

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 19 April 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Bayswater	
Subject of Report	Site At 43 Hereford Road, 2-6 Botts Mews, 2 Chepstow Road, 104-106 Westbourne Grove, 112a/B, 98-112 Westbourne Grove, W2 5RU		
Proposal	Variation of conditions 2 and 3 of planning permission dated 27 October 2015 (RN: 15/04113/FULL) which itself varied condition 13 (tables and chairs) of planning permission dated 07 February 2003 (RN:02/03540) for Part demolition / redevelopment to provide new buildings, part alterations/extensions (including listed building) to provide 36 flats, 2 live-work units, retail, restaurant facilities and 34 parking spaces in basement with associated works; namely to remove restrictions outside of No. 98 Westbourne Grove (previously Cote restaurant) only. NAMELY, to allow takeaway and delivery sales from the premises, with delivery drivers utilising the motorcycle bay on Hereford Road outside of 20-22 Hereford Road and allow a small ancillary bar area within the restaurant to serve diners at the restaurant and to provide bar-style seating areas.		
Agent	Mr Mark Shearman		
On behalf of	Sunday in Brooklyn		
Registered Number	21/01858/FULL	Date amended/ completed	23 March 2021
Date Application Received	23 March 2021		
Historic Building Grade	Unlisted		
Conservation Area	Westbourne		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

This application relates to a commercial premises on the corner of the Westbourne Grove and Hereford Road. The property was built almost 20 years ago as part of a redevelopment scheme approved in 2003 which was for commercial units at ground floor level and residential properties at upper floor levels. The site is unlisted, lies within the Westbourne Conservation Area and lies within the Queensway/ Westbourne Grove Major Centre.

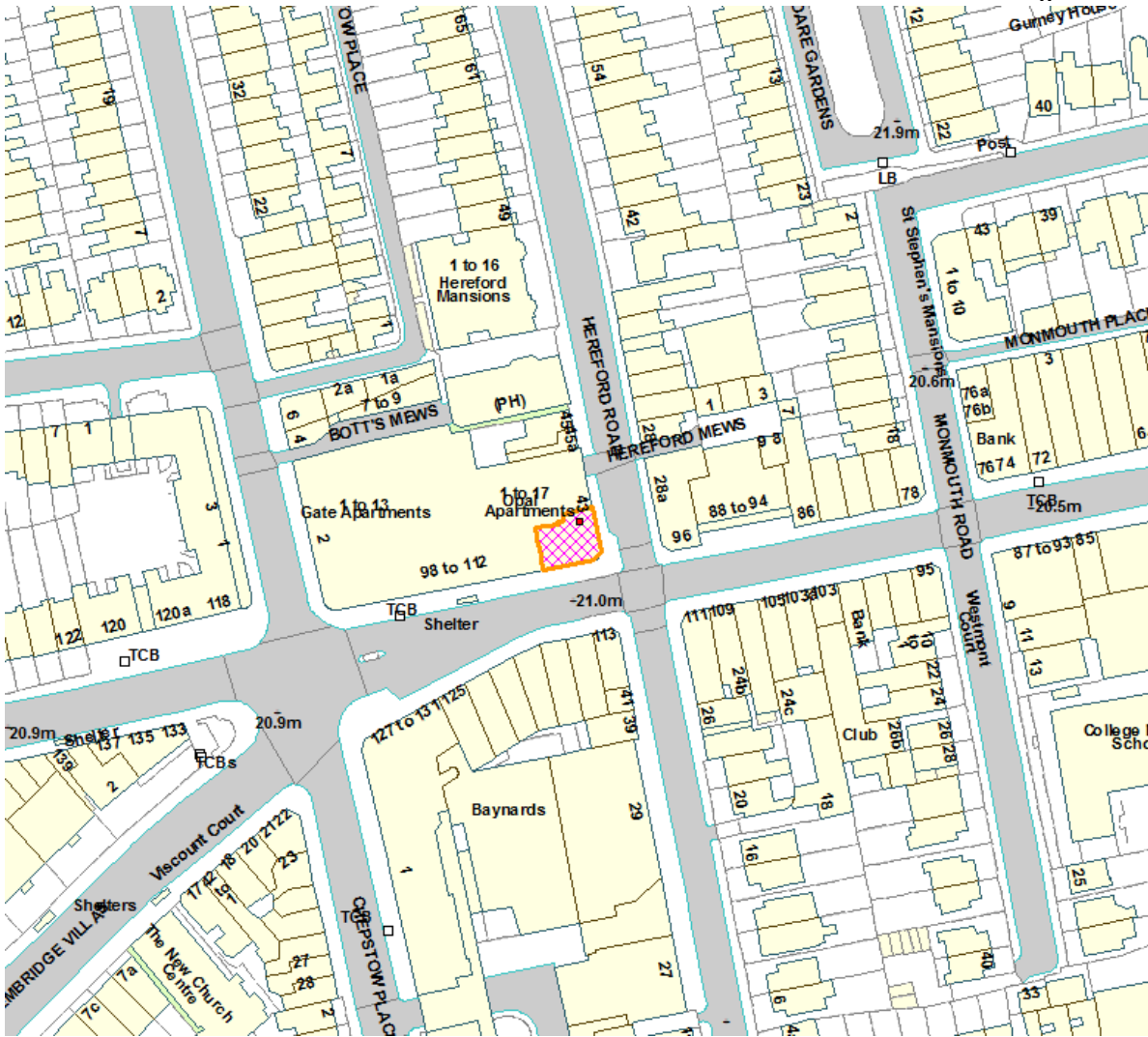
Permission is sought to vary conditions 2 and 3 of the latest permission dated 27 October 2015 (RN: 15/04113/FULL) to allow takeaway and delivery sales from the premises, with delivery drivers utilising the motorcycle bay on Hereford Road outside of 20-22 Hereford Road and allow a small ancillary bar area within the restaurant to serve diners at the restaurant and to provide bar-style seating areas.

The key issues in the determination of the application are:

- The impact upon the surrounding highway network and
- The impact upon the amenity of neighbouring properties.

Subject to conditions, the proposals are considered acceptable in highways and amenity terms and are considered to comply with policies 7, 14, 16, 28, 29, 33 and 38C of the City Plan 2019-2040 (April 2021) and are recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Front elevation



Single yellow line on Hereford Road, adjacent application site (also showing nearest cycle stands):



Cycle stands on Westbourne Grove (photo taken when Cote was still in operation):



Motorcycle parking bay on Hereford Road (application site in the distance):



5. CONSULTATIONS

Consultation responses to original consultation:

WARD COUNCILLORS FOR BAYSWATER:

Any response to be reported verbally.

BAYSWATER RESIDENTS ASSOCIATION:

Any response to be reported verbally.

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION:

Submitted correspondence showing that residents are concerned about the highway's safety and amenity impact of motorcycle delivery people, however do not themselves comment on the application.

NOTTING HILL EAST NEIGHBOURHOOD FORUM:

Welcome new businesses and new concepts to the area. Note that the original conditions were imposed for a reason. Note the proposal includes an increased emphasis on take-aways, which will increase the delivery traffic associated with it, bringing concerns of increased noise, pollution, traffic incidents etc. An investigation into the increase in deliveries generally should be undertaken.

WESTBOURNE NEIGHBOURHOOD ASSOCIATION:

Any response to be reported verbally.

HIGHWAYS PLANNING MANAGER:

Originally an objection was received on the grounds that the proposed delivery function could reduce space available to pedestrians, cyclists and other highway users and uses. Bicycles and their riders waiting/congregating on the highway (including footway) would create an obstruction for pedestrians and other highway users. Delivery vehicle parking can also reduce the availability of parking for other uses, increase congestion (both on the carriageway and footway) and increases noise and fumes in the area.

Further to the receipt of an amended Operational Management Plan, whilst details concerning the number of couriers at the site at any one time and the hours for the food delivery service are acceptable, there remains concerns as to the use of the motorcycle parking bay, south on Hereford Road, given the distance from the application site this may encourage riders to look for other spaces in the area which increases congestions, noise and fumes.

ENVIRONMENTAL SCIENCE OFFICER:

There is an objection to the proposed take-away sales from the premises on the grounds that it would increase the risk of public nuisance and disturbance to nearby local residents, particularly late at night. The concern may be addressed if the takeaway/delivery activity is not permitted after 2300hrs.

ADJACENT OWNERS / OCCUPIERS:

No. consulted: 36 no. of replies: 3 (2 from the Hereford Road Association)

3 objections were received concerning the following issues:

Highways:

- Concern about the impact of collections from the restaurant on the highways. There is already significant congestion on both sides of Westbourne Grove at the corner with Hereford Road. If collections increase, then this will exacerbate existing road safety issues.
- The proposals would not be consistent with Quietway Cycle Route 2 which seeks to ensure that quietways are high-quality with low traffic volumes.
- The ways in which the delivery service would operate on the application site, as detailed in the Servicing management plan does not sound credible – the restaurant will manager riders?
- Moped drivers are dangerous.
- The restaurant unit drivers do not abide by parking rules/ legislation.
- Already significant issues with Franca Manca on the corner.

Amenity:

- The hours during which a collection service can be offered are far too long. This would have a negative impact on users of the highway and neighbour amenity.

RECONSULTATION - with neighbours on Hereford Road, as a result of proposals for delivery drivers to use the cycle parking bay (carried out 21 January 2022).

No. Consulted:8

Total No. of replies:4

Total No of Objections:4

Highways:

- The parking proposals are unfeasible
- How can only 2 riders at any one time be controlled.
- Reconfirming comments that staff can enforce rider behaviour is discreditable
- The revised OMP does not overcome the existing speeding issues of Hereford Road

Other:

- Why should the application be approved when the applicant was well aware of the conditions restricting deliveries.

The Hereford Road Association welcomes the amendments to the proposed timings for the delivery service.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is a restaurant at ground floor and basement level of No. 98 Westbourne Grove. The site on the corner of Westbourne Grove and Hereford Road. It is unlisted and located within the Westbourne Conservation Area. The buildings have five storeys, and the upper floors are in residential use.

The application site is within the Queensway/ Westbourne Grove Major Centre.

6.2 Recent Relevant History

Numerous applications for tables and chairs outside the premises (as listed within the submitted OMP). The latest is listed below:

15/04113/FULL

Variation of Condition 13 (tables and chairs) of planning permission dated 07 February 2003 (RN:02/03540) for Part demolition / redevelopment to provide new buildings, part alterations/extensions (including listed building) to provide 36 flats, 2 live-work units, retail, restaurant facilities and 34 parking spaces in basement with associated works; namely to remove restrictions outside of No. 98 Westbourne Grove (Cote restaurant) only.

Application Permitted 27 October 2015

09/05567/FULL

Retention of use of part basement of No 100 from retail as an extension to the existing restaurant (Class A3).

Application Permitted 22 September 2009

09/00679/FULL

Use of part of the communal refuse store to the rear of the ground floor retail units of Nos. 102-104 Westbourne Grove for retail purposes (Class A1) associated with the retail use of 106 Westbourne Grove (Unit 4).

Application Permitted 6 August 2009

06/00320/FULL

Variation of Condition 5 of planning permission dated 7 February 2003 (RN: 02/03540) namely, to vary opening hours of Unit 3 108 Westbourne Grove (Class A3) from 08:00 - 24:00 hours midnight to 08:00 - 00:30 hours (Mon. - Sat.) and from 08:00 - 23:00 to 08:00 - 24:00 hour midnight (Sun. & Bank Holidays).

Application Permitted 6 March 2006

04/08483/FULL

Amendments during the course of construction to planning permission 02/03540/FULL, namely, the reconfiguration of the basement and ground floor levels to subdivide the approved units from seven units to nine (providing seven retail units and 2 x A3 units) with a total increase in floorspace of 22m² retail and 77m² of A3 space and the reconfiguration the approved delivery bays and waste storage area.

Application Permitted 12 May 2005

108 Westbourne Grove (part of redevelopment site)

04/05705/FULL:

Variation of Condition 2 (RN: 02/03540) dated 07 February 2003 namely to allow for the sale of hot and cold drinks and cold food for consumption off the ground floor premises (No. 108) that were granted consent as part of the redevelopment.

Application Permitted 15 September 2004

02/03540/FULL

Part demolition / redevelopment to provide new buildings, part alterations/extensions (including listed building) to provide 36 flats, 2 live-work units, retail, restaurant facilities and 34 parking spaces in basement with associated works.
Application Permitted 7 February 2003

7. THE PROPOSAL

Permission is sought to vary conditions 2 and 3 of permission 15/04113/FULL, which itself was one of a number of variation approvals on an original redevelopment scheme granted in 2003. The variation to the conditions would allow takeaway and delivery sales from the premises, with delivery drivers utilising the motorcycle bay on Hereford Road outside of 20-22 Hereford Road and allow a small ancillary bar area within the restaurant to serve diners at the restaurant and to provide bar-style seating areas.

The conditions are currently worded:

Condition 2 -

Notwithstanding the provisions of Class A3 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) no food or drink of any kind shall be sold on the premises for consumption off the premises, other than at 108 Westbourne Grove, London W2 5RU in accordance with Variation of condition permission granted 15/09/2004 under reference 04/05705/FULL.

Condition 3 –

You must only use the Class A3 restaurants as sit down-waiter service -restaurants. You must not use any part of the Class A3 premises as a bar, ancillary bar area, or for any other purpose within Class A3 of the Town and Country Planning Use Order 1987 (or any order that may replace it).

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Takeaway/Deliveries

A number of objections have been received on the grounds of the takeaway/delivery service and the impact this has on the surrounding highway network, and ultimately the harm this causes to the amenity of neighbouring properties.

Condition 2 restricts any takeaway and delivery service from the premises. The applicant argues that 'takeaway/delivery' is crucial to restaurants in the fast/casual dining sector and that this has become even more important in the light of the Coronavirus pandemic. The applicant argues that in many circumstances it is seen as the key to survival, particularly when restaurants are small in size and the premiums, rental demands and business rates are so high. The applicant also argues that to allow deliveries/ takeaways would be similar to the Co-op at 108 Westbourne Grove (which is part of the same development and was allowed under application 04/05705/FULL when it was occupied by Carluccio's (but as a point to note, the condition carries over to any future occupier)) and is allowed by the condition.

The principle of a takeaway/delivery service is supported by policy 14 and 16 of the City Plan with policy 16 stating “provision for food deliveries from restaurants or cafés, including facilities for platform-based delivery, will only be supported where it is demonstrated that the facilities do not result in a change of use to hot food takeaway or other uses including composite / sui generis uses”. The premises is to remain a restaurant (now Class E).

Paragraph 16.8 of the City Plan goes on further to recognise the recent growth in delivery platforms and seeks to control numbers and hours of operation of food deliveries through planning conditions to ensure any such services are ancillary to the primary use of the premises and will seek to promote use of sustainable delivery options.

The applicant has provided an Operation Management Plan (OMP) in order to address the concerns from the Highways Planning Manager and objections from neighbouring properties, surrounding delivery vehicle parking and the implications on the highway and noise and disturbance to neighbours. This was revised during the course of the application and that required additional consultation to residents on the south side of Hereford Road.

The OMP sets out the following:

- The delivery companies to be used by the applicant “Sunday in Brooklyn” are Deliveroo and Supper.
- The hours of opening are conditioned (Condition 5 of permission 15/04113/FULL) to be 08.00-00.30 Monday – Saturday and from 08.00-24.00 hrs midnight Sunday and Bank Holidays.
- The food delivery service will also be stopped during peak hours, including between 8am-9am and 4pm-5.30pm for delivery drivers (to limit impact on local roads).
- The delivery service will be stopped after 10pm (this has altered since the original submission and is to avoid further impact on the residents)
- Once drivers accept the ‘order/delivery’ via the app, the app explains the parking spots that the restaurant expects them to use, and tells them they MUST park up and walk inside to greet the host.
- Parking must be in a legally designated space (depending on the type of vehicle).
- Motorcycle drivers shall be required to park either in the area of single yellow line if space is available, or alternatively within the Solo Motorcycle Bay available circa 50m south to the south of the site, on Hereford Road. If no parking is available, they will locate and parking within an alternative suitable parking space.
- Bicycle riders shall be required to park their bicycle on either of the Sheffield-type cycle stands located outside the site, either on Hereford Road, or on Westbourne Grove. Further stands are available further to the west of the site, at the signalised junction of Westbourne Grove with Pembridge Villas and Chepstow Place.
- Car drivers will be discouraged in general, as parking is limited to single yellow line or Pay and Display spaces. In any case they will be required to park within permitted spaces only. Private vehicles are allowed to park on single yellow lines for loading activities for up to 20 minutes until 6.30pm.
- If drivers do not find any legally permitted space available, they will advise the restaurant accordingly, and continue on their search, until they find an appropriate parking location.
- After finding a suitable place to park, all couriers will be directed by staff at the restaurant to the lower ground floor to the food counter for collection, or advise them to wait within the restaurant by the bar until ready.

- Once their food order is collected, the couriers will make their way back to their vehicle.
- Couriers on foot will just walk into the restaurant host stand.
- A sign is in place on the window clearly illustrating on a map where the parking spots are. Staff must be familiar with these.
- Upon arrival, drivers are asked to confirm where they have parked to ensure this is correct.
- Take drivers name if they have flouted the rule and report them to Deliveroo/ Supper.
- There shall be no more that 2 couriers on the site at any one time.
- In addition, a basic flow chart mapping the processes for staff and drivers was submitted (as can be seen in the relevant drawings section of this report).

At the time of drafting the revised OMP in December 2021/ January 2022, the restaurant began daytime food deliveries, because of the rise in the Omicron infections and the knock on impact that had to the restaurant over Christmas/ New Year. The applicant knew that this was unlawful and wrote to the planning department to set out their intentions. In this short period, and taking into consideration that the operator of the restaurant is very new to the UK market, the restaurant apparently was only dealing with an average of 8 deliveries per day. As such, the applicant cannot provide an estimate of how many deliveries there could be during a day.

The applicants offer to suspend delivery service during peak hours, and to terminate deliveries at 10pm is very much welcomed, and meets Environmental Science Officers request. The number of deliveries, although acknowledging this is likely to increase is not considered to be excessive and with the restaurant only accepting 2 drivers at any one time, is reflective of the number of online/app orders they expect to receive.

The use of the north side of Hereford Street and Westbourne Grove for cycle parking/ parking is not objectionable too in highways terms given the parking restrictions already in place. Any noise generated by riders/ motorcycles is not considered to be so harmful to the residents above the application or the surrounding area, over what exists at present. Westbourne Grove is a major centre and is very busy with a variety of late night entertainment/ retail offerings and has a significant footfall. The finishing time of deliveries of 10pm is probably earlier than other unrestricted establishments in the area and therefore the proposals are acceptable in amenity terms.

The proposals seek to direct motorcycle riders, if unable to find other legal parking nearer the restaurant, to use the solo motorcycle bay outside of 18, 20, 22 Hereford Road. These residents were notified of the proposals and no comments were received. Further comments by original objectors were raised on highways and noise grounds. The Highways Planning Manager does not raise a concern as to the use of motorcycle bay per se, but given its distance to the restaurant and the round trip of approx. 100m, (which couriers will have to walk, ½ the distance carrying food) may cause riders to ride around looking for alternative parking which then adds to traffic congestion and occupation of other parking availability.

The applicant argues that if the drivers can park closer to the restaurant, and legally, then they will. In addition, if there are no objections to the use of the solo motorcycle bay, then it takes approximately 1minute to walk 100m, which is not unreasonable and drivers will be

aware of this when accepting the order via the app.

The Highways Planning Manager has concerns that riders waiting/congregating on the highway (including footway) would also create an obstruction for pedestrians and other highway users which would be contrary to Policy 25. The details submitted in the OMP would not allow this to happen given the directions to the rider/ drivers as to where to park; the conditions upon which they accept the order and that staff of the restaurant will be trained to deal with rider/ drivers should they not obey the instructions.

In amenity terms, the use of the solo motorcycle bay by delivery drivers is unlikely to result in significant noise levels to the adjacent Hereford Road properties, both in terms of noise from vehicles or from voices of drivers, over what can already occur from this legal parking. As noted above, the hours and the number of delivery drivers are to be controlled and drivers are encouraged not to 'hang around' before or after collecting deliveries.

The applicant has been very pro-active with the City Council to ensure that a delivery service is operated with minimal disruption to the highway network and neighbouring properties. It is important to note that the City Council has been unsuccessful at recent appeals across the borough where conditions have sought to prevent such services operating, including within Queensway (RN: 19/00475/FULL) and to this end it is recommended that permission be granted subject to additional conditions securing hours of operation and adherence to the OMP.

Agreement has also been reached that should permission be granted that the applicant would accept a condition restricting delivery service for a temporary period of a year in order for the City Council to monitor the implications on the surrounding roads and neighbours and for the restaurant to gather appropriate data should an extension to a temporary permission be applied for at a later date.

8.1.2 Ancillary Bar

Condition 3 states that there shall be no bar at the restaurant. It is likely this condition was imposed primarily to prevent a full bar use at the site and the amenity implications this could bring, due to the fact that when the consent was granted a restaurant use and a bar use fell within the same Use Class. This is no longer the case and permission would now be required to change the use of the premises solely to a bar.

The premises has been in commercial operation for many years operating until recently by Cote. The premises is now operating as Sunday in Brooklyn. The applicant is now seeking the inclusion of an ancillary bar area within the premises. This will allow for a comprehensive drinks offering and create an area for customers to wait before or after dining at their table. It would also provide additional counter-style seating capacity for diners to consume their meals at the bar if all tables are occupied. The bar area will take up only a small area of the restaurant and will not impact on the overall primary use of the premises as a sit-down, waiter-service restaurant.

There are no policies in the City Plan 2019-2040 that would prohibit a restaurant having an ancillary bar area provided the proposal did not harm neighbour amenity. A small bar area serving diners is not unusual and given the size of the restaurant is not considered to result in a significant amount of 'drinkers'. The bar area is considered appropriate to its host use and the surrounding area which is a mix of food, drink and entertainment uses and retail

premises and, provided that the restaurant complies with the opening hours specified in condition 5 it is therefore considered that a small ancillary bar would not harm neighbour amenity, and complies with the general aims of policy 14 and 16 of the City Plan.

It should also be noted that permission would now be required to change the use of the premises from a restaurant solely to a bar.

8.2 Townscape and Design

There are no design implications as a result of the proposals.

8.3 Residential Amenity

Issues of amenity have been discussed in the land use section of this report.

8.4 Highways Matters

Highways matters associated with the takeaways/ food deliveries have been discussed in the land use section of this report.

There are no concerns with regards to servicing and deliveries as this is not an application for a change of use.

8.5 Economic Considerations

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

8.6 Access

The access is not to alter as a result of the proposals.

8.7 Other City Plan/Westminster Policy Considerations

None.

8.8 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.9 Neighbourhood Plans

There are no neighbourhood plans for this area.

8.10 London Plan

This application raises no strategic issues.

8.11 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2021 unless stated otherwise.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council.

There are no pre-commencement conditions attached to this permission.

8.12 Planning Obligations

Planning obligations are not relevant in the determination of this application. There are no CIL payments required as a result of this proposal.

8.13 Environmental Impact Assessment

The proposals raise no environmental concerns.

8.14 Other Issues

Concern has been raised as to the legality of 'L' plates and that moped drivers are generally young, dangerous, don't abide by the rules of the road and therefore a risk to pedestrian and traffic safety. Whilst these concerns are noted, they are not a material planning consideration and regulated through other means.

Comment has been raised that the restaurant operator shouldn't have taken on a lease that prohibited deliveries if this is always their intention. The local planning authority cannot refuse to assess an application on this basis and due consideration has been given to the proposals.

The objectors have stated that there are already problems with delivery drivers from the Franca Manca opposite the site. Enforcement investigations have been carried out and it has been found that there is no breach of planning control as there are no conditions on this property restricting deliveries.

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

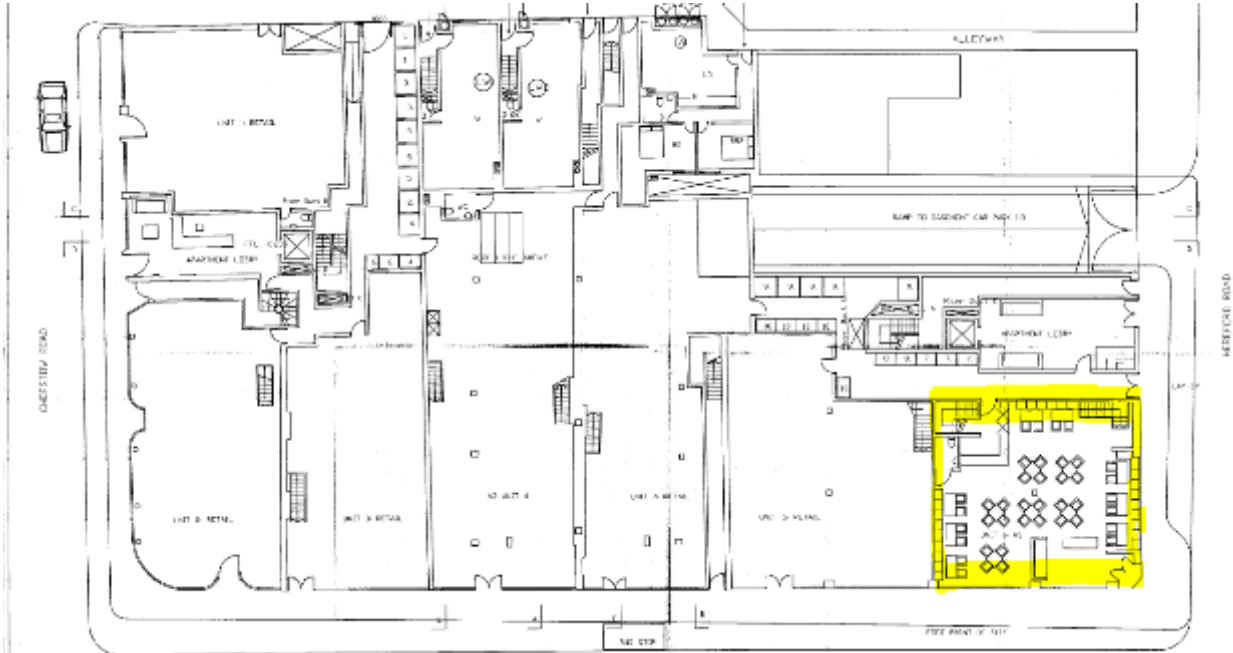
Item No.

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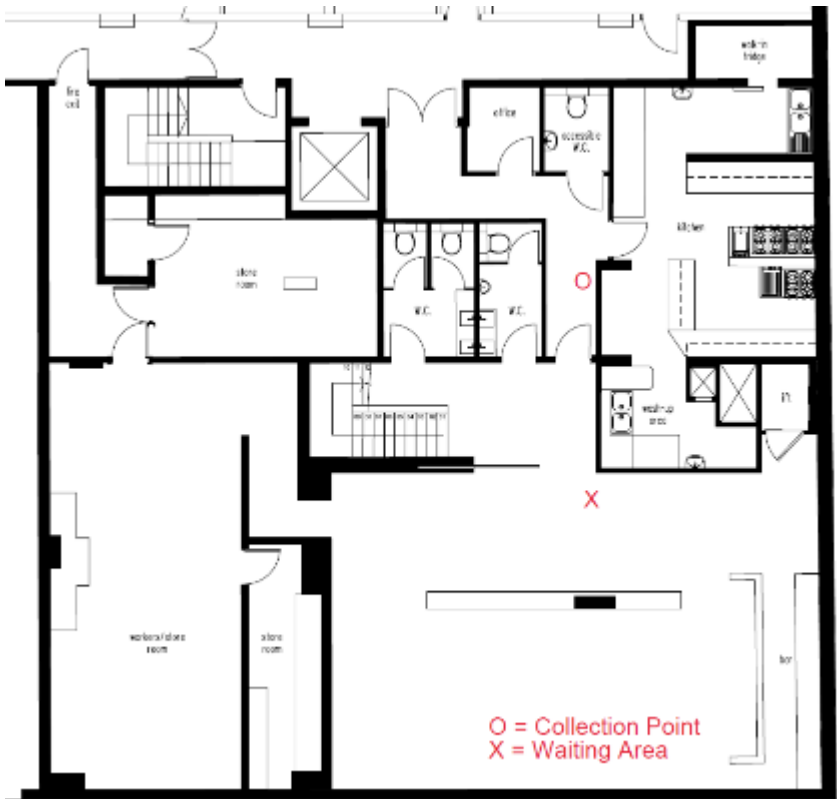
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT rhandley@westminster.gov.uk
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9. KEY DRAWINGS

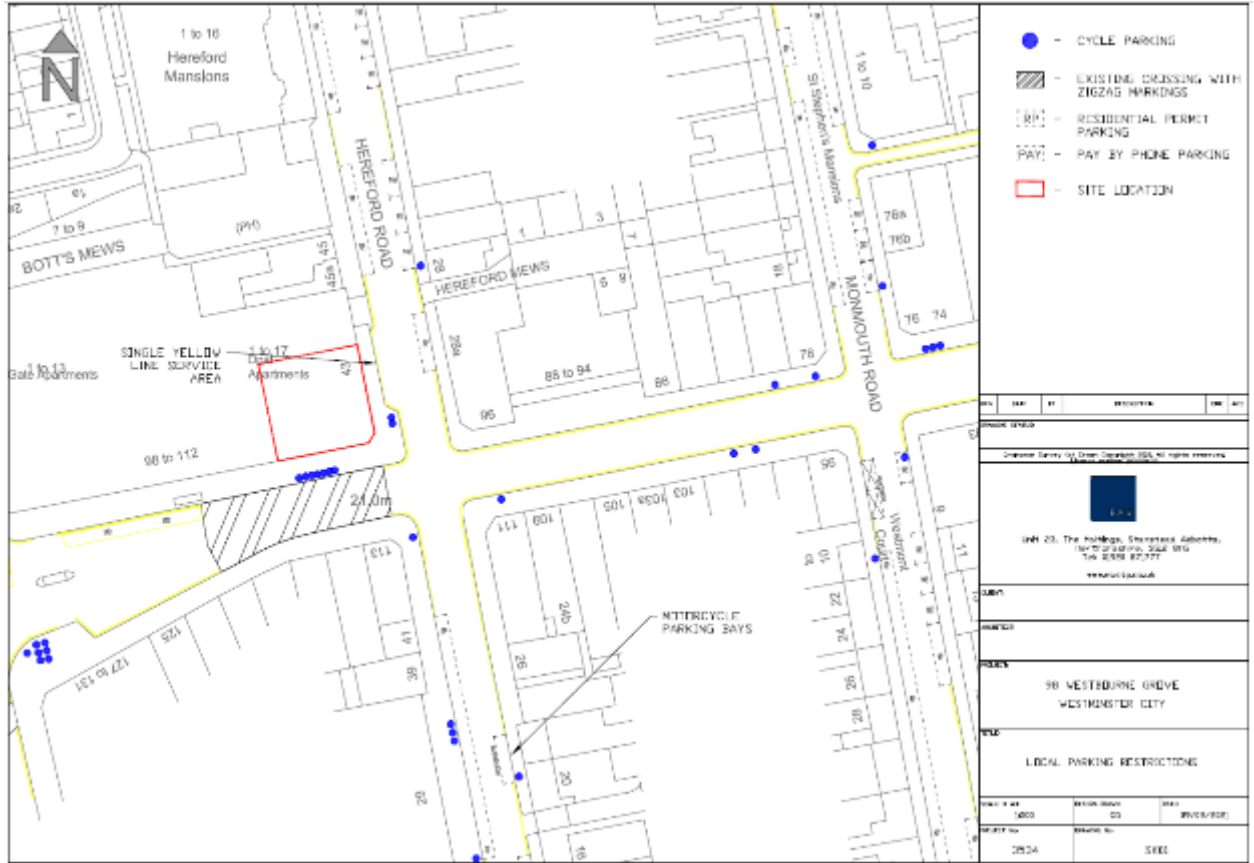
Originally approved ground floor plan with application area highlighted in yellow:



Proposed Lower Ground Floor Plan showing collection point:



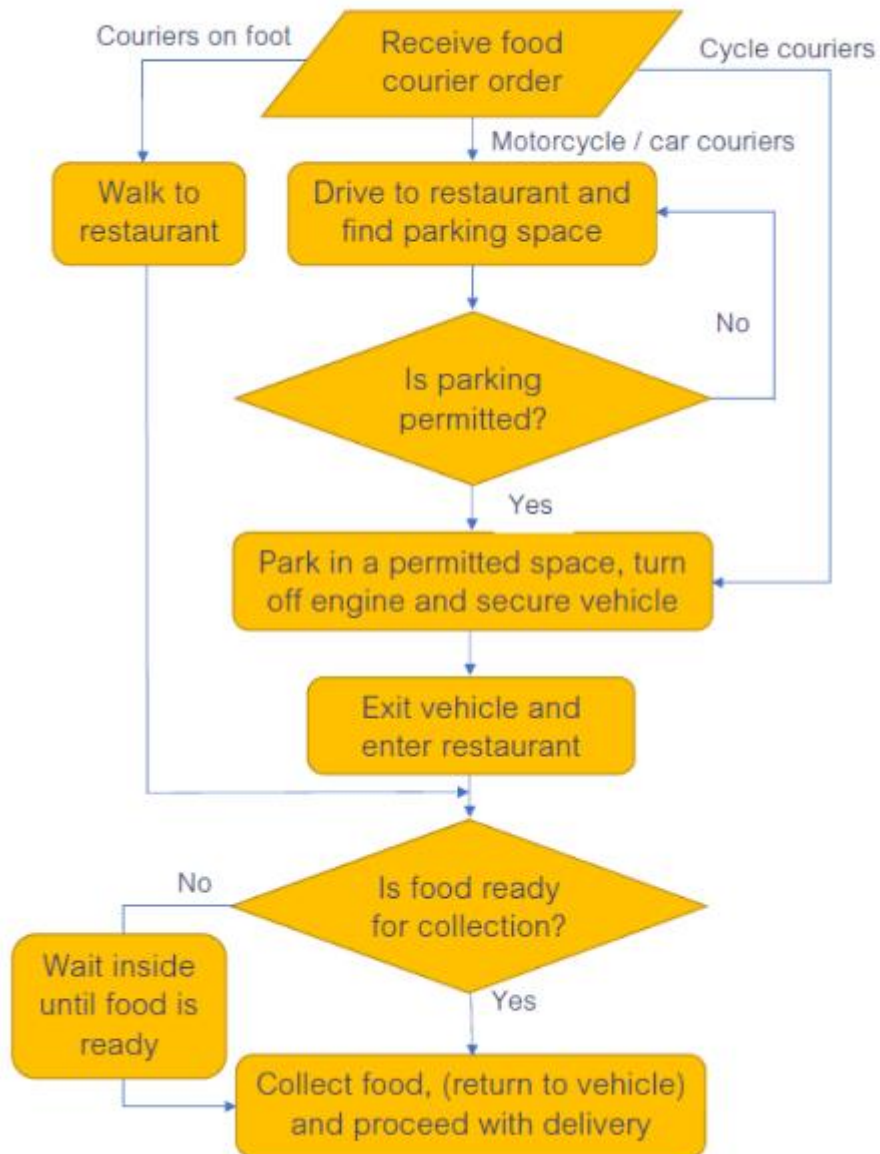
Appendix B of OMP: Parking Restrictions



DATE	BY	REVISION	ISSUE
PROJECT NAME			
Detailed Survey of Overlap (SOL) to road network			
 Unit 23, The Holdings, Storrers Gardens, 140C Strand, SW6 6JG Tel: 020 87377 www.westminster.gov.uk			
CLIENT			
PROJECT			
SHEET			
98 WESTBORNE GROVE WESTMINSTER CITY			
LOCAL PARKING RESTRICTIONS			
DATE	BY	REVISION	ISSUE
2024	CS		
SHEET NO.		SHEET	
2824		5000	

Appendix C of OMP: Flow Chart of Food Courier Collection Process

Food courier collection process from 98 Westbourne Grove, London:



DRAFT DECISION LETTER DRAFT DECISION LETTER

Address: 98 Westbourne Grove, London, W2 5RU,

Proposal: Variation of conditions 2 and 3 of planning permission dated 25 November 2015 (RN: 15/04113/FULL) which itself varied condition 13 (tables and chairs) of planning permission dated 07 February 2003 (RN:02/03540) for Part demolition / redevelopment to provide new buildings, part alterations/extensions (including listed building) to provide 36 flats, 2 live-work units, retail, restaurant facilities and 34 parking spaces in basement with associated works; namely to remove restrictions outside of No. 98 Westbourne Grove (previously Cote restaurant) only. NAMELY, to allow takeaway and delivery sales from the premises, with delivery drivers utilising the motorcycle bay on Hereford Road outside of 20-22 Hereford Road and allow a small ancillary bar area within the restaurant to serve diners at the restaurant and to provide bar-style seating areas.

Plan Nos: Approved Documents of variation application 21/01858/FULL:
Cover Letter by Firstplan ref: 21/98WESTBOURNE/MS/ta Dated: 23 March 2021,
Service Management Plan - 98 Westbourne Grove, Transport Note 98 Westbourne Grove London

Original approved documents dated 7 February 2003 (RN:02/03540/FULL);
A139/000,001A,002C ,003B,004A,005,006, 007A,008,009,011A,
012A,013B,014,015, 016,017B,018A,019, 020,A239/001A,002C,
003,004A,005,006,007 ,008,009,010,011,012, 013,014,015,016A,017, 018, SK0-
P1A,(SK)2V-01, (SK)2V-02,SK(B)06 and SK(B)07.

Approved documents of variation dated 20 August 2004(RN:04/05232/FULL);
A239/003A,004B,009A and site location plan.

Approved documents of variation dated 15.9.2005 (RN:04/05705/FULL);
Photo 1-6; letter received 22 July 2003; letter dated 20 Aug 204 from Simon
McCarthy.

Approved documents of variation dated 10 March 2005 (RN:04/08845/FULL);
Letter dated 28th January, Planning Statement dated 21st October 2004, Drwgs
A239/001 Rev C, 002 Rev E, 1201/001 Rev D amd 002 Rev C. (sl)2-10 Rev A,
A139/000, 1202/001 Option 1, Photographs and planning statement.

Approved documents of variation dated 10 March 2005 (RN:05/00486/FULL);
A139/000, CCD 021 GATE01 rev A.

Approved documents of variation dated 12 May 2005 (RN: 04/08483/FULL);
A239/001 Rev C, 002 Rev E, 1201/001 Rev F and 002 Rev C. (sl)2-10 Rev A

Approved documents of variation dated 6 March 2006 (RN:06/00320/FULL)
12-01; 01-01ab; 02-01AB and letter dated 9 January 2005.

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Approved documents of variation dated 27 October 2015 (RN:15/04113/FULL)
A.01 Rev A

Approved documents of variation dated 27 November 2017 (RN:17/08849/FULL):
A.01 Rev. A

Approved documents of variation dated 15 January 2020 (RN:19/08177/FULL):
A.01 Rev. A

APPROVAL OF DETAILS APPROVED DOCUMENTS:

Approved documents of details dated 14 April 2004 (04/08131/ADFULL):
CCD 021 HR03 REV 1; CCD 021 WG03 REV C; CCD 021 CR03 REV B; CCD 021
WG 04 and revised elevation to Chepstow Road (received by fax Rev A).

Approved documents of details dated 3 Sept 2004 (RN:04/06874/ADFULL)
CP-1237-A-A(H71)025, CP-1237-A-L(00)15, CP-1237-A-L(00) 130 F, CP-1237 A-
A(H71)02 C.

Approved documents of details dated 27 July 2004 (RN:04/02052/ADFULL):
WGGRC002, 003, 004, 005, 006, 007, 008, 009, SK75 & SK76

Approved documents of details dated 9 August 2004 (RN:04/05915/ADFULL)
letter dated 27th July and drwg A239/003.

Approved documents of details dated 9 August 2004 (RN:04/05922/ADFULL)
letter dated 27th of July and drwgs A239/005, 012 and 03540/FULL/16(ii)

Approved documents of details dated 6 September 2004 (RN:04/05103/ADFULL)
15(B) 1; 15 (G)1; 15(R)1

Approved documents of details dated 20 September 2004 (RN:04/05943/ADFULL)
Letter dated 28th July 04, drwgs5K/03540/24, A239/015.

Approved documents of details dated 12 October 2004 (RN:04/06789/ADFULL)
Site plan.

Approved documents of details dated 2 December 2004 (RN:04/07498/ADFULL)
Camera details - SWX80, drwg sk/03540/27/ELE

Approved documents of details dated 10 March 2005 (RN:04/10201/ADFULL)
A4 pamphlet, plans JS/TP 001 - 006

Case Officer: Kimberley Davies

Direct Tel. No. 07866036948

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

- 1 You must not use the premises as:

(a) temporary sleeping accommodation as defined in Section 25 of the Greater London Council (General Powers) Act 1973 as amended by the Greater London Council (General Powers) Act 1983; or

(b) holiday accommodation under either a tenancy agreement or any other form of accommodation contract. (C08AA)

Reason:

To ensure the proposal provides permanent domestic residential accommodation in accordance with Policy 8 of the City Plan, adopted April 2021.

- 2 Notwithstanding the provisions of Town and Country Planning (Use Classes) Order as amended September 2020 (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) no food or drink of any kind shall be sold on the premises for consumption off the premises, other than at 108 Westbourne Grove in accordance with variation of condition permission granted 15/09/2004 under reference 04/05705/FULL and 98 Westbourne Grove in accordance with variation of condition permission granted 19 April 2022 under reference 21/01858/FULL.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet Policy 14 and 16 of the City Plan 2019 - 2040 (April 2021). (R05AC)

- 3 Except for 98 Westbourne Grove, you must only use the Class A3 restaurants as sit down-waiter service -restaurants. You must not use any part of the Class A3 premises as a bar, ancillary bar area, or for any other purpose within Class A3 of the Town and Country Planning Use Order 1987 (or any order that may replace it).

Reason:

To protect the environment of people in neighbouring properties, as set out Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021).

- 4 You must not use the Class A3 restaurants hereby permitted for playing live or recorded music or of any amplified sound that can be heard outside the property.

Reason:

To protect the environment of people in neighbouring properties, as set out Policies 7, 33 and 38 of the City Plan 2019 - 2040 (April 2021).

- 5 The Class A3 restaurant uses hereby permitted shall not be carried on except between the hours of 08.00 hours to 24.00 hours midnight on Monday to Saturday excluding Bank Holidays and 08.00 hours to 23.00 hours on Sundays and Bank Holidays.

This is apart from Unit 3 108 Westbourne Grove may be open from 08:00 - 00:30 hours (Mon. - Sat) and from to 08:00 - 24:00 hours midnight (Sun. & Bank Holidays) as permitted by variation application ref: 06/00320/FULL dated 06.03.2006.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 6 You must provide the waste store shown on drawing A239/002C before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the building. You must store waste inside the property and only put it outside just before it is to be collected. (C14DA)

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 7 The Class A1 retail accommodation hereby approved shall at no time be occupied in less than the five self-contained units as shown on Drawing No. A239/002C hereby approved.

Reason:

To ensure the retention of shop units of the size permitted which are compatible with the needs of retail trades appropriate to this area, and to ensure compliance with the City Council's policies as set out in 14 and 16 of the City Plan, April 2021.

- 8 The means of access and egress suitable for people with disabilities which is shown in drawing no(s). A239/002C hereby approved shall be provided prior to the occupation of the development and permanently retained unless otherwise approved in writing by the City Council as local planning authority. (C20A)

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in Policy 38 of the City Plan 2019 - 2040 (April 2021). (R20AD)

- 9 At least one car parking space shall be provided for each of the residential flats (excluding the affordable units located at 6 Botts Mews) and the two 'live work' units within the redevelopment hereby approved. The parking spaces to be reserved for the use of residents shall be separately identified and thereafter permanently maintained to the satisfaction of the City

Reason:

To provide parking spaces for people using the development as set out in Policy 27 of the City Plan 2019 - 2040 (April 2021). (R22AC)

- 10 The whole of the cycle store shown on the drawings shall be provided and retained permanently for the accommodation of bicycles of the occupiers of residential accommodation in this development.

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 11 The delivery bay in the basement car park shown on Drawing No. A239/001A shall be clearly and separately identified and thereafter permanently retained in perpetuity for the use of service vehicles visiting any part of the application site.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 12 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 Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 13 No planters, tubs, tables or chairs, freestanding advertisements or any other items shall be placed on either the private forecourt or adjoining public highway along frontages of the application site along Hereford Road, Chepstow Road and Westbourne Grove, apart from the temporary tables and chairs outside No.98 Westbourne Grove, placed in accordance with the terms of planning permission granted under 15/01715/TCH, or any subsequent permission.

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 14 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 15 Detailed drawings as appropriate of the following part(s) of the development shall be submitted to and approved by the City Council as local planning authority before any work is commenced on the relevant part of the development:-

i) all new shopfronts;

ii) the set-back frontage between the upper floors of 104-106 Westbourne Grove and 108-110 Westbourne Grove, including the glass railing to the roof terrace;

iii) typical windows and surrounds of the upper floors of 43 Hereford Road/98-104 Westbourne Grove;

This part of the development shall not be carried out otherwise than in accordance with the details thus approved. (C26D)

This is unless the development is carried out in accordance with the details approved under references; 04/08131/ADFULL dated 14/05/2005, 04/06874/ADFULL dated 09/09/2004, 04/02052/ADFULL dated 27/07/2004.

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 Westbourne Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

16 Full particulars/detailed drawings as appropriate of the following part(s) of the development shall be submitted to and approved by the City Council as local planning authority before any work is commenced on the relevant part of the development:-

- i) details of how overlooking of the side window of residential Unit 5 from the roof terrace of residential Unit 4 will be prevented;
- ii) screening to the roof terraces serving the residential units the 'live work' units and affordable units in Bott's Mews.

This part of the development shall not be carried out otherwise than in accordance with the details thus approved.

This is unless the development is carried out in accordance with the details approved under references; 04/05915/ADFULL dated 19/08/2004, 04/05922/ADFULL dated 19/08/2004.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

17 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Westbourne Grove Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

18 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Westbourne Grove Conservation Area. This is as

set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 19 You must not put any machinery or associated equipment, ducts, tanks, satellite or radio aerials on the roof, except those shown on the approved drawings. (C26PA)

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 Westbourne Grove Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 20 The combined residential and workshop space hereby approved in 4 and 5 Bott's Mews shall not be sub-let, sub-divided or used or occupied other than as a single live/work unit. These premises shall only be used for purposes within Class C3 or Class B1 as defined by the Town and Country Planning (use Classes) Order 1995 (as amended), and the proportion of Class C3 and Class B1 accommodation shown on the approved plans shall not be amended without the prior approval of the Council as local planning authority.

Reason:

To enable the City Council to review the position in the light of experience and the prevailing circumstances and make sure it is in line with Policies 8 and 9 the City Plan 2019-2040, adopted April 2021.

- 21 The new windows on the upper floors of 43 Hereford Road/98-104 Westbourne Grove shall be double-hung timber sliding sash windows.

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 Westbourne Grove Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 22 The set back link at roof level between the mansard roofs of 112 and 112a Westbourne Grove (shown on Drawing No. A239/010) shall be faced with lead rather than slate.

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 Westbourne Grove Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 23 The windows to the first floor on the Chepstow Road frontage of 2 Chepstow Road (labelled 2-3 Bott's Mews on Drawing No. A239/010) shall be retained as 12 pane timber sash windows.

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 Westbourne Grove Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 24 The flats hereby approved shall not be occupied until those flats above or adjacent to any of the commercial premises on the site have been insulated to minimise noise transmission between them, in accordance with details which shall be submitted to and approved by the City Council as local planning authority.

This part of the development shall not be carried out otherwise than in accordance with the details thus approved, unless constructed in accordance with details approved under reference 04/05943/ADFULL dated 20/09/2004.

Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 25 Detailed drawings showing the design, construction and insulation of the entire ventilation system and any associated plant, including the air intake, shall be submitted to and approved by the City Council as local planning authority before any work is commenced on the relevant part of the development.

Provision in accordance with the details thus approved shall be made prior to the commencement of the use and shall thereafter be permanently retained to the satisfaction of the City Council as local planning authority. (C13B)

This is unless the development is carried out in accordance with the details approved under reference 04/05103/ADFULL dated 06/09/2004 and thereafter be permanently retained to the satisfaction of the City Council as local planning authority,

Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49BB)

- 26 Details of a scheme of public art shall be submitted to and approved by the City Council as local planning authority. Further, the approved scheme shall be implemented prior to the occupation of the building and thereafter it shall be retained and maintained on site unless its removal and/or relocation has been approved in writing, in advance, by the City Council as local planning authority. This is unless the development is carried out in accordance with details approved under reference 04/10201/ADFULL dated 10/03/2005, ref: 04/06789/FULL dated 12/10/2004)

Reason:

To ensure the provision of public art, in accordance with Policy 43 of the City Plan, adopted

April 2021.

- 27 Prior to the occupation of the development hereby permitted, a scheme of security measures to improve the access arrangements in respect of the rear refuse store accessed from Botts Mews shall be implemented in accordance with details to be submitted to and approved in writing by the City Council as local planning authority, in consultation with the Metropolitan Police Crime Prevention Design Adviser.

The development shall not be carried out otherwise than in accordance with the details thus approved. This is unless the development is carried out in accordance with the details approved under reference 04/07498/ADFULL dated 02/12/2004.

Reason:

To reduce the vulnerability of the development to crime, and to ensure that such provision is made in a manner that does not detract from the external appearance of the building, as set out in policy 38 of the City Plan 2019-2040, adopted April 2021.

- 28 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.

- 29 The restaurant at ground and basement level of 98 Westbourne Grove must be carried out in accordance with the Operational Management Plan (dated January 2022), hereby approved at all times.

Reason:

To make sure that the use will not cause nuisance for people in the area and to ensure that any delivery service does not cause a hinderance to pedestrian and vehicle traffic. This is as set out Policies 7, 16, 25, 28 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 30 The takeaway and delivery service hereby allowed at the premises at ground and basement level of 98 Westbourne Grove shall operate for no more than 1 year from the date of this permission.

Reason:

So that the local planning authority can assess the effect of the use and make sure it meets Policy 7, 14, 16, 25, 29, 33 and 38C of the City Plan 2019 - 2040 (April 2021). (R03CC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National

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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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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.