

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 12 July 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved Currently within Lancaster Gate Pre May 2022- Within Hyde Park, now adjoining.	
Subject of Report	50 Eastbourne Terrace, London, W2 6LG.		
Proposal	<p>Application 1:- Variation of conditions 1 (approved plans) and 5 (no-take-away) of planning permission dated 08 June 2021 (RN: 21/00264/FULL) for the: Change of use of Retails Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. NAMELY, Reconfiguration of the approved floor plans, and to allow for an ancillary quantity of takeaway from the restaurant unit.</p> <p>Application 2:- Amendments to planning permission dated 05 February 2020 (RN:19/07378) for the: Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the addition of a door on the Craven Road elevation to the approved restaurant unit along Craven Road.</p>		
Agent	Gerald Eve		
On behalf of	CSHV IUK ET Propco Limited		
Registered Number	Application 1 22/00672/FULL Application 2 22/00674/NMA	Date amended/ completed	2 February 2022
Date Application Received	2 February 2022		
Historic Building Grade	Unlisted, but a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along		

	Westbourne Terrace (Grade II).
Conservation Area	Outside of, but borders the Bayswater Conservation Area
Neighbourhood Plan	Not applicable

1. RECOMMENDATION

1. Application 1 – Grant conditional permission.
2. Application 2- Agree Non-Material Amendment.

2. SUMMARY & KEY CONSIDERATIONS

This report covers two applications relating to two ground floor shop units fronting Craven Road. Collectively the applications seek to increase the retail/restaurant floorspace by 39m², by reducing the size of the Gym by the same amount and to allow the retail/restaurant unit to operate a take-away and delivery service. It is also proposed to install an additional door within the shopfront to the retail/restaurant unit so that there are two doors to the unit.

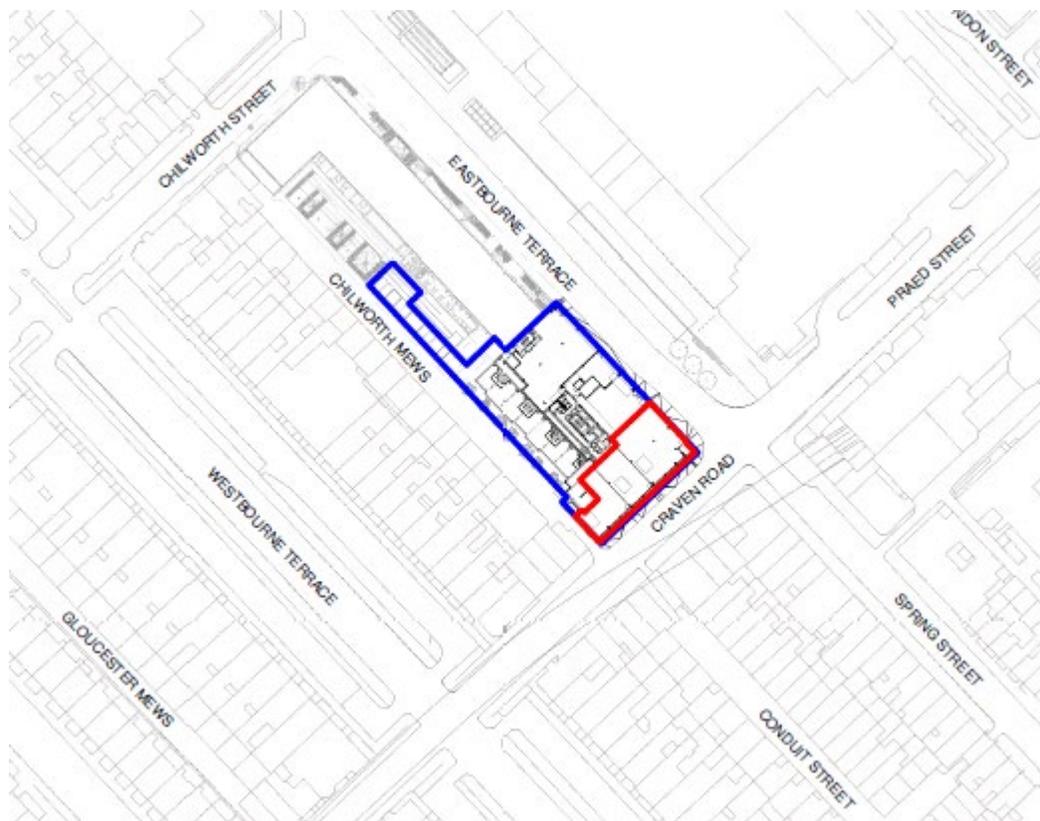
Representations of objection have been received from previous Ward Councillors, the South East Bayswater Residents Association and residents from three properties within Chilworth Mews and concerns have been raised by our Highways Planning Manager. The Paddington Business Improvement District support the proposal. During the course of the application the applicant has agreed to operate the delivery service using non-motorised transport and to put measures in place within an operational management plan to minimise the potential impact on the public highway and resident's amenity.

The key considerations in these two cases are:

- The impact of the proposed take-away and delivery restaurant service in highways terms.
- The impact of the proposed take-away and delivery restaurant service on residential amenity.
- Whether the installation of an additional door in the shopfront can be considered as a non-material amendment.

Given that the delivery service is now proposed to be operated by way of sustainable transportation (non-motorised transport) together with the operational management plan measures to minimise potential impact on the public highway and residential amenity, it is considered to be an acceptable proposal in light of the relevant City Plan policies. As such a favourable recommendation is made.

3. LOCATION PLAN



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4. PHOTOGRAPHS

50 Eastbourne Terrace, corner of Eastbourne Terrace and Craven Road



50 Eastbourne Terrace – elevation to Craven Road with entrance to Chilworth Mews to left of photograph- ground floor shopfront with approved 2 doors, one to the Gym, one to the Retail/Restaurant unit.



5. CONSULTATIONS

5.1 Application Consultations

APPLICATION 1

HIGHWAYS PLANNING TEAM

Objection. The function and process would rely on highway space and reduce space available to pedestrian, cyclists and other highway users. Recommend refusal on grounds that it has not been demonstrated that a delivery service at this location would not cause obstruction to highway (footway) and localised congestion (pedestrian and vehicular traffic flow).

WASTE PROJECT OFFICER

Objection. The waste detail submitted are not in line with Council waste storage requirements.

EX COUNCILLOR COX and EX COUNCILLOR ACTON (Councillors for Hyde Park Pre May 2022) Objection. Will make congestion worse (NB, neither are current Ward Councillors following May 2022 elections and the site is now within Lancaster Gate Ward).

SOUTH EAST BAYSWATER RESIDENT'S ASSOCIATION

Objection. The reason for imposing the condition remains even more relevant with the overall increase in deliveries. Detrimental impact on residential amenity, disturbance, cycle and scooters will park in Chilworth Mews during long opening hours of the restaurant into the late evening. Should the City Council be minded to grant permission, conditions should be imposed to ensure take-away element remains ancillary, restriction in hours to 1 hour before close of restaurant, no scooters to stop in the mews, no use of rear emergency door.

PADDINGTON RESIDENT'S ACTIVE CONCERN ON TRANSPORT (PRACT)

Any response to be reported verbally.

PADDINGTON BUSINESS IMPROVEMENT DISTRICT (BID)

Support. Consumer habits have changed and hospitality operators have had to adapt to remain competitive. Securing a restaurant letting in this location is key to the areas ongoing regeneration.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 31

Total No. of replies: from 3 addresses in Chilworth Mews

No. of objections: 3

No. in support: 0

- Location not suitable for take-away because Craven Road is narrow and heavily congested and an ambulance blue light route, there is no layby or stopping outside of the restaurant, pavement is narrow for amount of footfall, pavement

already houses cycle stands adding to congestion on pavement, adjoins narrow narrow residential Chilworth Mews

- Further deterioration of local amenity is unreasonable, already used for servicing of 40 and 50 Eastbourne Terrace.
- Difficult to know how can be controlled by condition is reality.
- Residents keen to avoid the situations in Baker Street and Queensway and Newton Road where motorbikes and other delivery vehicles mount the pavement to collect food and loiter between deliveries, often with vehicles running.
- No shortage of take-aways in local area.
- Westminster consistently fails to police and enforce the double yellow lines on Craven Road and Praed Street in respect of illegal taxi rank, often backing up in Craven Road and beyond both entrances to the Mews.
- If this restaurant is destined to be one of the hubs that serve foods across a number of regions the plethora of delivery scooters, cars and push bikes that will try and rank up on the road and pavement will render more serious congestion issues against a current and persistent lack of enforcement.

PRESS NOTICE- No

SITE NOTICE: Yes

APPLICATION 2

No consultation required due to type of application (Non-Material Amendment).

1 objection received:-

The application for an additional door for take-away food and drink cannot be reasonable as the building's planning permission prohibits the sale of take away food and drink.

5.2 Applicant's Pre-Application Community Engagement

Our Early Community Engagement guidance sets out expectations for developers with respect to Planning Applications ranging from householder to major applications. Officers are not aware of any specific community engagement on this particular application. Although it is noted that the developer of 50 Eastbourne Terrace continues to engage with the residents of Chilworth Mews relating to a number of matters connected to 50 Eastbourne Terrace which has recently been completed.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The application site is not located within an area covered by a Neighbourhood Plan.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The site is a recently completed 6-storey building which occupies a prominent corner plot at the junction of Eastbourne Terrace and Craven Street, opposite Paddington Station and benefits from three street frontages to Eastbourne Terrace, Craven Road and Chilworth Mews, all with differing characters.

To the north of the site is an office building, 40 Eastbourne Terrace, which has also received planning permission for development. To the rear of the site is Chilworth Mews, a primarily residential mews.

The site is located outside of a conservation area. However, the site borders the Bayswater Conservation Area, and a number of designated heritage assets are located in close proximity, including Paddington Station (Grade I) on the opposite side of Eastbourne Terrace, the Hilton hotel (Grade II) located to the front of the station in Praed Street and terraced properties along Westbourne Terrace (Grade II).

The site is located within the designated Paddington Opportunity Area (POA), Central Activities Zone and the Praed Street District Shopping Centre.

7.2 Recent Relevant History

Original Application

Demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop) / A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. (16/07359/FULL).

Application Permitted 15 November 2016. This permission is governed by a S106 legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:-

- i) Provision of car parking on an unallocated basis.
- ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
- iii) Employment and Training Strategy for the construction and operational phases of the development.
- iv) Crossrail planning obligation

First Variation Application

Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to provide an additional floor of Class B1 office accommodation beyond the approved; minor alterations to the proposed massing, terraces, green roof, solar panels and external facades; minor internal reconfiguration of the proposed retail (Classes A1/A2/A3) and office (Class B1) floorplates including ancillary spaces. (18/09733/FULL). Application Permitted 10 July 2019.

This permission is governed by a Deed of Variation of the original S106 legal agreement dated 2 January 2019 between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:

- a) Obligations set out in the original legal agreement:
 - i) Provision of car parking on an unallocated basis.
 - ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
 - iii) Employment and Training Strategy for the construction and operational phases of the development.
 - iv) Crossrail planning obligation
- b) Additional obligations:
 - i) A financial contribution of £200,437 to the Affordable Housing Fund to offset shortfall in residential floor space on the site.
 - ii) A financial contribution of £22,515 to the Carbon Off-Set Fund to offset the shortfall in on-site carbon reduction.

To be paid on commencement of development (definition within S106 legal agreement excludes demolition)

Non-Material Amendment Application

Amendment to planning permission dated 10 July 2019 (RN: 18/09733) for: Variation of Condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible

A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper storeys. Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews, to provide an additional floor of Class B1 office accommodation beyond the approved; minor alterations to the proposed massing, terraces, green roof, solar panels and external facades; minor internal reconfiguration of the proposed retail (Classes A1/A2/A3) office (Class B1) floorplates including ancillary spaces. NAMELY, to split Condition 3 (Part B) (Code of construction Practice) into two parts to reflect the two separate construction phases. (19/05689/NMA) Application permitted 26 July 2019.

Second Variation Application

Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. NAMELY, to allow the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary retail cafe unit (Class A1) (19/07378/FULL) Application Permitted 5 February 2020.

This permission is governed by a Deed of Variation an earlier Deed of Variation dated 10.07.2019 which varied the original S106 legal agreement dated 2016 between the applicant and us under Section 106 of the Town and Country Planning Act 1990 to secure the following planning obligations:

- a) Obligations set out in the original legal agreement 2016:
 - i) Provision of car parking on an unallocated basis.
 - ii) Highways works surrounding the site necessary for the development to occur, including vehicle crossovers, changes to on-street restrictions and footway repaving.
 - iii) Employment and Training Strategy for the construction and operational phases of the development.
 - iv) Crossrail planning obligation

- b) Additional obligations: in the Deed of Variation dated 10.07.2019
 - i) A financial contribution of £200,437 to the Affordable Housing Fund to offset shortfall in residential floor space on the site.
 - ii) A financial contribution of £22,515 to the Carbon Off-Set Fund to offset the shortfall in on-site carbon reduction.

To be paid on commencement of development (definition within S106 legal agreement excludes demolition)

Non Material Amendment Application

Amendments to planning permission dated 5 February 2020 (109/07378/FULL which allowed a : Variation of condition 1 of planning permission dated 10 July 2019 (RN: 18/09733/FULL) which itself varied condition 1 of planning permission dated 15 November 2016 (RN: 16/07359/FULL) for demolition of existing buildings and redevelopment of the site to provide a 6 storey (plus existing lower ground floor) 'L' shaped building, including terraces, a plant room, a green roof and solar panels at roof level to comprise 2 x A1 (retail shops) units and 1 x flexible A1 (retail shop)/ A2 (financial and professional services) / A3 (cafe and restaurant) unit at ground floor level and B1 (office) floorspace at part ground and all upper stories, Erection of 7 residential townhouses, incorporating concealed roof terraces and landscaped areas to the front on Chilworth Mews. For the relocation of cycle and refuse storages into defensible zone landscaping along Chilworth Mews; party wall adjustments to incorporate services; amendment to unit mix increasing the provision of family sized dwellings; amendments to facade and roof; to the mews buildings and changes to the ground floor office reception layout and the introduction of an ancillary cafe unit. NAMELY to amend the car parking layout for the seven car parking spaces associated with the residential mews houses. (20/02091/NMA) Application permitted on 08.04.2020.

S106 Modification

Deed of Modification of Schedule One Clause 4.1 and 4.4 to the Section 106 Agreement dated 5th February 2020 associated with planning permission reference 19/07378FULL, To:-

1) Change the plans showing car parking spaces so that it aligns with non-material amendment under reference 20/02091/NMA

And

2) To vary the basis on which the car parking spaces are to be managed, specifically for them to be managed on an allocated basis (one space per one residential unit). (20/02323/MOD106) Application agreed on 08.07.2020.

Change of Use application

Conditional Planning permission granted on 08.06.2021 for Change of use of Retail Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. (21/00264/FULL).

A number of conditions were imposed including:-

Condition 4 – Operational Management plans for Retail/Restaurant & Gym.

Condition 5 – No take-away.

Condition 6 – Operate in accordance with Servicing Management Plan.

Condition 7 – Hours of use.

Condition 9 – All servicing from approved loading bay 07.00-20.00 Monday to Saturday and 10.00-16.00 on Sundays and Bank Holidays.

Condition 16- Back of house door to Chilworth Mews for emergency purposes only.

8. THE PROPOSAL

Application 1:- Permission is sought to vary the permission relating to the use of the ground and basement for Retail/Restaurant & Gym (Class E). It is proposed to reconfigure the approved floorspace for the two units, in order to give more floorspace over to the restaurant (+39m²) and less to the Gym (-39m²). It also seeks to remove a

restrictive condition which prevents any take-away service from the restaurant in order to allow delivery and click and collect take-away services to be operated from the restaurant unit.

Table 1: Existing and proposed floorspace and facilities for along Craven Road.

Land Use	Existing floorspace/facilities	Proposed floorspace/facilities	Approved Hours of use
Retail/Restaurant	407m2 No take-away	446m2 Delivery and click and collect.	07.00-00.00 Monday to Saturday 08.00-22.30 Sundays and Bank Holidays
Gym	142m2	103m2	06.30-20.30 Monday to Friday. 08.00-20.30 Saturdays, Sundays and Bank Holidays

Application 2:- Agreement is sought, that the installation of an additional door to the restaurant shopfront on Craven Road is a Non-Material Amendment.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Application 1

The proposal would result in a smaller gym of 103m² and a larger restaurant of 446m². The applicant has indicated that Vapiano, a pasta/pizza restaurant chain, with 4 premises in London (Centre Point, Tower Bridge, Great Portland Street and Bankside), are looking to occupy the restaurant unit as a sit down restaurant, but that the business also operates a proportion of take-away/click and collect orders as an ancillary service. At the time that the original planning permission was granted for the restaurant use, the final operator and their specific requirements were un-known and take-way and or delivery was not proposed. As such a restrictive condition was imposed to enable the City Council to retain control over any such proposed future use of the premises.

In tandem with this application is another application which is seeking agreement that the installation of another door within the restaurant shopfront to Craven Road is non-material.

Floorspace changes to Gym./Restaurant

Given that the proposed Gym and Retail/Restaurant uses within the Craven Road shop units, all now fall within Class E of the Town and Country Planning (Use Classes) Order 1995 (as amended), the minor reconfiguration to amend the size of the units is not considered to raise land use issues and this element of the proposal satisfies Policy 15 of the City Plan.

Restaurant and Delivery/Takeaway

Restaurants fall within Class E, but Hot Food take-aways are considered as a Sui Generis Use and therefore a change of use from one to the other requires planning permission. However, unrestricted restaurants are able to operate with an element of ancillary take-away/delivery use, without a change of use occurring. In this case, condition 5 of the planning permission relating to the development, restricts any take-away or delivery activities taking place from the restaurant premises without first obtaining planning permission. In dealing with the original planning application for the redevelopment of the site, insufficient details relating to any ancillary delivery service had been provided and as such officers sought to restrict such a use in the absence of being able to make a full assessment as to its potential impact.

The potential operator of the restaurant "Vapiano" is seeking to operate a Click and Collect service, which would operate by a customer physically picking up their order from the restaurant premises once it was ready. It is also seeking to operate a delivery service to be undertaken by an external delivery service provider, which is currently exclusively Deliveroo for their other London based restaurants. Both Click & Collect, and Delivery services would require collections from the restaurant via its shop front and door/s on Craven Road (note application for additional door).

It is acknowledged that many restaurants have the ability to operate a delivery service and that this is common throughout Westminster, particularly as consumer habits have changed over the last few years. However, it is vital that each site is assessed independently, taking in the specific site circumstances and location and potential impacts of the proposal.

The principle of restaurant providing Click and Collect and Delivery facilities of a type and size appropriate to this location, is acceptable in principle in land use terms in this location under policy 16 which supports food, drink and entertainment uses in this location within the POA, CAZ and District Centre. However, this is subject to having no significant adverse effects in traffic and transportation terms, on the living conditions of neighbouring residential properties and on local environmental quality.

The proposal has been amended during the course of the application on officer's advice to omit motorised vehicles for delivery purposes and to propose only non-motorised transport to attend the site. Officers also advised that the proposal should be considered for a temporary 1 year period in order to allowing monitoring of the impact of the delivery service. The applicant has agreed to the use of non-motorised transport for all deliveries, but require a permanent permission rather than a temporary permission for commercial/contractual reasons as they will be undertaking a full fit out and to provide certainty for customers and the business more generally. However, they suggest that the monitoring of the impact of the delivery service could be addressed within the Operational Management Plan (OMP) (required to be approved prior to occupation-Condition 4B) by requiring a specific strategy for the delivery service which could be required to be resubmitted after 12 months with any refinements/revisions to address any issues that may have occurred over the preceding 12 months. As such, both conditions 4B and 5 (for delivery and takeaway to remain ancillary) have been amended to reflect this proposal.

9.2 Environment & Sustainability

The agreement to only allow non-motorised transport to be used for delivery purposes is positive and alleviates concerns with respect to motorised scooters and mopeds and their environmental impact in terms of noise and air quality. The use of non-motorised vehicles is a sustainable mode of transport and delivery and supports our greater emphasis on sustainability and the environment.

9.3 Biodiversity & Greening

Not relevant

9.4 Townscape, Design & Heritage Impact

Not relevant to Application 1, and the assessment of Application 2 is based on whether it is material or not. Notwithstanding this, the proposed additional door in the ground floor commercial unit is of the same design, material and appearance as others in this elevation and is considered to be appropriate in design terms.

9.5 Residential Amenity

The take-away and delivery facility sought would be operated within the approved operational hours for the restaurant, that is 07.00-Midnight Monday to Saturday and 08.00-22.30 on Sundays and Bank Holidays.

The permission for the development restricts by way of conditions, the loading bay to be used for servicing purposes only (condition 9) and the back of house doors to Chilworth Mews to be used for emergency purposes only (condition 16). An Operational Management Plan (OMP) is also required to be submitted for approval prior to the restaurant use commencing (Condition 4B). These would remain in place.

Proposed Click & Collect take-away operation

The activity of individuals undertaking click and collect and collecting take-aways from the restaurant during its operational hours, is not considered to raise any amenity issues. It is similar to purchasing items from a shop. They would be subject to on-street parking restrictions depending on their mode of transport, which would be similar to that of the use of the gym and other shops and restaurants nearby with the POA, CAZ and District Centre and may also choose to arrive by foot. As such, it is not considered that this element of the proposal would result in any significant impact on residential amenity.

Proposed Delivery operation

The site is located within a commercial environment (albeit it with residential in the vicinity) with high levels of existing activity within the immediate locality, which include a number of take-away delivery services and a predominant noise environment of vehicular traffic. The site itself is an office building with the restaurant/gym at ground floor. As such the introduction of a delivery service, subject to the suggested OMP measures set out in this report, is not considered to result in any significant impact on the amenity of nearby residents including those within Chilworth Mews. Consequently, the proposal is considered to accord with Policies 16 & 33 of our City Plan.

9.6 Transportation, Accessibility & Servicing

Proposed Click & Collect take-away operation

Takeaways by individual members of the public (including residents and workers) are already a common feature of the area and is similar to people purchasing items for a retail shop. The applicant anticipates that the Click & Collect Service would result in between 9 and 40 click and collects per day. As such this part of the proposal does not raise concerns in highway and transport terms.

Proposed Delivery operation

The proposed delivery would mean that the restaurant would no longer serve only visiting members of the public, but would be available to a wider proportion of the local area, expanding the catchment area and number of non-eat in diners, increasing the number of trips to and from the site and increasing demand for on-street parking for the associated delivery operatives.

The applicant anticipates that the proposed delivery service based on approximate delivery radius of 2.6 miles, would result in average daily delivery orders of around 60, based on the approved hours of operation.

With respect to the proposed delivery service, the applicant has indicated that it is expected that delivery operatives would arrive at the restaurant by non-motorised vehicles and that the drivers will be provided with details of certain locations to park to give certainty by driver notes via the rider application which would also be enforced by the restaurant during operating hours. This approach would be monitored by a dedicated employee at the restaurant who would be responsible for monitoring the collection area in the restaurant, as well as informing any riders of where to park.

The applicant has indicated that delivery operatives will be advised to park using the closest existing bike racks along Craven Road adjacent to the restaurant unit and those within Spring Street.

The agreement to only use non-motorised transport for delivery purposes is positive and alleviates concerns with respect to motorised scooters and mopeds and their impact in highways terms in Paddington which is a vehicular traffic sensitive location. However, non-motorised transport, which is likely to be bikes still require use of on-street parking, which increases demand for already heavily used on-street bike parking. However, most other delivery operations utilise on-street parking and it is not an uncommon occurrence within Westminster.

It is recognised that the area is one of high footfall, with residents, workers and visitors including a high number of tourists with luggage and those visiting the nearby St Mary's hospital. It is also acknowledged that the site is close to the busy traffic light junction of Craven Road/Eastbourne Terrace/Praed Street/Spring Street. Given this, it is considered paramount to put measures in place to ensure that public highway is not impeded by the operational impact of the delivery service. As such, and in order to ensure that the delivery operation is carried out, with the least potential impact, it is considered appropriate and necessary to require an OMP to specify how the delivery

service will be managed on a daily basis. The OMP is expected to include, but not be limited to the following measures:-

- Delivery & Click and Collect to remain ancillary to the sit down restaurant
- Delivery drivers must only attend the site by way of non-motorised transport
- Delivery drivers must park lawfully
- No obstruction of the pedestrian or vehicular highway within the vicinity of the site.
- No use of Chilworth Mews at any time
- Litter patrols
- Dedicated restaurant employee to monitor delivery driver compliance with OMP
- Policy to exclude drivers who fail to comply with OMP
- Contact for complaints
- Log of complaints/issues over 12 months from date of first occupation of the restaurant.
- Resubmission of OMP with any necessary refinements/ revisions

Highways Planning has raised objection to the proposal, given the limited cycle parking within the proximity of the site and the fear that delivery operatives may not comply with highway rules and would park illegally, which would be detrimental to other road uses and pedestrians. However, it is considered that the measures set out and required within OMP would minimise the potential of this occurring.

Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during operation through the generation of increased opportunities for local employment, procurement and spending.

9.7 Other Considerations

Licensing

An application has been made by Uk Vap Paddington Limited for a new Premises Licence under the Licensing Act 2003, for the provision of late night refreshment and supply of alcohol. The hours in which premises are open to the public are stated as:- 09.00-23.30 Sunday to Thursday & 09.00-Midnight Fridays & Saturdays.
(22/03010/LIPN)-Vapiano, 50 Eastbourne Terrace, London, W2 6LG)

The submitted drawing to the licence indicates/annotates an area of the floorspace (front left) for take-away and deliveries. A memo has been provided from the Planning department to licensing advising that that whilst permission has been granted for a restaurant use, a pending application seeks permission for take-away and delivery. Details of the planning conditions, including hours of use restriction have also been provided. A hearing is proposed to be held to determine the license application on 07.07.2022 and any update on the outcome of this meeting will be reported verbally.

9.8 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.9 Planning Obligations & Pre-Commencement Conditions

Planning obligations are not relevant in the determination of this application.

The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 requires the City Council to obtain the applicant's written agreement before imposing pre-commencement conditions (i.e., conditions which must be discharged before works can start on site) on a planning permission. Pre-commencement conditions can only be imposed without the written agreement of the applicant where the applicant fails to provide a substantive response within a 10-day period following notification by the Council of the proposed condition, the reason and justification for the condition.

During this application, a notice was served relating to the proposed imposition of a pre-occupation condition to secure the applicant's adherence to the OMP. The applicant has agreed to the imposition of the condition.

10. Conclusion

The approved restaurant is located within a strategic transport and commercial location within Paddington (POA, CAZ and District Shopping Centre) and it is acknowledged that many restaurants have the ability to operate a delivery service and that this is common throughout Westminster, particularly as consumer habits have changed over the last few years. Given the use of non-motorised transport and the measures to be secured through the OMP (Condition 4B as proposed to be amended) to minimise any impact in environmental, highways and amenity terms, and condition 5 to be amended to ensure that the take away/delivery remains ancillary, it is considered that the proposal can be supported and strikes a balance between the commercial requirements of operators within the POA, CAZ and District Centre and the protection of the area.

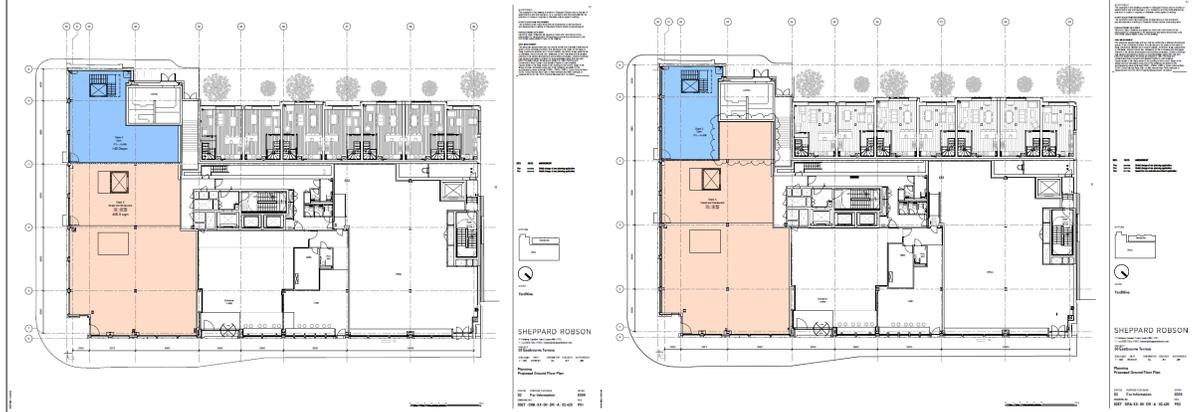
The proposed secondary door to the restaurant unit is of the same design and appearance as other doors within the shopfront. Accordingly, the door is considered to be a non-material amendment. It would also provide the ability to separate the delivery/takeaway services from the restaurant customers if permission is granted for the delivery use.

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

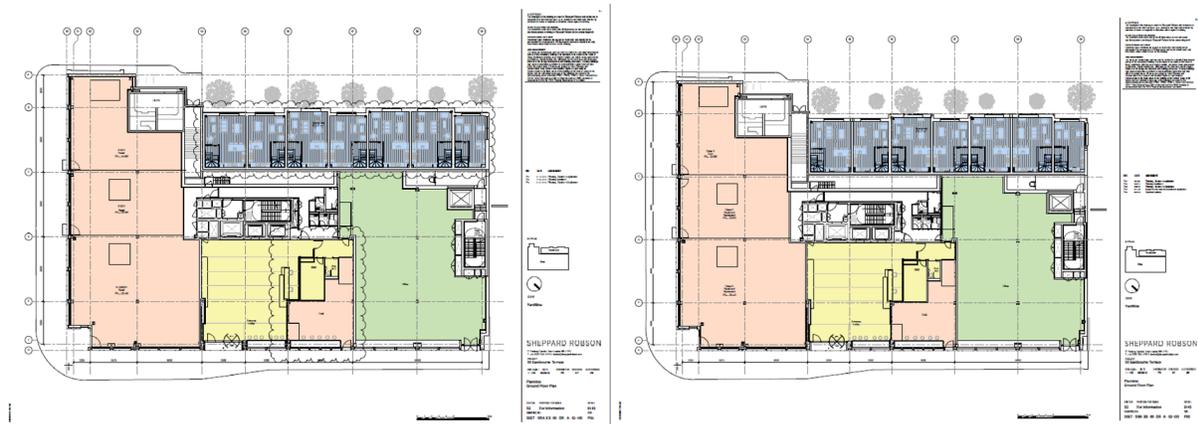
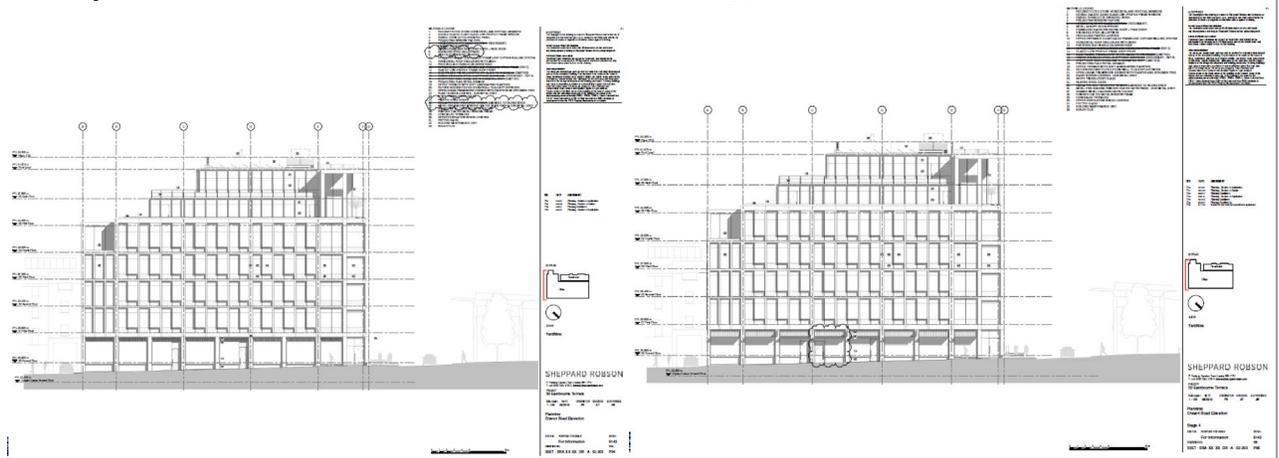
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT, PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk

11. KEY DRAWINGS

APPLICATION 1 :-Approved and proposed ground floor plans- Gym blue, retail/restaurant peach (this plan only).



APPLICATION 2: Approved and proposed shopfront/doors (Gym is not highlighted blue in these plans as this relates to the additional door only)



DRAFT DECISION LETTER**DRAFT DECISION LETTER**

Address: 50 Eastbourne Terrace, London, W2 6LG,

Proposal: Variation of conditions 1 (approved plans) and 5 (no- take-away) of planning permission dated 08 June 2021 (RN: 21/00264/FULL) for the: Change of use of Retails Units at ground and lower ground floor level along Craven Road from Classes A1/A2/A3 to Class E. NAMELY, Reconfiguration of the approved floor plans, and to allow for an ancillary quantity of takeaway from the restaurant unit.

Reference: 22/00672/FULL

Plan Nos: Gerald Eve Letter 01.02.2022, Site location plan 50ET SRA XX XX DR A 02-401 Rev P01, 50-ET-SRA-XX-00-DR-A-02-420 Rev P02, Vapiano document (for information only), All as part superseded by Agent email 24.06.2022.,

Case Officer: Sarah Whitnall

Direct Tel. No. 020 7641
07866036375

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 only use the premises or part of the premises annotated for gym use, retail use and restaurant use (as annotated on the drawings) for those uses. You must not use them for any other purpose, including for any other use within Class E, Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any equivalent class in any order that may replace it), unless otherwise agreed in writing by us.

Reason:

To protect neighbouring residents from noise nuisance, avoid blocking surrounding streets, to ensure that sustainable transport modes are used, to prevent sensitive air quality receptors from occupying the site or uses that would have a significant adverse effect on air quality, policies 7, 25,28, 29, 32, 33, 38,39,40 of the City Plan 2019 - 2040 (April 2021).

- 3 The restaurant unit on the corner of Craven Road and Eastbourne Terrace shall not include a bar and or bar seating, which takes up more than 15% of the floor area of the unit, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 4 A. Prior to the use of the gym, you must apply to us for approval of an operational management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the gym use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the gym is in use. , ,

B. Prior to the use of the retail/restaurant and ancillary take-away and delivery service, you must apply to us for approval of an operational management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings and to minimise any impact in environmental, highways and amenity terms.

The Operational Management Plan must include:-

- Details of staff and capacity, arrival and departure processes, hours of operation.
- Delivery & Click and Collect to remain ancillary to the sit down restaurant
- Delivery drivers must only attend the site by way of non-motorised transport,
- Delivery drivers must park lawfully,
- No obstruction of the pedestrian or vehicular highway within the vicinity of the site.
- No use of Chilworth Mews at any time,
- Litter patrols,
- Dedicated restaurant employee to monitor delivery driver compliance with OMP,
- Policy to exclude drivers who fail to comply with OMP,
- Contact for complaints,
- Log of complaints/issues over 12 months from date of first occupation of the restaurant.,
- Resubmission of OMP with any necessary refinements/ revisions,

You must not start the retail/restaurant and ancillary take away or delivery use until we have approved in writing what you have sent us. You must then carry out the measures included in the approved management plan at all times that the restaurant is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 5 You must only take-away food or drink on the premises and provide a delivery service, as

an ancillary part of the primary restaurant/ café use. The delivery and take away use must not be operated unless fully in accordance with the management measures set out in the Operational Management Plan agreed under Condition 4B of this permission.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 6 A. You must operate the Gym in accordance with the detailed Servicing Management Plan approved for the site which provides details of the servicing process including using the approved off-street servicing area within the curtilage of 50 Eastbourne Terrace and the route between the loading bay and the unit, all as agreed on 05.10.2020 under reference 20/02855/ADFULL,
- B. You must operate the Retail/ Restaurant in accordance with the detailed Servicing Management Plan approved for the site which provides details of the servicing process including using the approved off-street servicing area within the curtilage of 50 Eastbourne Terrace and the route between the loading bay and the unit, all as agreed on 05.10.2020 under reference 20/02855/ADFULL

You must then continue to operate the uses in accordance with the approved Servicing Management Plan at all times unless otherwise agreed by us in writing.

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)

- 7 A. Customers shall not be permitted within the Gym before 06.30 or after 20.30 Monday to Friday and before 08.00 and after 20.30 Saturdays, Sundays and Bank Holidays. , , ,
B. Customers shall not be permitted within the Retail/Restaurant before 07.00 or after 00.00 Monday to Saturday and before 08.00 and after 22.30 Sundays and Bank Holidays.,

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)

- 8 You must not use the Gym until a detailed scheme for the shop windows of the unit 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 frontage as set out in Policy 14 of the City Plan 2019 - 2040 (April 2021). (R26IA)

- 9 All servicing must take place from the loading bay within the curtilage of 50 Eastbourne Terrace (whether enclosed in a structure or not) and this area shall only be used for this purpose and servicing must only take place between 07.00-20.00 on Monday to Saturday and 10.00-16.00 on Sunday and Bank Holidays. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

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)

- 10 A. Prior to the use of the Restaurant on the corner of Craven Road and Eastbourne Terrace for hot food, you must submit for approval a scheme for the prevention of odour nuisance from the kitchen extract ventilation and subsequently install it maintain it.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 11 If amplified music is played above background levels in the gym and/or restaurant units then an electronic sound limiter must be fitted to the musical amplification system set at a level to comply with Condition 13 and also to prevent nuisance from low frequency noise.,

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the use does not cause a noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the draft Noise Technical Guidance Note (November 2019).

- 12 If the gym use involves installation of equipment, such as free weights, that results in impact sound transmission then floor areas with such equipment must be of a type that prevents the transmission of vibration or structure borne sound to other users of the building block.

Reason:

To safeguard the amenity of occupiers of noise sensitive receptors and the area generally by ensuring that the use does not cause a noise and vibration nuisance as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) the draft Noise Technical Guidance Note (November 2019).

- 13 The design and structure of the building 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. Inside

bedrooms 45 dB L Amax is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise as set Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the draft Environmental Supplementary Planning Document (May 2021). (R49AB)

- 14 A. Prior to the use of the gym , you must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not use the Gym until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to the use commencing and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the Gym.

B. Prior to the use of the Restaurant , you must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not use the Restaurant until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to the use commencing and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone using the Restaurant.

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)

- 15 You must apply to us for approval of details of secure short stay cycle storage for the Gym use. You must not start any work on this part of the development until we have approved in writing what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation and make it available at all times to everyone using the Gym. You must not use the cycle storage for any other purpose. (C22HA)

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)

- 16 The back of house access door along Chilworth Mews, shown on approved drawing 50ET-SRA-XX-LG-DR-A-02-419 P01, shall only be used for emergency purposes only, unless otherwise approved in writing by the local planning authority.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

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 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.

- 2 Kitchen extract ventilation informative: , , o In order to permit any food type, intensity of use and/or method of cooking without requiring it to be altered should the food operation change in the future the best option is to provide a system that discharges the kitchen fumes at 'full height'. , , If the scheme discharges below full height then the odour prevention scheme must be to at least 'best practicable means' standards and bespoke designed for the intended food operation. Details of the intended food operation will need to be submitted with the proposed scheme when submitting information for approval of this condition - however it should be noted that any final approval of a low level discharging scheme is likely only to be able to be made after it has been installed and operating under its maximum intensity of use. Should the installed scheme not prevent nuisance then additional mitigation will be required. , , o The general ventilation within the kitchen must be designed to achieve an upper ambient temperature of about 25 centigrade and provide sufficient air changes within the workspace as recommended in the Building & Engineering Services Association (BESA) guidance DW172 -2018 or as in equivalent guidance , , o The kitchen extract ducts must be fitted with doors/hatches for cleaning and maintenance, at approximately 2-3 metre intervals or in compliance with the BESA document TR19 for cleaning and maintenance , , o Any cladding to the ducts must be made of non-flammable materials (approved by Building Control and/or Fire Brigade) and still allow access to any cleaning and maintenance doors/hatches. , , o Prior to an application to discharge this condition the Council's Environmental Health Consultation Team or the Environmental Sciences Team can be contacted for further advice and information. , , Smoke Control Area Informative , , The whole of the City of Westminster is a Smoke Control Area under the Clean Air Act 1993. Thus, premises cannot emit smoke unless burning an 'authorized fuel' or using 'exempt appliances'. Further information on the requirements can be found at the following government website: <https://www.gov.uk/smoke-control-area-rules>

- 3 For advice on how you can design for the inclusion of disabled people please see the guidance provided by the Equality and Human Rights Commission, the Centre for Accessible Environments and Habinteg. The Equality and Human Rights Commission has a range of publications to assist you (www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility' (2012) is a useful guide (www.cae.org.uk). If you are building new homes, you must provide features which make them suitable for people with disabilities. For advice see www.habinteg.org.uk. , , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one

of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.

- 4 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is also a condition of the London Building Acts (Amendment) Act 1939, and there are regulations that specify the exact requirements. For further information on how to make an application for street naming and numbering, and to read our guidelines, please visit our website: www.westminster.gov.uk/street-naming-numbering. (I54AB)
- 5 Please email our Project Officer (Waste) at wasteplanning@westminster.gov.uk for advice about your arrangements for storing and collecting waste.
- 6 You must make sure that any other activities taking place in the class E (restaurant or café) premises, such as small amounts of takeaway sales or small bar areas, are so minor that they do not alter the main use as a restaurant or café. If the scale of one or more of these extra activities is more substantial than this, it is likely that a material (significant) change of use (from class E to a mix of uses) will have taken place, which will need a new planning permission. (I61BA)

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.