the ground and first floors of the retail frontages of the Colonnades at the junction of Bishops Bridge Road and Porchester Road. The approved scheme principally sought to provide a larger supermarket premises (Class A1) at part ground floor and first floor level, with the ground floor retail accommodation reconfigured to provide three retail shop units (Class A1) and two restaurant/ cafe units (Class A3). This permission has been implemented and the shop units to which this permission relates have been created at ground floor level to the Bishop's Bridge Road frontage of the site.

The current application seeks to vary the aforementioned conditions to allow amalgamation of Units 4 and 5 at ground floor level facing Bishop's Bridge Road so that they would comprise a single mixed use retail shop and restaurant use (Sui Generis), rather than a small retail shop unit (Class A1) and a larger restaurant unit (Class A3), which was the arrangement of uses that was previously approved.

The application has been submitted by restaurant management company AAYA, which operates the Turkish restaurant brand 'Babaji'. Subject to the outcome of this application AAYA intend to open a branch of 'Babaji' at The Colonnades in Units 4 and 5. AAYA advise that to date only one 'flagship' branch of 'Babaji' has been opened on Shaftsbury Avenue, with a second 'flagship' branch due to open in Dubai in December 2016. To provide a retail shop element to the operation, the applicant advises that the branch at The Colonnades would include a baklava shop that provides a range of baklava and associated products. The retail area would be located at the front of the combined unit and would ensure the retail shop element of the use has a presence immediately behind the shop front. The applicant's description of the proposed use is provided in the background papers for information.

7.2 Application 2 (Tables and Chairs on Forecourt)

Application 2 seeks approval of details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures pursuant to Condition 20 of the planning permission dated 9 October 2016. The tables and chairs proposed would be placed on the forecourt area of The Colonnades in Bishop's Bridge Road in relation with the mixed retail shop and restaurant use that is proposed by Application 1.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Change of Use of Units 4 and 5 (Application 1)

The scheme previously approved in October 2014 sought to provide a balance of retail shop (Class A1) and restaurant uses (Class A3) at ground floor level within the Core Frontage (to Porchester Road) and Secondary Frontages (to Bishop's Bridge Road) within the Porchester Road Local Centre. To achieve this, of the five ground floor units three

were proposed to be Class A1 retail shop units and two were proposed to be Class A3 restaurant units.

The current application seeks to amalgamate the smallest of the retail shop units (Unit 4) in to the neighbouring restaurant unit (Unit 5), which are on the Bishop's Bridge Road frontage of the site within the Secondary Frontage of the Local Centre.

The applicant proposes to retain a retail shop function within the area of the approved Unit 4. The retail shop function would comprise a shop selling varieties of baklava that will be baked on the premises, with display shelving and a retail sales counter. The applicant advises that the retail shop offering would be not dissimilar to a patisserie. The baklava retail shop would complement the intended use of the restaurant floor area (within the area of Unit 5) as a Turkish restaurant.

As the proposed mixed use would retain a retail shop function within the area previously approved as a self-contained retail shop unit, it is considered that the proposed use would retain sufficient retail character and function within the Secondary Frontage of the Local Centre so as not to undermine the vitality and viability of the centre. The proposal would not result in the loss of any local convenience shops and would not result in more than three non-A1 units located consecutively in a frontage as the eastern most unit to the Bishop's Bridge Road frontage has a lawful use as a Class A1 retail shop.

Conditions are however recommended to prevent the use of the retail shop area (marked in grey on the submitted plans) as additional restaurant seating and to require the provision of a retail display in the windows of the retail shop part of the mixed use. Subject to these conditions it is considered that the mixed retail shop and restaurant use proposed is acceptable and would accord with Policy SS7 in the UDP and S21 in the City Plan.

The application site is located within the Queensway/ Bayswater Stress Area, within which additional controls are placed on entertainment premises, including restaurants. However, the floor area proposed for restaurant use would be no greater than that previously approved in October 2014 and therefore there would be no material increase in noise and disturbance from persons entering and leaving the premises as a result of the current proposal. For this reason the proposed use is considered to accord with Policy TACE9 in the UDP and S24 in the City Plan.

8.1.2 Provision of Tables and Chairs (Application 2)

The principle of providing tables and chairs has been established in land use terms by the planning application dated 9 October 2014 (13/12442/FULL), subject to the details of the tables and chairs being agreed pursuant to Condition 20. Indeed, prior to redevelopment of The Colonnades, there had been a long history of tables and chairs being placed on the previously larger forecourt of the site in Bishop's Bridge Road, as well as part of the public highway. It should be noted that prior to reconfiguration of The Colonnades, the City Council as local planning authority had no control over the tables and chairs placed on the private forecourt and these were often used late into the night.

Condition 20 of the October 2014 permission states:

'No tables and chairs shall be placed outside of the retail units hereby approved on the forecourt of the building (where it does not form part of the public highway) without our written approval. You must apply to us for approval of the location, number, appearance, hours of use and location of storage for any tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades that you propose to place on the forecourt of the building. You must not place the table and chairs or associated structures outside the retail units until we have approved what you have sent us. You must then only place the tables and chairs in the locations we approve in accordance with the details of their use and appearance that we approve.'

The current approval of details application (Application 2) proposes the placement of 16 tables and 32 chairs between the fixed planters outside Units 4 and 5. The applicant proposes that the tables and chairs would be placed on the forecourt and in use between 08.00 and 22.30 hours Monday to Saturday and between 09.30 and 22.30 hours on Sundays and Bank Holidays. The external tables and chairs are to be stored within the premises outside of these hours. The impacts of the proposed tables and chairs on the amenity of neighbouring residents and the operation of the public highway are considered in Sections 8.3 and 8.4 of this report.

8.2 Townscape and Design

Application 1 does not raise any design considerations.

The tables and chairs and other furniture proposed as part of Application 2 are of a good standard and would not detract from the appearance of this building or the character and appearance of the Bayswater Conservation Area.

8.3 Residential Amenity

The closest residential properties to the application sites (Applications 1 and 2) are on the upper floors of The Colonnades and to the east along Bishop's Bridge Road, where Bishop's Court forms the neighbouring building.

In terms of Application 1, the proposed mixed use would not increase the restaurant area used for seating relative to that previously approved in 2014 and therefore the degree of noise and disturbance generated by customers entering and leaving the premises would not be materially greater than would be the case under the 2014 permission. As such, the proposed missed use forming Application 1 would accord with Policies ENV6 and TACE 9 in amenity terms.

In terms of Application 2 (tables and chairs), as noted in Section 8.1.2, prior to reconfiguration of the Colonnades the private forecourt of the site in Bishop's Bridge Road was used to place a significant number of tables and chairs outside a lawful restaurant unit at the corner of Bishop's Bridge Road and Porchester Road (which was occupied by Pizza Express and the Marhba café), without the need for planning permission. As a consequence these uncontrolled tables and chairs were often used late into the night causing noise disturbance to neighbouring residents. Tables and chairs were also permitted on the public highway, in addition to those on the private forecourt that did not require planning permission, and these were controlled by condition to use between 09.00 and 23.00 hours daily.

Set in this context, Condition 20 of the October 2014 permission offers the opportunity to control the tables and chairs on the retail forecourt in Bishop's Bridge Road going forward, which was not previously within the gift of the City Council as local planning authority. As such, concerns that the tables and chairs would cause significant late night disturbance, as was the case prior to reconfiguration of The Colonnades, cannot be supported as the hours of use of all the tables and chairs would be subject to planning control.

The applicant proposes the use of the forecourt to provide 16 tables and 32 chairs within an area defined by existing fixed planters. The tables and chairs would be used by diners at the restaurant element of the proposed mixed use and the opening hours would be between 08.00 and 22.30 hours Monday to Saturday and between 09.00 and 22.30 hours on Sundays and Bank Holidays. The external tables and chairs would be stored within the application premises outside of these hours.

In the context of the previous history of external tables and chairs to this frontage of the site and as all the tables and chairs would be subject to planning control, it is considered that the hours of use of the tables and chairs that are proposed are acceptable in amenity terms and would not cause significant noise disturbance to neighbouring residents. As such, objections on noise disturbance grounds cannot be supported and the proposal would accord with Policies ENV6 and TACE11 in the UDP and S32 in the City Plan.

8.4 Transportation/Parking

The change of use proposed by Application 1 would not have any significant impact on the highway network. Given there would be no increase in the floor area available within the mixed use unit for restaurant covers. The servicing of the combined unit would be serviced via the servicing bay accessed via Porchester Road, as was envisaged during the original application.

The tables and chairs proposed in Application 2 would be located on private forecourt and would not narrow the available width of public highway along Bishop's Bridge Road. Consequently the proposal accords with the guidance in the Supplementary Planning Document 'Westminster Way' and Policy TRANS11 in the UDP in terms its impact on the public highway.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size.

8.6 Access

The retail unit and forecourt area benefit from level access from the public highway and therefore the applications do not raise any significant access concerns.

8.7 Other UDP/Westminster Policy Considerations

None relevant.

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

As set out in the recommendation in Section 1 of this report, should the committee resolve to grant conditional permission for Application 1, it is necessary for a deed of variation to be completed to ensure the continued provision of the planning obligations secured by the original permission. The heads of terms of the original S106 agreement dated 9 October 2014 (as amended by a previous deed of variation dated 4 September 2015) are as follows:

- ix. Notice of commencement of development.
- x. Provision and adherence to a shop front and advertisement strategy.
- xi. Provision of public realm improvements to all external parts of the application site.
- xii. Provision of highway works, to include the replacement of the pavement of the public highway and reorganise street furniture and street signage in Porchester Road and Bishop's Bridge Road.
- xiii. Provision, access and ongoing future maintenance of a publicly accessible disabled toilet.
- xiv. Provision, access and ongoing future maintenance of accommodation for 'recycling centre', including provision of sleeves to enclose Eurobins.
- xv. Provision of financial contribution of £50,800 towards Crossrail prior to commencement of development.
- xvi. Provision of costs for monitoring of agreement.

8.11 Environmental Impact Assessment

The proposed development is of insufficient scale to require an Environmental Impact Assessment.

8.12 Other Issues

None relevant.

9. BACKGROUND PAPERS

Application 1 (Variation of Conditions 16 and 17)

1. Application form.
2. Memo from the Cleansing Manager dated 21 October 2016.
3. Email from occupier of 17 Bishops Court, 76 Bishops Bridge Road dated 10 October 2016.
4. Supporting letter from the applicant (AAYA) dated 27 September 2016.

Application 2 (Tables and Chairs on Forecourt)

1. Application form.
2. Memo from the Cleansing Manager dated 12 October 2016.
3. Email from the occupier of 25 Bishops Court, 76 Bishops Bridge Road dated 25 October 2016.
4. Email from the occupier of 17 Bishops Court, 76 Bishops Bridge Road dated 30 October 2016.

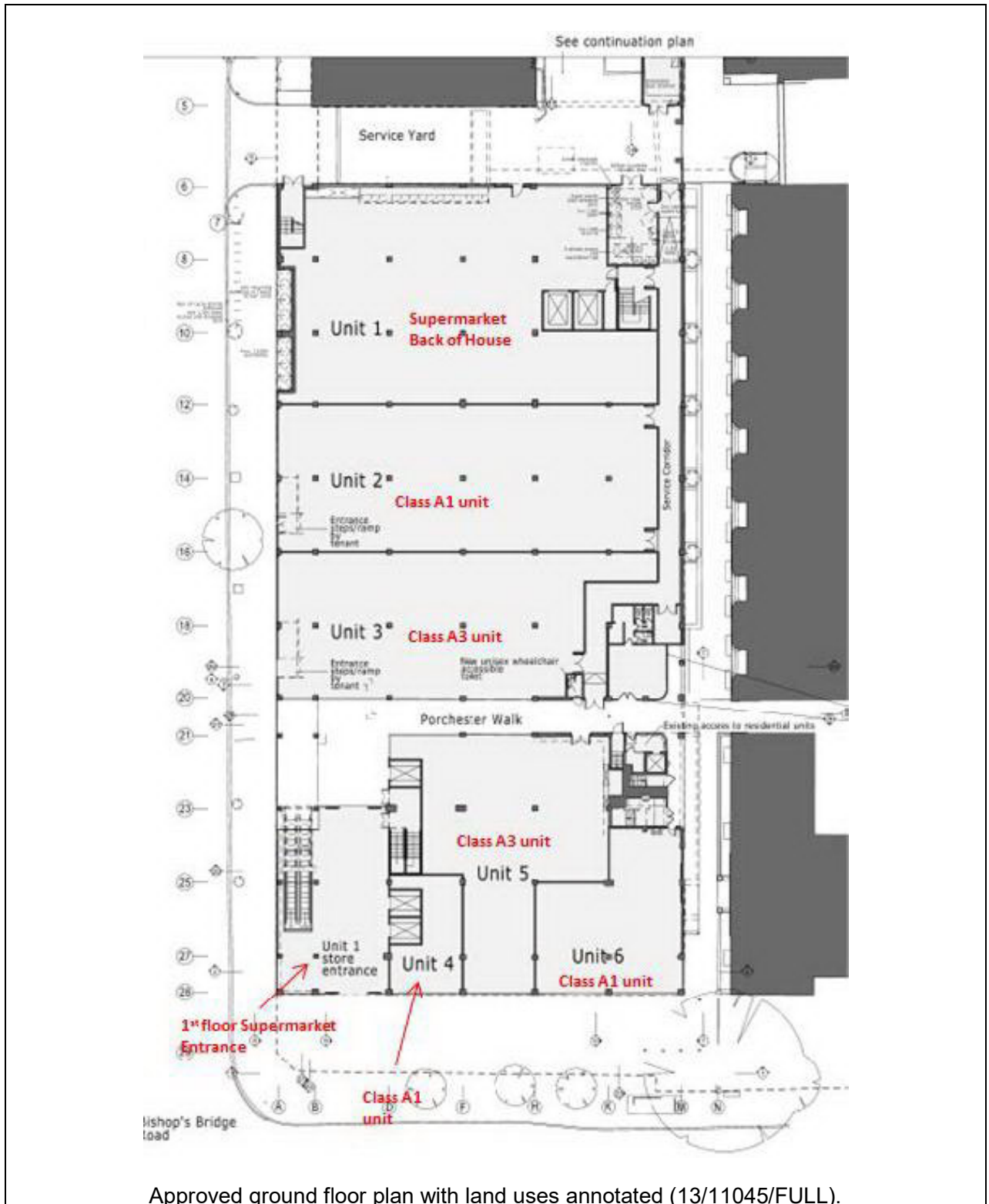
Selected relevant drawings

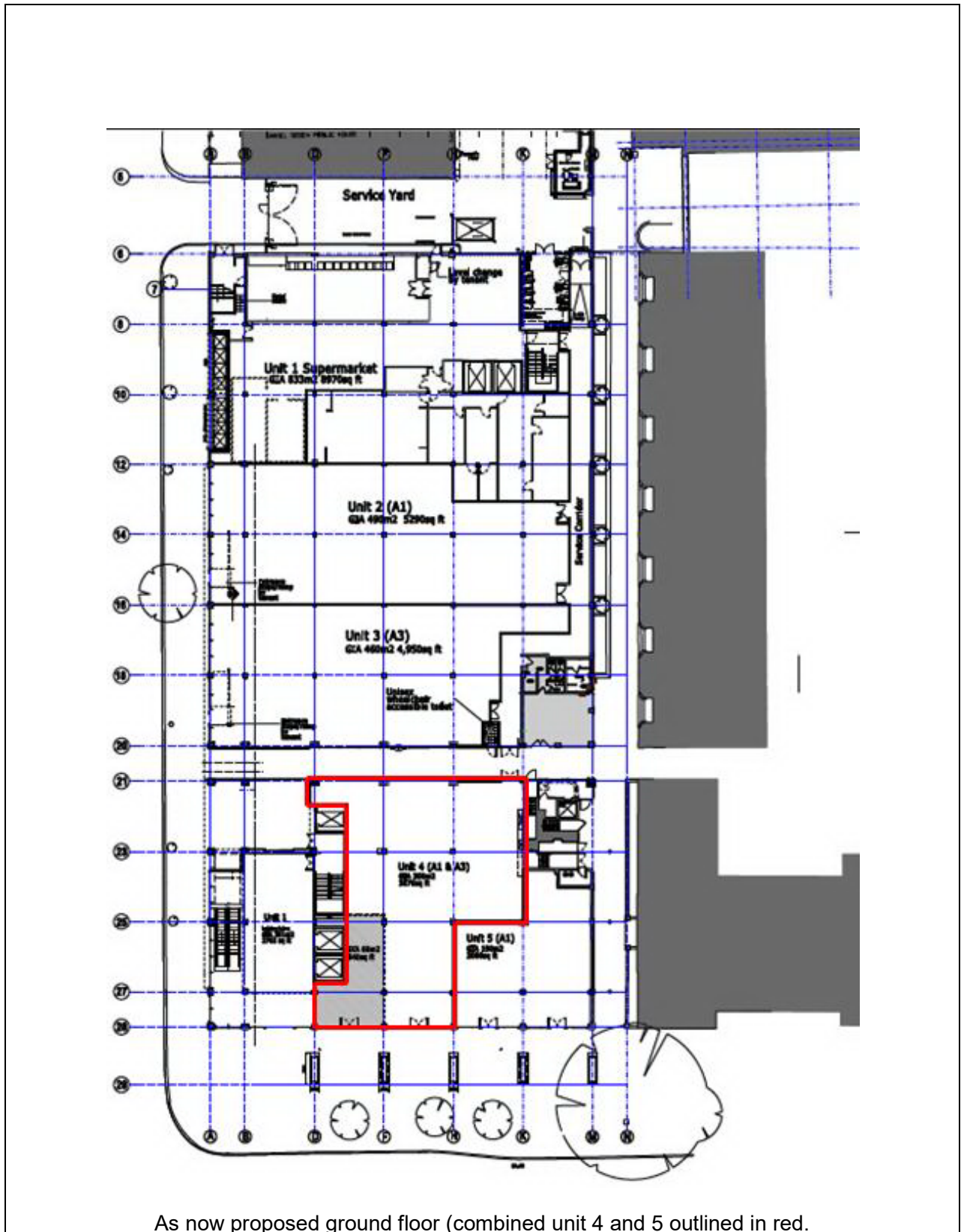
As approved and as proposed floor plans and tables and chairs plans.

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

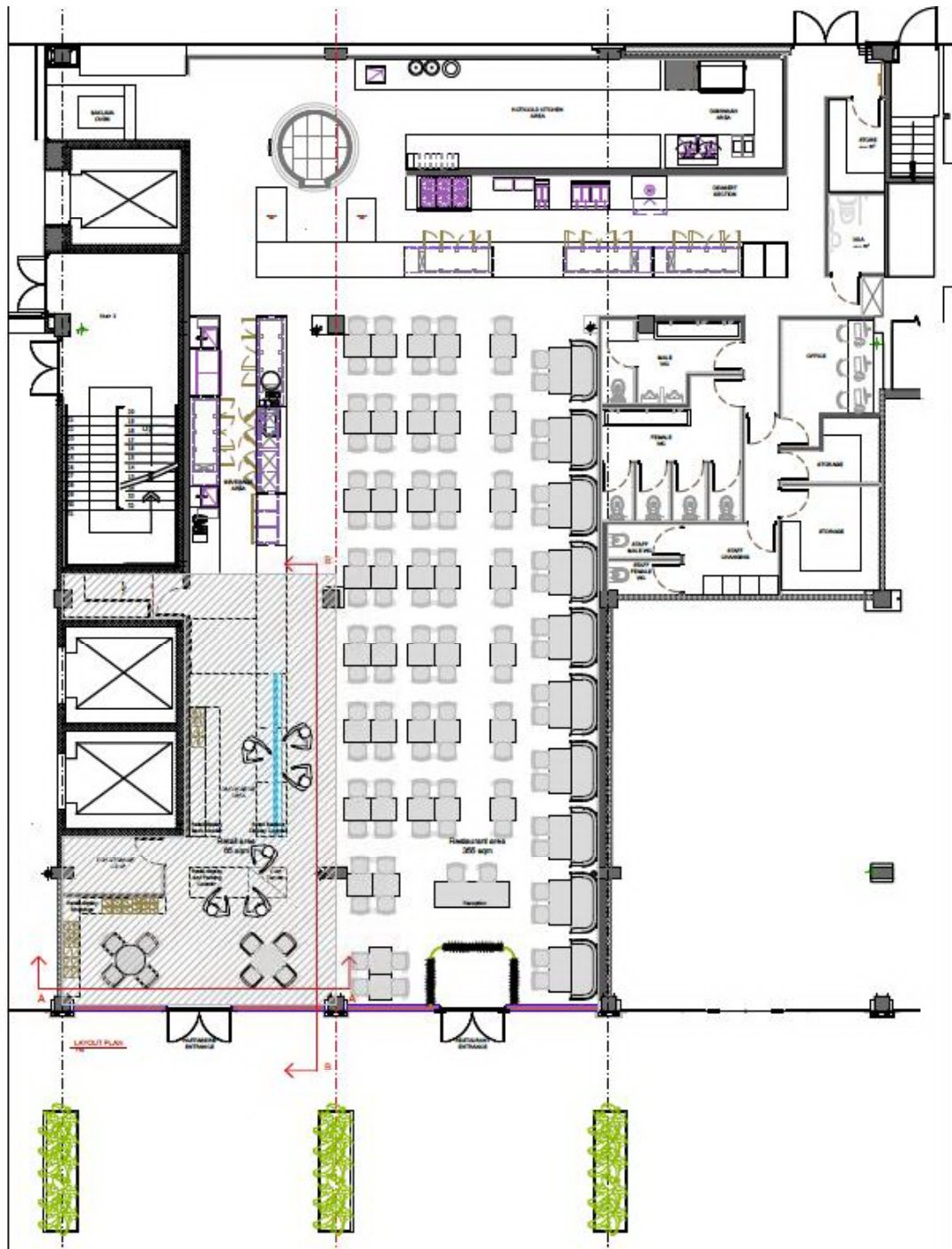
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk.

10. KEY DRAWINGS

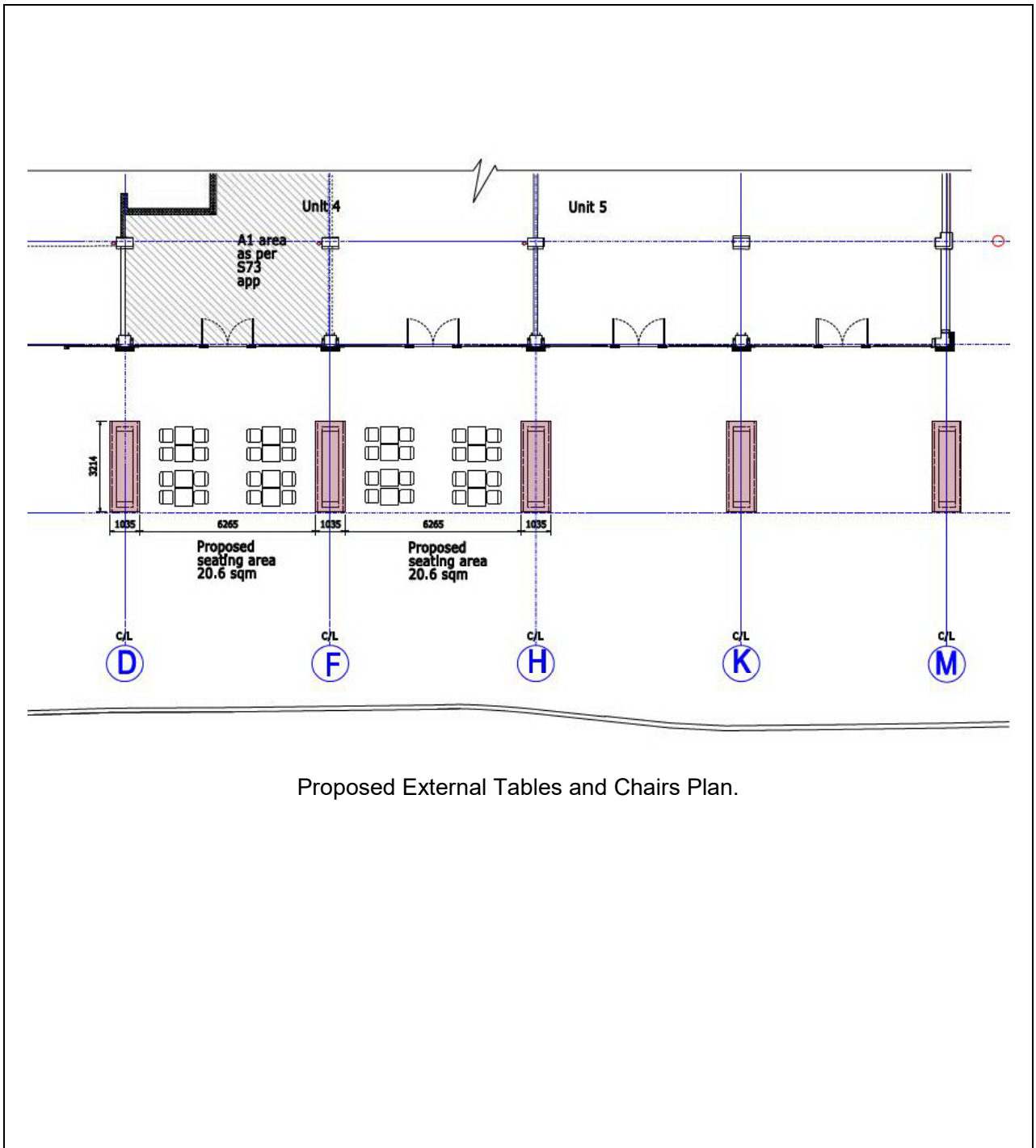




As now proposed ground floor (combined unit 4 and 5 outlined in red).



Detailed layout plan of proposed mixed retail shop and restaurant Use.



Proposed External Tables and Chairs Plan.

DRAFT DECISION LETTER – APPLICATION 1 (VARIATION OF CONDITIONS 16 AND 17)

Address: The Colonnades, 26 Porchester Road, London, W2 6ES,

Proposal: Variation of Conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. NAMELY, to allow amalgamation of Units 4 and 5 facing Bishop's Bridge Road to form one retail unit for use as a mixed retail shop and restaurant use (Sui Generis) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).

Reference: 16/09313/FULL

Plan Nos: **Drawings and Documents Previously Approved under RN: 13/12442/FULL:** 10 Rev.03, 11 Rev.03, 12 Rev.04, 13 Rev.02, 14 Rev.03, 16 Rev.09, 17 Rev.13, 18 Rev.07, 19 Rev.06, 26 Rev.02, 34 Rev.03, 36 Rev.01, 37 Rev.03, 38 Rev.06, 41 Rev.01, 42 Rev.01, 43 Rev.01, 44 Rev.05, 45 Rev.01, 46 Rev.03, 48 Rev.02, 50 Rev.01, 52 Rev.01, 53 Rev.01, 54 Rev.01, 56 Rev.01, 57 Rev.01, 58, 59, Design and Access Statement, Supporting Planning Statement dated December 2013, Consultation Statement and Transport Statement dated 11 December 2013 (Issue 3/ Ref: TR8131062/RH/DW/006) as amended by TR8130862/SP02 Rev.C, TR8130862/SP03 Rev.C and additional parking occupancy data provided in email from GL Hearn dated 4 March 2014. **As Amended by Drawings and Documents Hereby Approved:** AAYA-180-I-101, AAYA-180-I-102, 468, 469, Ground Floor - Layout Retail Area drawing (unnumbered), Supporting Letter from AAYA dated 27 September 2016 (setting out proposed retail shop use) and Planning Statement by GL Hearn dated 28 September 2016.

Case Officer: Oliver Gibson

Direct Tel. No. 020 7641 2680

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 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.

Noisy work must not take place outside these hours. (C11AA)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must carry out the development in accordance with the facing materials that we approved on 11 February 2015 (14/12071/ADFULL), 13 July 2015 (15/02293/ADULL and 15/03869/ADFULL).

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 Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 carry out the development in accordance with the details of new shopfronts and associated framing, ground level uplighters to facades, the recycling centre recess/ enclosure to Porchester Road elevation and recycling centre shutters that we approved on 13 July 2015 (15/03869/ADFULL) and 30 November 2015 (15/06305/ADFULL).

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 Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 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 illuminate Porchester Walk and install CCTV in accordance with the Lighting strategy and details of CCTV we approved on 13 July 2015 (15/03869/ADFULL) and you must permanently retain and maintain the lighting and CCTV to Porchester Walk in accordance with the approved details.

Reason:

To prevent anti-social behaviour, maintain the safety of pedestrians and make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan adopted July 2016 and DES 1, DES5, DES9 and TRANS3 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be

intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:, (a) A schedule of all plant and equipment that formed part of this application;,, (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;,, (c) Manufacturer specifications of sound emissions in octave or third octave detail;,, (d) The location of most affected noise sensitive receptor location and the most affected window of it;,, (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;,, (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;,, (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;,, (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;,, (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (July 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 7 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.

- 8 You must carry out the development and install the mechanical plant in accordance with the supplementary acoustic report and noise attenuation measures that we approved on 30 November 2015 (15/06305/ADFULL). If any attenuation measures were approved, you must install these in accordance with the details we approve prior to occupation of the new retail units and thereafter permanently retain and maintain the attenuation measures in the approved locations.

Reason:

To maintain the appearance of the building and the Bayswater Conservation Area in accordance with Policies DES1, DES5, DES6 and DES9 in our Unitary Development Plan that we adopted in January 2007 and Policies S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and 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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 9 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.

- 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 2015.

- 11 You must provide the reconfigured service yard area shown on the approved plans prior to occupation of the new retail units. Thereafter you must only use the service yard area to service the retail units hereby approved and the residential accommodation within the Colonnades. (C23AA)

Reason:

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

- 12 You must permanently operate the development and manage the service yard in accordance with the Servicing Management Plan that we approved on 11 February 2015 (14/12071/ADFULL), unless or until we approve an alternative Servicing Management Plan in writing.

Reason:

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

- 13 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 (July 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 14 You carry out the development in accordance with the hard landscaping scheme for the surfacing of any part of the site not covered by buildings that we approved on 10 February 2015 (14/12605/ADFULL).

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Bayswater Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan adopted July 2016 and DES 1 (A) and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R30CD)

- 15 You must provide the publicly accessible disabled toilet at ground floor level, as shown on drawing 17 Rev.12 prior to occupation of the new and enlarged retail units. Thereafter the toilet must be permanently retained and maintained in this location and it must be open accessible from the public highway and available for public use between 07.30 and 23.00 daily.

Reason:

To provide safe and secure public toilet facilities in accordance with Policies DES1, SOC8 and TRANS3 in our Unitary Development Plan that we adopted in January 2007 and Policy S41 in Westminster's City Plan that we adopted in July 2016.

- 16 You must use Unit 3 (as annotated on drawing 468) only for restaurant/ cafe use within Class A3 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).

Reason:

To maintain the character, function and vitality of the Core Frontage and Secondary Frontage of

Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in January 2007 and Policies S21 and S24 in Westminster's City Plan that we adopted in July 2016.

- 17 You must use Units 1, 2 and 5 (as annotated on drawing 468) only for retail shop use within Class A1 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).

Reason:

To maintain the character, function and vitality of the Core Frontage and Secondary Frontage of Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in January 2007 and Policies S21 and S24 in Westminster's City Plan that we adopted in July 2016.

- 18 Customers shall not be permitted within the ground floor level retail shop units (Units 2 and 5) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays) and before 10.00 or after 18.00 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 19 Customers shall not be permitted within the restaurant/ cafe unit (Unit 3) and mixed retail shop and restaurant unit (Unit 4) before 08.00 or after 23.30 Monday to Saturday (not including bank holidays and public holidays) and before 09.00 or after 22.30 on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan adopted July 2016 and ENV 6, ENV 7, SS7 and TACE9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 20 No tables and chairs shall be placed outside of the retail units hereby approved on the forecourt of the building (where it does not form part of the public highway) without our written approval. You must apply to us for approval of the location, number, appearance, hours of use and location of storage for any tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades that you propose to place on the forecourt of the building. You must not place the table and chairs or associated structures outside the retail units until we have approved what you have sent us. You must then only place the tables and chairs in the locations we approve in accordance with the details of their use and appearance that we approve.

Reason:

To prevent obstruction to pedestrian movement across the site, protect the amenity of neighbouring

residents and ensure that the appearance of the tables and chairs and associated structures are appropriate in accordance with S28, S32 and CS41 of Westminster's City Plan that we adopted in July 2016 and DES1, ENV6 and TRANS3 in our Unitary Development Plan we adopted in January 2007.

- 21 All of the retail units hereby approved shall achieve a BREEAM 'Very Good' rating or higher (or any such national measure of sustainability for commercial design that replaces that scheme of the same standard). Within 3 months of occupation of each of the retail units you must submit to us for our approval a copy of a Building Research Establishment (or equivalent independent assessment) Final Post Construction Stage Assessment and Certificate, confirming that the retail units, when built, have achieved a BREEAM 'Very Good' rating or higher.

If the submitted assessment does not demonstrate that the retail units have achieved a BREEAM 'Very Good' rating or higher, you must also submit to us for our approval a report that sets out remediation measures that are to be carried out so that the retail units will achieve this rating or higher. The submitted remediation report (if required) must also provide a time frame within which the specified remediation works will be carried out. You must not carry out any remediation works until we have approved the remediation report. You must then carry out the remediation works in accordance with the remediation report that we approve.

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan that we adopted in July 2016. (R44AC)

- 22 You must provide the recycling centre (annotated 'Relocated recycling bins' on drawing 17 Rev.13) at ground floor level prior to occupation of the new and enlarged retail units. Thereafter the recycling centre must be permanently retained in this location.

Reason:

To provide suitable waste and recycling facilities in this part of the City in accordance with Policy ENV12 in our Unitary Development Plan that we adopted in January 2007 and Policy S44 in Westminster's City Plan that we adopted in July 2016.

- 23 You must carry out the development in accordance with the waste and recycling storage for the supermarket (Unit 1) that we approved on 13 July 2015 (15/02293/ADFULL). You must then provide the stores for waste and materials for recycling according to these details prior to occupation of the supermarket (Unit 1) and thereafter permanently retain them for the storage of waste and recycling from the operation of the supermarket. (C14EC)

Reason:

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

- 24 Prior to occupation of the ground floor retail units (Units 2 to 5 as shown on drawing 468) you must provide

the store for waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark them and make them available at all times to everyone working in these retail units. (C14FB)

Reason:

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

- 25 Prior to occupation of the retail units you must provide the storage area within the service yard for residential waste and materials for recycling shown on drawing number 17 Rev.13. You must clearly mark this area and make it available at all times to everyone living in the residential part of the Colonnades. (C14FB)

Reason:

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

- 26 Notwithstanding the drawings approved on 9 October 2014 (13/12442/FULL), in accordance with the non-material amendment approved 9 February 2015 (15/00810/NMA), you must not form any windows in the eastern elevation of the supermarket at first floor level (Unit 1) or the ground floor retail unit (Unit 5 - as numbered on drawing 468).

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (July 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 27 Customers shall not be permitted within the retail supermarket unit (Unit 1) before 07.00 or after 23.00 Monday to Saturday (not including bank holidays and public holidays), before 10.00 or after 18.00 on Sundays and before 08.00 or after 20.00 on bank holidays and public holidays.

Reason:

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

- 28 You must use Unit 4 (as annotated on drawing 468) only for mixed retail shop and restaurant use (Sui Generis) and for no other use. The area shaded grey on drawings 468 and AAYA - 180- I - 101 shall only be used for the retail sale of goods and shall not be used to provide restaurant covers.

Reason:

To maintain the character, function and vitality of the Secondary Frontage of Porchester Road Local Centre in accordance with Policies SS7, SS11 and TACE9 in our Unitary Development Plan that we adopted in

January 2007 and Policies S21 and S24 in Westminster's City Plan adopted in July 2016.

- 29 You must not occupy Unit 4 for mixed retail and restaurant use until a detailed scheme for the shop windows of the retail shop part of the unit (where shaded grey on drawing 468) has been submitted to and approved in writing by the local planning authority. The scheme shall include the area immediately behind the windows, shall not include any obscured glass and shall define any display panels within the windows. The development shall thereafter be carried out in accordance with the approved scheme and no further modifications shall be made.

Reason:

To protect the appearance and character of the shopping street and to maintain the retail character and function of the Porchester Road Local Centre as set out in SS7 of our Unitary Development Plan that we adopted in January 2007 and S21 in Westminster's City Plan that we adopted in July 2016. (R261A)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to notice of commencement, a shop front and advertisement strategy, public realm improvements, highway works, provision of a publicly accessible disabled toilet, provision of a recycling centre, financial contribution towards Crossrail and monitoring costs.
- 3 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the

City Council (as highway authority). (I09AC)

- 4 Under the Highways Act 1980 you must get a licence from us before you put skips or scaffolding on the road or pavement. It is an offence to break the conditions of that licence. You may also have to send us a programme of work so that we can tell your neighbours the likely timing of building activities. For more advice, please phone our Highways Licensing Team on 020 7641 2560. (I35AA)
- 5 You are reminded that tables and chairs placed on the public highway (i.e. not on the private forecourt) in connection with retail units require the benefit of planning permission.

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.

DRAFT DECISION LETTER – APPLICATION 2 (EXTERNAL TABLES AND CHAIRS)

Address: The Colonnades, 26 Porchester Road, London, W2 6ES,

Proposal: Details of the location, number, appearance, hours of use and location of storage of tables and chairs and associated non-fixed structures such as enclosures or barriers around tables and chairs or sun shades to be placed on the forecourt of the building pursuant to Condition 20 of planning permission dated 9 October 2014 (13/12442/FULL) (Site also known as Unit 4, Bishop's Quarter, Bishop's Bridge Road).

Reference: 16/09312/ADFULL

Plan Nos: 460 Rev.02, 461 Rev.02, 462 Rev.02, 463, 464 Rev.01, 465 Rev.06, 466 Rev.02, 467, 468, 469, AAYA Example Furniture Sheet and Planning Statement from GL Hearn (as amended in terms of hours of use by email from Catriona Fraser of GL Hearn dated 22 November 2016).

Case Officer: Oliver Gibson

Direct Tel. No. 020 7641 2680

Recommended Condition(s) and Reason(s)**Informative(s):**

- 1 This permission fully meets Condition 20 of the planning permission dated 9 October 2014. (I11AA)
- 2 For the avoidance of doubt the tables and chairs permitted on the forecourt in Bishop's Bridge Road have been approved on the following basis:
 - a) They are to be placed in the locations shown on drawing 462 Rev.02.,
 - b) The tables and chairs are only to be used by customers of the restaurant element of the mixed use within Units 4 and 5.
 - c) The tables and chairs may only be used between the hours of 08.00 and 22.30 hours Monday to Saturday and between the hours of 09.00 and 22.30 on Sundays and Bank Holidays.
 - d) The tables and chairs are removed from the forecourt and stored with the premises outside of the hours of use specified in (c).

Any change in the operation of the tables and chairs from the summary above will necessitate a further application for approval of details of tables and chairs pursuant to Condition 20 of the planning permission dated 9 October 2014.

Item No.
7

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.