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| Committee: | Date: |
| Planning and Transportation | 5 January 2021 |
| Subject: 186 - 190 Bishopsgate London EC2M 4NR Change of use of basement, ground and first floor levels to a Class A3 restaurant plus external alterations comprising the installation of louvres and a full height external extract duct to the roof on the south elevation. | Public |
| Ward: Bishopsgate | For Decision |
| Registered No: 19/01359/FULL | Registered on: 23 December 2019 |
| Conservation Area: Bishopsgate | Listed Building: No |

Summary

The planning application relates to 186-190 Bishopsgate, located towards the northern end of Bishopsgate, on the corner with Victoria Avenue, and occupied as retail at lower ground, ground and first floor level with 19 residential units at 2nd to 6th floors above. The site is included in the Bishopsgate Conservation Area and the Liverpool Street Primary Shopping Centre.

Planning permission is sought for the change of use of the basement, ground and first floor to a restaurant and associated external plant. The permitted use of the ground floor is Class A1 and was previously occupied as a jewellers and subsequently by Wasabi as a cold food take-away. More recently it appears that Wasabi has expanded its activities to include eating on the premises and hot food take-away which takes the use out of Class A1 (shop) of the Town and Country Planning (Use Classes) Order. This use is not authorised.

In order to deal with kitchen ventilation extract associated with the proposed restaurant use effectively, and having regard to residential amenity, high level extract up to roof level is required. Internal routes for this have been explored but have not proved feasible. Consequently an external extract duct from first floor to roof level is proposed on the south elevation of the building facing onto Victoria Avenue. Victoria Avenue is not public highway.

Seven objections have been received: six from residents of the building objecting to noise disturbance during building works and operation of the

restaurant; nuisance caused by food odours; hot air extract to Victoria Avenue; opening hours; damaging impact on the appearance of the building and the value of the property. The Conservation Area Advisory Committee does not object to the change of use but objects to the external flue as being damaging to the building and unacceptable in a Conservation Area.

While the existing percentage of Class A1 units in the PSC frontage is below the Local Plan aim of 70%, the mix of retail units in the immediate frontage accords with the Local Plan and the proposed use is considered to be appropriate to its location in the PSC, providing a positive contribution to facilities in the area.

While the planning application originally proposed low level (first floor) extract into Victoria Avenue, the application has been amended to provide an extract route to roof level, in order to avoid the potential of noise and odour nuisance to the area in general and to the occupiers of the residential flats in particular. Planning conditions and the submitted Management Plan would also effectively control potential sources of nuisance.

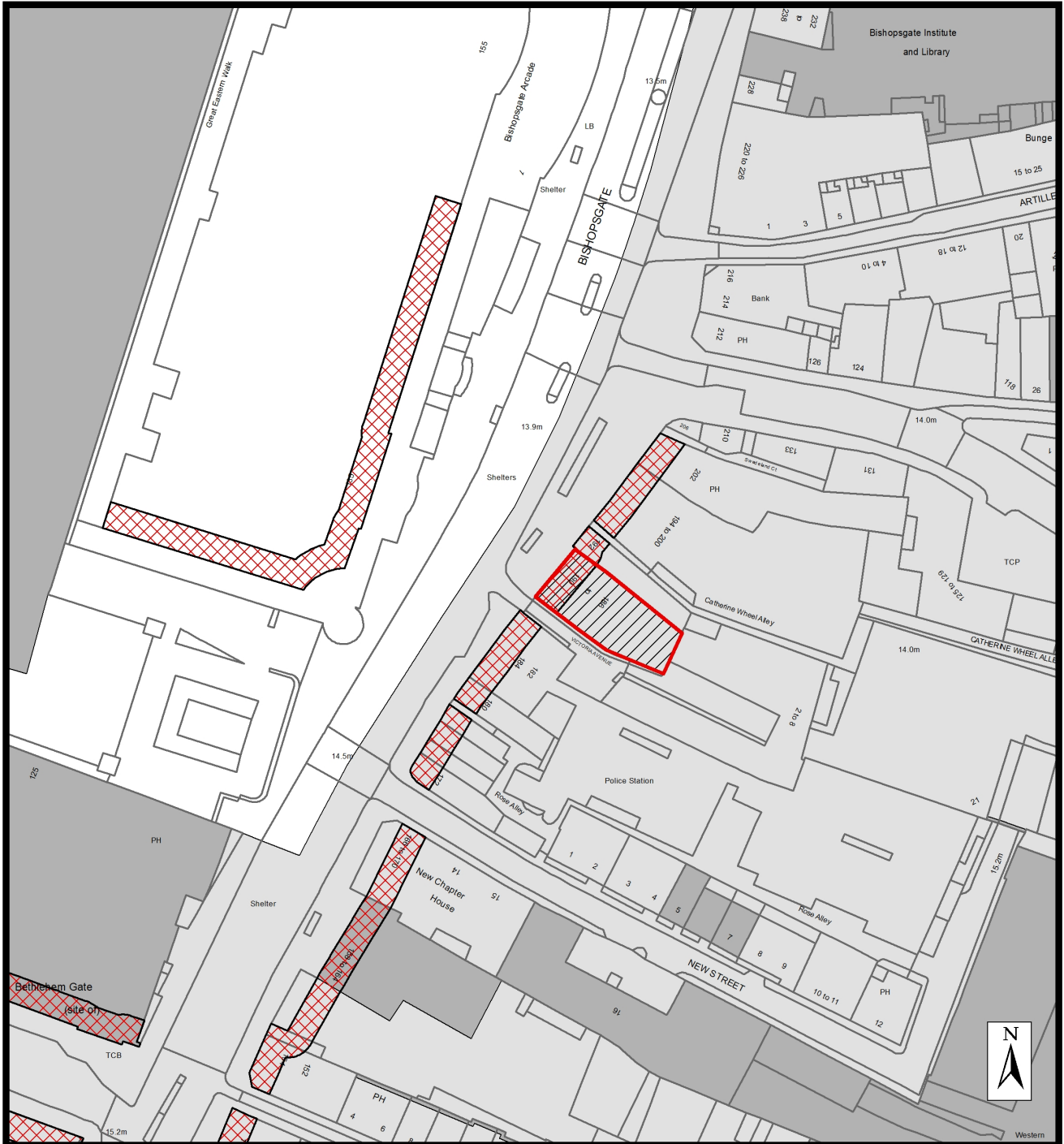
The proposed external duct would detract from the appearance of the building and the character and appearance of the Conservation Area. Options to visually integrate it better with the building would only serve to make it more bulky or are structurally unfeasible.

Significant weight has been given to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The duct is not in a prominent location in the Conservation Area and it is considered that the proposal would result in a limited degree of less than substantial harm to the Conservation Area. Recognising the weight to be given to any harm, overall it is considered that the proposals, while seeking to protect residential amenity, achieve a use for the retail unit which would contribute positively to the vibrancy and activity of the Bishopsgate Conservation Area.

Recommendation

That planning permission be granted for the above proposal in accordance with the details set out in the attached schedule.

Site Location Plan



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ADDRESS:

186-190 Bishopsgate London EC2

CASE No.

19/01359/FULL

-  **SITE LOCATION**
-  **LISTED BUILDINGS**
-  **CONSERVATION AREA BOUNDARY**
-  **PRINCIPAL SHOPPING CENTRE**



DEPARTMENT OF THE BUILT ENVIRONMENT



186-190 Bishopsgate – Street views



View looking west along Victoria Avenue



South Elevation – showing location of proposed external duct

Main Report

Site

1. 186-190 Bishopsgate is located on the east side of Bishopsgate at the corner with Victoria Avenue. It is situated in the Bishopsgate Conservation Area and is included in the Liverpool Street Principal Shopping Centre. The building comprises 8 storeys including ground and basement and its permitted use is as Class A1 retail at basement, ground and first floor level with 19 self-contained residential flats at 2nd to 6th floor levels above.

Relevant Planning History

2. The retail unit at basement, ground and first floor level has been occupied by Wasabi since 2012. In 2012 it became evident that although a large part of the business consisted of cold food take away (Class A1), there was also a significant element of hot food being sold and there was an extensive area of tables and seating at first floor level for eating on the premises. The City determined that the mix of uses took the activity out of the lawful Class A1 retail use to a mixed use of Class A1(shop), A3(restaurant/cafe) and A5 (hot food take-away) which is a sui generis use. The use was therefore unauthorised.
3. Associated with the use, an extract duct was installed discharging to a flat roof area at the rear of the 4th floor level providing extract from the basement kitchen. These works were also unauthorised.
4. The unauthorised use and works gave rise to issues of noise and odour problems for the residents in the building, during the period of building works and from cooking smells and mechanical plant noise.
5. In October 2012, following intervention by City of London planning officers and environmental health officers, Wasabi ceased those unauthorised operations which took the planning use out of Class A1 and operated as a Class A1 unit (cold food take-away with some limited seating on the ground floor.) This was monitored by the City's enforcement team.
6. A planning application was submitted for the change of use from Class A1 to a mixed use of hot and cold food take-away and restaurant/cafe for eating on the premises. Outstanding matters in the application, mainly relating to waste storage for the residents and the retail unit were unresolved and the planning application was not determined.
7. At the end of 2019, at the time that the present planning application was submitted, it became evident that Wasabi had begun using the premises to provide eating on the premises and hot food. Although the extent of this activity in relation to the continuation of cold food take-away is not known, or whether a primary use continued, it is likely that the use comprised a mix of hot and cold food take-away together with eating on the premises which would be sui generis. It is not known on which date this potentially unauthorised use of the premises began.

Proposals

8. The present planning application is for the change of use of the basement, ground and first floor levels from Class A1 to a Class A3 restaurant with external alterations comprising the installation of louvres and external extract duct to the side elevation, facing onto Victoria Avenue.
9. As the planning application was submitted prior to 1 September 2020, the transitional arrangements under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 allows for the application to be considered under the previous use classes.
10. The ground floor would comprise an open kitchen and seating for 25 covers; the first floor would provide covers for 104 customers and customer WCs. The basement would provide ancillary space including storage and staff facilities.
11. The external alterations proposed to the south elevation facing onto Victoria Avenue include:
 - A full height external kitchen extract duct routed up the south elevation of the building facing onto Victoria Avenue, from first floor level to roof level;
 - a supply intake louvre measuring 1.96m width by 1m height at first floor level, installed in the brick cladding close to the corner of the building at Bishopsgate/Victoria Avenue;
 - a small general extract louvre in the upper part of an existing window at first floor level
 - The re-use of existing louvres on the east facing short return wall in Victoria Avenue for intake and extract.
12. The planning application as first submitted proposed a low level (first floor) external extract louvre which provided kitchen extract. This application was advertised and consulted upon.
13. For reasons outlined further below, this proposal raised serious concerns regarding potential noise and odour nuisance.
14. In order to address these concerns a revised proposal has been submitted which replaces the proposed low-level extract louvre with a full height external extract duct to roof level.
15. The revised proposal has been advertised and consulted upon.

Consultations:

16. The planning application was advertised on site and in the local newspaper and the residents of the upper floors were consulted by letter. Copies of the representations are attached to this report

Initial Proposal (with low level extract louvre):

17. Three objections were received, two from current occupiers of the upper floors and one from a previous occupier. The grounds of objection relate

to disruption caused by building works, the use of the unit for food and problems of noise and odour.

18. Thames Water do not object to the proposal but have provided advice which would be included as an Informative if planning permission were to be granted.
19. The Conservation Area Advisory Committee raised no objections to the application.
20. The requirements of the Waste Amenity Manager have been met.
21. Environmental Health Officers raised an objection to the application, advising against a recommendation for approval, based on the proposed low-level extract arrangements (amplified later in this report).

Revised Proposal (kitchen extract contained in full height duct to roof):

22. The Conservation Area Advisory Committee has raised an objection to the application as follows:
“There were no objections to the change of use, but the Committee strongly objected to the proposed aluminium flue which was damaging to the building and unacceptable in a Conservation Area.”
23. Two objections have been received from occupiers of the upper floors (different respondents from those above.) The grounds of objection are nuisance caused by food odours and noise, long opening hours, noise from deliveries, disruption from building works, devaluation of property and damaging to the appearance of the building.
24. One further representation has been received from a resident who is part of the 186-190 Bishopsgate Residents’ Association – objecting to Wasabi’s current operations causing disturbance and objecting to louvred extract to Victoria Avenue.
25. The revised proposals for a roof level extract would meet this objection and proposed conditions would mitigate against the other areas of concern raised.
26. Environmental Health have raised no objection to the revised proposals subject to conditions being imposed to ensure that residential amenity and the amenity of the surrounding area is protected. These are included in the attached schedule.

Policy Context

27. The development plan consists of the London Plan and the City of London Local Plan. The Mayor of London and the City of London have prepared draft plans which are material considerations to be taken into account in the determination of the applications.
28. The Draft London Plan is at an advanced stage. It takes forward many of the policy positions of the existing plan whilst strengthening and adding to others. On the 13th March 2020 the Secretary of State directed the

Mayor not to adopt the Plan due to it not addressing a number of national policies in respect of housing ambition, small sites, industrial land and aviation, meaning it will be some time before the plan is adopted. It has passed through the Examination in Public so is to be afforded some weight with the matters addressed by the Secretary of State being less relevant to this site.

29. The draft City Plan 2036 was agreed by the Court of Common Council in May 2020 for pre-submission, Regulation 19, consultation. The Plan is therefore a material consideration in the determination of planning applications. Regulation 19 consultation has been paused until early 2021 to enable the City Corporation to update policies in light of changes to the Use Class Order. These changes have been agreed by the Planning & Transportation and Policy & Resources Committee and will be considered by Court of Common Council in January 2021. However, the fundamental principles in relation to this application remain unchanged.
30. The London Plan and Local Plan policies that are most relevant to the consideration of this case are set out in Appendix A to this report.
31. Government Guidance is contained in the National Planning Policy Framework (NPPF) February 2019. Chapter 16 of the NPPF relates to conserving and enhancing the historic environment.
32. Paragraph 190 of the NPPF advises that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
33. Paragraph 192 of the NPPF advises, "In determining applications, local planning authorities should take account of:
 - a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness."
34. Paragraph 193 of the NPPF advises "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
35. Paragraph 194 of the NPPF states "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or

destruction, or from development within its setting), should require clear and convincing justification

36. Paragraph 196 of the NPPF states “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.” When carrying out the balancing exercise in a case where there is harm to the significance of a conservation area, considerable importance and weight should be given to the desirability of preserving or enhancing the character or appearance of the conservation area.
37. On 1st September 2020 a further amendment was made to the Town and Country Planning (Use Classes) Order 1987 by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. For applications made prior to the 1st September 2020, as is the case in this instance, the order makes provision for those applications to be considered against the regulations that were applicable prior to the amendment coming into force.

Considerations

38. The Corporation, in determining the planning application has the following main statutory duties to perform:-
 - to have regard to the provisions of the development plan, so far as material to the application and to any other material considerations. (Section 70 Town & Country Planning Act 1990);
 - to determine the application in accordance with the development plan unless other material considerations indicate otherwise. (Section 38(6) of the Planning and Compulsory Purchase Act 2004).
 - To pay special attention to the desirability of preserving or enhancing the character or appearance of the Bishopsgate Conservation Area. (S 72(1) Planning, Listed Buildings and Conservation Areas Act 1990);
39. The principal issues in considering this application are:
 - The extent to which the proposals comply with Government policy advice (NPPF).
 - The extent to which the proposals comply with the relevant policies of the Development Plan.
 - The impact of the proposal on residential amenity.
 - The impact of the proposal on the Bishopsgate Conservation Area.

Land Use:

40. The property is located near the northern edge of the Liverpool Street Principal Shopping Centre (PSC), the extent of which is shown on the location plan attached to this report.
41. It is in a frontage which is separated from other retail units to the south by Victoria Avenue and the City of London Police Station. There are 5 units in this section of frontage north of Victoria Avenue: the application

premises, two Class A1 units, the entrance to a betting shop (sui generis) basement unit and a Class A4 public house.

42. The retail unit measures 807 sq. m. of floorspace over three floors (basement, ground and first floor) and has a frontage of 9.6m along Bishopsgate (with a secondary frontage along Victoria Avenue).
43. Policy CS20 and draft City Plan Strategic Policy S5 aims to improve the quantity and quality of retailing and the retail environment in the City, promoting the development of the Principal Shopping Centres (PSCs) and the linkages between them to ensure that they become attractive shopping destinations. Priority will be given to shops (Class A1) within the PSCs with other retail uses being directed to the peripheries of the centres and the retail links.
44. Policy DM 20.1 seeks to maintain a predominance of A1 units within the Principal Shopping Centre. This is achieved by not allowing changes of use which would result in more than 2 in 5 consecutive units being neither A1 nor A2 deposit taker and maintaining at least 70% of the frontage in the PSC as A1.
45. Draft City Plan policy RE1 seeks to retain the concentrations of A1 shopping in PSCs.
46. Further criteria in determining the acceptability of the proposal in a PSC is an assessment of the contribution the unit makes to the function and character of the PSC and the effect of the proposal in terms of the size of the unit, the length of its frontage, the composition and distribution of retail uses within the frontage and the location of the unit within the frontage
47. The percentage of A1 frontage for Liverpool Street is currently 66% of the total units, 53% of the total floorspace and 68% of the total frontage. These figures fall below the 70% threshold as set out above but partly reflect the large number of sites containing retail that are currently under construction or pending redevelopment in the PSC, such as 100 Liverpool Street, Liverpool Street Arcade, 150 Bishopsgate. On completion of these schemes the figures will be considerably enhanced.
48. The retail unit, due to its prominent corner position in this part of the PSC and close to the entrance to Liverpool Street Station makes a significant contribution to the PSC. If the proposal were to be allowed the immediate frontage would retain a mix of retail units, including shops, in accordance with policy. While the Class A1 percentages are currently below 70% for the PSC as a whole, this is partly due to the number of vacant or under construction sites. The proposed use of the unit as a restaurant use would be a retail use which provides beneficial local facilities for the City's workforce, residents and visitors and would contribute to vitality at street level in this area. In land use policy terms there would be no objection to the change of use from Class A1 use to Class A3.

Impact on Amenity

49. Local Plan Policy DM3.5 (Night-time entertainment) and Draft Local Plan Policy CV4 (Evening and Night-Time Economy) sets out that any proposals for new night-time entertainment and related uses will only be permitted where there is no unacceptable impact on the amenity of residents or on environmental amenity, taking into account the potential for noise, disturbance and odours from the operation of the premises, customers arriving and leaving the premises and the servicing of the premises.
50. Policy DM21.3 (Residential Environment) and draft City Plan policy HS3 states that noise-generating uses should be sited away from residential uses, where possible, and that adequate noise mitigation measures must be provided and, where required, planning conditions will be imposed to protect residential amenity.
51. A Customer Management Plan has been submitted to accompany the planning application outlining the management measures to be taken to avoid disturbance caused by users of the premises to residents and the area generally. The proposed opening hours of the restaurant would be Monday-Sunday 10.00 hrs to 23.00hrs which is consistent with our standard hours controlled by planning condition.
52. A Servicing Management Plan outlines that deliveries will be consolidated, ensuring cost, traffic and environmental efficiencies and predicts that there would be 3-5 deliveries per week.
53. Detailed discussions have taken place between City officers and the applicants regarding an appropriate method of kitchen extract for the proposed unit. Serious concerns were raised by Environmental Health Officers (Pollution Control) regarding the original proposals for low level extract, particularly given the proximity of residential units with opening windows.
54. A wide range of alternatives have been explored by the applicants and City officers. These have included technical controls over noise and odour by high efficiency ventilation equipment, and alternative routes through the interior of the building for a duct up to roof level. Unfortunately an internal route has not proved possible (outlined in design section below); in order to comply with the Environmental Health requirements in this respect, it is proposed that the extract of fumes from the kitchen will be routed externally in the proposed new duct to roof level in order to avoid any odour nuisance to the residential units in the building. This represents an improvement over the existing conditions.
55. Environmental Health Officers have recommended a number of conditions relating to control over environmental effects during demolition and construction, acoustic treatment, control of noise and odour nuisance from mechanical plant, disturbance caused by music, hours of servicing.
56. The Site is in a busy and lively area of the City, where different uses intermingle and contribute to a vibrant and dynamic City. The proposed restaurant use would not be out of character in this location and it is

considered that the potential impact on the residential amenity of the flats in the building can be successfully controlled by the imposition of relevant conditions. The applicant has reviewed and agreed the proposed conditions and the implementation of an on-going review of the Management Plan.

57. The measures put in place would address the concerns expressed by occupiers of the building in relation to any adverse impact on residential amenity.

Existing building and contribution to the character and appearance of the Bishopsgate Conservation Area

58. NPPF paragraph 190 requires Local Authorities to assess and identify the particular significance of a heritage asset that may be affected by a proposal. In this case this is the Bishopsgate Conservation Area and the contribution 186-190 Bishopsgate makes to the Conservation Area's character and appearance.
59. 186 Bishopsgate was designed by de Metz and Birks and is a standard curtain walling construction completed in 1957. The Bishopsgate Conservation Area Appraisal (BCAA) describes the block as "...appropriate to its context with a narrow elevation clad in an early example of curtain walling above a sympathetic recent shopfront with an attractive well-proportioned fascia. However the dark brown glazing and grid arrangement of the facade fail to relate to its context and the character of the conservation area. "
60. The building together with Bishopsgate Police Station to the south bookends the entrance to Victoria Avenue, a long rectangular enclosed courtyard which does not have through access but it provides access to commercial entrances at the rear. Victoria Avenue is typical of the network of side roads that lead off from the northern end of Bishopsgate.
61. The unexceptional and somewhat utilitarian flank and plain elevations of the application site and the Police Building enclose the entrance into the courtyard and the view into Victoria Avenue and are not considered of high townscape quality or identified as an important local view in the BCAA. The flank elevation of the application site comprises brickwork, stone banding, curtain walling and render with a service door for restaurant use. It has a somewhat back of house character.
62. The existing building including front facade, flank and rear elevations are of very limited architectural value and the contribution to the wider heritage significance of the Conservation Area is as an indistinctive background building. The building and functions reflect some of the criteria of the wider conservation area townscape including scale, active vibrant uses at ground floor, following an existing historic building line and the corner location which bookends a narrow alleyway, a typical feature of the Conservation Area.

Design proposals and impact on the Conservation Area

63. This is a diverse and lively part of the Conservation Area comprising a variety of different retail units, places to eat and drink; this is intrinsic to the historic and evolving context and there is no objection to the change of use and the impact of that use on the conservation area.
64. The proposed change of use requires an external flue to address extract issues and to ensure there is no harmful impact to surrounding residents. The NPPF para 194 states that where harm occurs to the significance of a designated heritage asset this requires clear and convincing justification. The Chapman Taylor Ventilation Report explored a range of service run options to try and conceal the duct route to minimise visual impact in the Conservation Area.
65. These alternatives included reusing the existing Wasabi duct but this was established to be inadequate for the change of use ventilation requirements and is not easily accessible for maintenance and cleaning. The property is land locked at its lower levels and therefore there is no rear elevation at the restaurant level to route the flue.
66. In addition the property has the complexity of being occupied as residential on the upper floors. Due to the interior plan layout including location of habitable rooms and insufficient additional space in stair cores or plant space to accommodate a duct, an internal service route is not feasible. Due to the layout and functions of the building, location of residential windows and duct specification, the Chapman Taylor Ventilation Report concluded that the proposed location on a publicly visible flank elevation rising from first floor to roof level was the only viable option which would meet business operational requirements and protect residential amenity.
67. The extent of the duct and the proposed location would introduce visual clutter and attaching great weight to the significance of the Conservation Area this impact would result in a degree of harm. Local Plan policy DM 10.1 and draft City Plan Strategic Policy S8 and DE2 states plant and building services equipment should be integrated into the design of the building and fully screened from view. Installations that would adversely affect the character and appearance or amenities of the buildings or area will be resisted. The CAAC strongly objects to the aluminium flue as it is damaging to the building and unacceptable in a conservation area. Local Plan Policy DM12.1 and draft City Plan Policy HE1 requires development to preserve and enhance the character and appearance of the conservation area.
68. The proposed duct would not be discreet or concealed and therefore would not meet the requirements of the above policies. However the visual impact and the harm has been minimised by setting the duct route back from the busy Bishopsgate thoroughfare and locating the duct on a utilitarian flank elevation which is less sensitive to change. The flank elevation includes a service door, an inactive glazed shopfront, internal glazed residential staircase, residential windows and areas of brickwork and render as well as louvres.

69. The proposed duct has been designed to be as compact as possible and comprises rectangular flat sections 800mm(w) x 350mm(d) with front access panels and would project from the wall by 430mm. The duct would rise from first floor to the full height of the building and be painted the same matte finish colour as the background render to reduce visual impact avoiding a reflective aluminium finish. The duct would run up a plain rendered part of the elevation and due to the cambered alignment of the flank elevation when passing along Bishopsgate, the visual impact would be limited, and if glimpsed this would be momentary and transient. However upon entering into Victoria Avenue, the service duct would be visually prominent and somewhat unsightly. Various options have been considered for treating the duct including cladding and urban greening but these have been dismissed due to the necessary maintenance and the resulting increased bulk of the structure, exaggerating its visual impact.
70. The NPPF para 193 requires in considering the impact of a proposal on the significance of a designated heritage asset that great weight should be given to conserving an asset which in this case is the Bishopsgate Conservation Area. The existing building has been evaluated as one which makes a very limited contribution to the significance of the wider Conservation Area and therefore is less sensitive to change. The flank elevation is utilitarian and secondary in nature and has limited visibility in the townscape. A clear and convincing case has been set out to support the duct location and efforts have been made to minimise the visual impact. The harmful visual clutter would result in an impact which would be very localised, momentary and contained. It is therefore deemed to be less than substantial harm and very much on the lower spectrum of harm. There would not be overall harm to the wider character and appearance of the Conservation Area.
71. The additional inclusion of intake vents on the flank elevation are considered to have an impact that would not be harmful as they are integrated into the building elevation and would not be visually prominent.
72. NPPF Para 196 requires that when any less than substantial harm arises from a development to a designated heritage asset that this harm should be weighed against any public benefits stemming from the proposals. In carrying out this balancing exercise considerable importance and weight has been given to the desirability of preserving or enhancing the character and appearance of the Bishopsgate Conservation Area. It is concluded the duct would introduce visual clutter on the public elevation of an undistinguished building in the Conservation Area. The resulting visual harm is recognised and would be undesirable however it is concluded to be relatively minor and localised. Turning to the public benefits in this case these are identified as:
- i. the introduction of an extraction system which would improve the current arrangement for residents:
 - ii. the protection of the environmental conditions in the vicinity;

- iii. supporting the operation of a use which would contribute to the vibrancy and activity of this part of the Bishopsgate Conservation Area.
73. On balance it is considered the minor less than substantial harm to the Bishopsgate Conservation Area would be outweighed by these public benefits.

Access

74. There is no lift access between the ground and first floors in the retail unit. The existing lift in the building serves the residential floors. An accessible WC is provided at ground level, together with suitably designed inclusive restaurant facilities in accordance with Local Plan Policy 10.8.

Waste

75. An independent waste storage room would be provided in the retail unit at ground level and meets the requirements of the Waste Amenity Manager. The existing separate waste storage facility for the residents and access to it is retained as existing and is not impacted by the proposal. The proposals accord with Policy DM17.1.

Projection over Footway

76. The proposed extract duct and supports would project over Victoria Avenue by 0.43m from the face of the building. Victoria Avenue is not a public highway. The height of the lowest part of the duct would be 5.35m above the pavement. In the case of public highway, oversails of this nature are acceptable at a projecting height of between 5.3m and 5.7m if they are built to withstand vehicle impact. In the case of this proposal, as Victoria Avenue is not public highway, the applicant is not required to meet our usual public highway standards. If the height of the duct above the pavement were to be raised it would interfere with a residential window at second floor level.

Conclusions

77. The proposed change of use to restaurant is considered acceptable, retaining a mix of retail types in the immediate frontage, albeit that the overall Class A1 percentages in the PSC are below 70% at the present time. The proposed use is appropriate to its location in Bishopsgate, close to Liverpool Station and contributes to the vibrancy of the area and the facilities for City workers, visitors and residents.
78. In order to ensure that the proposed use does not detrimentally impact on residential amenity, conditions are attached controlling building works, opening hours, and nuisances from noise and odour. A reviewable Management Plan has been submitted.
79. It is acknowledged that the proposed extract duct would not be successfully integrated with the appearance of the building and as such would be contrary to policies of the Local Plan and draft City Plan,

causing a limited degree of less than substantial harm to the character and appearance of the Conservation Area.

80. Significant weight has been given to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Having assessed the impact of the proposal, and recognising the weight to be given to any harm, overall it is considered that the proposals, while seeking to protect residential amenity, achieve a use for the retail unit which would contribute positively to the vibrancy and activity of the Bishopsgate Conservation Area and can be recommended for approval.

Background Papers

Planning and Heritage Statement 23.12.2020

Servicing Management Plan February 2020

UV=C Range specification

VMP FGUK Leicester Meridian

Brochure ESP Technical Sheet 07.10.16_V3,

CVEQ Brochure (Final 225.07 (2));

DCVK Brochure; CAA Brochure

E-mail 25.02.2020, 14.05.2020, First Plan

Memos 31.03.2020, 10.11.2020 and 08.12.2020 Department of Markets and Consumer Protection

Consultee Comment 27.01.2020 Thames Water

Objection comment 22.01.2020 Mr Rico Li

Objection comment 22.11.2020 Ms Zoe Wu

Objection comment 01.02.2020 Mr Shuaib Qayum

Objection comment 29.11.2020 Miss L Katabi

Objection comment 30.11.2020 Mrs E Beckett

Letters 26.02.2020 and 18.11.2020 CAAC

Objection comment 02.12.2020 L Martins

Appendix A

London Plan Policies

The London Plan policies which are most relevant to this application are set out below:

Policy 2.15 Sustain and enhance vitality of town centre.

Policy 4.8 Support a successful, competitive and diverse retail sector which promotes sustainable access to the goods and services that Londoners need and the broader objectives of the spatial structure of this Plan, especially town centres.

Policy 7.2 All new development in London to achieve the highest standards of accessible and inclusive design.

Policy 7.6 Buildings and structures should:

- a be of the highest architectural quality
- b be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm
- c comprise details and materials that complement, not necessarily replicate, the local architectural character
- d not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate. This is particularly important for tall buildings
- g be adaptable to different activities and land uses, particularly at ground level
- h meet the principles of inclusive design
- i optimise the potential of sites.

Policy 7.8 Development should identify, value, conserve, restore, re-use and incorporate heritage assets, conserve the significance of heritage assets and their settings and make provision for the protection of archaeological resources, landscapes and significant memorials.

Policy 7.15 Minimise existing and potential adverse impacts of noise on, from, within, or in the vicinity of, development proposals and separate new noise sensitive development from major noise sources.

Relevant Draft Intend to Publish London Plan Policies

Policy GG1 Seeks good growth that builds on openness, diversity and equality.

Policy GG5 Seeks to conserve and enhance London's global economic competitiveness. Development must fulfil a range of criteria including

promoting and supporting London's rich heritage and cultural assets.

Policy SD4 The unique international, national and London-wide roles of the CAZ based on an agglomeration and rich mix of strategic functions and local uses, should be promoted and enhanced. The distinct environment and heritage of the CAZ should be sustained and enhanced. Measures should be taken to improve air quality in the CAZ. The unique concentration and diversity of cultural, arts, entertainment, night-time economy and tourism facilities should be promoted and enhanced.

Policy D3 All development must make the best use of land by following a design led approach that optimises the capacity of sites. Development proposals should address form and layout, experience and quality and character.

Policy D4 The design quality of development should be maintained by ensuring maximum detail appropriate for design stage, ensuring the wording of planning permission, associated conditions and legal agreements provide clarity regarding the quality of design and avoid considering large elements of design by condition. Consideration should be given to conditioning the ongoing involvement of the original design team to monitor the design quality of development through to completion.

Policy D5 Development proposals should achieve the highest standards of accessible and inclusive design.

Policy HC1 Development proposals affecting heritage assets and their settings should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. Development proposals should avoid harm. Development proposals should identify assets of archaeological significance and use this information to avoid harm or minimise it through design and appropriate mitigation.

Relevant Draft City Plan 2036 Policies

HL3 Noise and Light Pollution

HS3 Residential Environment
S5 Retailing
RE1 Principal Shopping Centres
CV4 Evening and Night-time Economy
S8 Design
DE1 Sustainability Standards
DE2 New Development
S11 Historic Environment
HC1 Managing Change to Heritage Assets

Relevant Local Plan Policies

CS10 Promote high quality environment

To promote a high standard and sustainable design of buildings, streets and spaces, having regard to their surroundings and the character of the City and creating an inclusive and attractive environment.

CS12 Conserve or enhance heritage assets

To conserve or enhance the significance of the City's heritage assets and their settings, and provide an attractive environment for the City's communities and visitors.

CS15 Creation of sustainable development

To enable City businesses and residents to make sustainable choices in their daily activities creating a more sustainable City, adapted to the changing climate.

CS20 Improve retail facilities

To improve the quantity and quality of retailing and the retail environment, promoting the development of the five Principal Shopping Centres and the linkages between them.

CS21 Protect and provide housing

To protect existing housing and amenity and provide additional housing in the City, concentrated in or near identified residential areas, as shown in Figure X, to meet the City's needs, securing suitable, accessible and affordable housing and supported housing.

DM10.1 New development

To require all developments, including alterations and extensions to existing buildings, to be of a high standard of design and to avoid harm to the townscape and public realm, by ensuring that:

- a) the bulk and massing of schemes are appropriate in relation to their surroundings and have due regard to the general scale, height, building lines, character, historic interest and significance, urban grain and materials of the locality and relate well to the character of streets, squares, lanes, alleys and passageways;
- b) all development is of a high standard of design and architectural detail with elevations that have an appropriate depth and quality of modelling;
- c) appropriate, high quality and durable materials are used;
- d) the design and materials avoid unacceptable wind impacts at street level or intrusive solar glare impacts on the surrounding townscape and public realm;
- e) development has attractive and visually interesting street level elevations, providing active frontages wherever possible to maintain or enhance the vitality of the City's streets;
- f) the design of the roof is visually integrated into the overall design of the building when seen from both street level views and higher level viewpoints;
- g) plant and building services equipment are fully screened from view and integrated in to the design of the building. Installations that would adversely affect the character, appearance or amenities of the buildings or area will be resisted;
- h) servicing entrances are designed to minimise their effects on the appearance of the building and street scene and are fully integrated into the building's design;
- i) there is provision of appropriate hard and soft landscaping, including appropriate boundary treatments;
- j) the external illumination of buildings is carefully designed to ensure visual sensitivity, minimal energy use and light pollution, and the discreet integration of light fittings into the building design;
- k) there is provision of amenity space, where appropriate;
- l) there is the highest standard of accessible and inclusive design.

DM12.2 Development in conservation areas

1. Development in conservation areas will only be permitted if it preserves and enhances the character or appearance of the conservation area.
2. The loss of heritage assets that make a positive contribution to the character or appearance of a conservation area will be resisted.
3. Where permission is granted for the demolition of a building in a conservation area, conditions will be imposed preventing demolition

commencing prior to the approval of detailed plans of any replacement building, and ensuring that the developer has secured the implementation of the construction of the replacement building.

DM15.7 Noise and light pollution

1. Developers will be required to consider the impact of their developments on the noise environment and where appropriate provide a noise assessment. The layout, orientation, design and use of buildings should ensure that operational noise does not adversely affect neighbours, particularly noise-sensitive land uses such as housing, hospitals, schools and quiet open spaces.
2. Any potential noise conflict between existing activities and new development should be minimised. Where the avoidance of noise conflicts is impractical, mitigation measures such as noise attenuation and restrictions on operating hours will be implemented through appropriate planning conditions.
3. Noise and vibration from deconstruction and construction activities must be minimised and mitigation measures put in place to limit noise disturbance in the vicinity of the development.
4. Developers will be required to demonstrate that there will be no increase in background noise levels associated with new plant and equipment.
5. Internal and external lighting should be designed to reduce energy consumption, avoid spillage of light beyond where it is needed and protect the amenity of light-sensitive uses such as housing, hospitals and areas of importance for nature conservation.

DM17.1 Provision for waste

1. Waste facilities must be integrated into the design of buildings, wherever feasible, and allow for the separate storage and collection of recyclable materials, including compostable material.
2. On-site waste management, through techniques such as recycle sorting or energy recovery, which minimises the need for waste transfer, should be incorporated wherever possible.

DM20.1 Principal shopping centres

1. Within Principal Shopping Centres (PSCs) the loss of retail frontage and floorspace will be resisted and additional retail provision will be encouraged. Proposals for changes between retail uses within the PSC will be assessed against the following considerations:

- a) maintaining a clear predominance of A1 shopping frontage within PSCs, refusing changes of use where it would result in more than 2 in 5 consecutive premises not in A1 or A2 deposit taker use;
- b) the contribution the unit makes to the function and character of the PSC;
- c) the effect of the proposal on the area involved in terms of the size of the unit, the length of its frontage, the composition and distribution of retail uses within the frontage and the location of the unit within the frontage.

2. Proposals for the change of use from shop (A1) to financial and professional service (A2) restaurant and cafes (A3) drinking establishments (A4) or hot food takeaways (A5), use at upper floor and basement levels will normally be permitted, where they do not detract from the functioning of the centre.

DM21.3 Residential environment

1. The amenity of existing residents within identified residential areas will be protected by:
 - a) resisting other uses which would cause undue noise disturbance, fumes and smells and vehicle or pedestrian movements likely to cause disturbance;
 - b) requiring new development near existing dwellings to demonstrate adequate mitigation measures to address detrimental impact.
2. Noise-generating uses should be sited away from residential uses, where possible. Where residential and other uses are located within the same development or area, adequate noise mitigation measures must be provided and, where required, planning conditions will be imposed to protect residential amenity.
3. All development proposals should be designed to avoid overlooking and seek to protect the privacy, day lighting and sun lighting levels to adjacent residential accommodation.
4. All new residential development proposals must demonstrate how potential adverse noise impacts on and between dwellings will be mitigated by housing layout, design and materials.
5. The cumulative impact of individual developments on the amenity of existing residents will be considered.

SCHEDULE

APPLICATION: 19/01359/FULL

186 - 190 Bishopsgate London EC2M 4NR

Change of use of basement, ground and first floor levels to a Class A3 restaurant plus external alterations comprising the installation of louvres and a full height external extract duct to the roof on the south elevation.

CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To ensure compliance with the terms of Section 91 of the Town and Country Planning Act 1990.
- 2 Works, including demolition, shall not begin until a scheme for protecting nearby residents and commercial occupiers from noise, dust and other environmental effects during demolition and construction has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the Department of Markets and Consumer Protection's Code of Practice for Deconstruction and Construction Sites and arrangements for liaison and monitoring (including any agreed monitoring contribution) set out therein. A staged scheme of protective works may be submitted in respect of individual stages of the development process but no works in any individual stage shall be commenced until the related scheme of protective works has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved scheme (including payment of any agreed monitoring contribution)
REASON: To protect the amenities of nearby residents and commercial occupiers in accordance with the following policies of the Local Plan: DM15.6, DM15.7, DM21.3. These details are required prior to any work commencing in order that the impact on amenities is minimised from the time that development starts.
- 3 Before any works thereby affected are begun, a scheme in the form of an acoustic report compiled by a qualified specialist shall be submitted to and approved in writing by the Local Planning Authority specifying the materials and constructional methods to be used so that the noise level in the bedrooms does not exceed NR30 attributable to the Class A use of the ground floor and/or basement levels. The development pursuant to this permission shall be carried out in accordance with the approved scheme and so maintained thereafter.
REASON: To protect the amenities of residential occupiers in the building in accordance with the following policies of the Local Plan: DM21.3, DM21.5.

- 4 Before any works thereby affected are begun, a scheme shall be submitted to and approved in writing by the Local Planning Authority which specifies the fume extract arrangements, materials and construction methods to be used to avoid noise and/or odour penetration to the upper floors from the Class A use. Flues must terminate at roof level or an agreed high level location which will not give rise to nuisance to other occupiers of the building or adjacent buildings. The details approved must be implemented before the Class A use takes place.
REASON: In order to protect residential/commercial amenities in the building in accordance with the following policies of the Local Plan: DM15.6, DM15.7, DM21.3.
- 5 No cooking shall take place within the Class A3 unit hereby approved until fume extract arrangements and ventilation have been installed to serve that unit in accordance with a scheme approved by the Local Planning Authority. Flues must terminate at roof level or an agreed high level location which will not give rise to nuisance to other occupiers of the building or adjacent buildings.
REASON: In order to protect the amenity of the area in accordance with the following policies of the Local Plan: DM15.6, DM21.3.
- 6 All parts of the ventilation and extraction equipment including the odour control systems installed shall be cleaned, serviced and maintained in accordance with Section 5 of 'Control of Odour & Noise from Commercial Kitchen Extract Systems' dated September 2018 by EMAQ+ (or any subsequent updated version). A record of all such cleaning, servicing and maintenance shall be maintained and kept on site and upon request provided to the Local Planning Authority to demonstrate compliance.
REASON: To protect the occupiers of existing and adjoining premises and public amenity in accordance with Policies DM 10.1, DM 15.7 and DM 21.3
- 7 (a) The level of noise emitted from any new plant shall be lower than the existing background level by at least 10 dBA. Noise levels shall be determined at one metre from the window of the nearest noise sensitive premises. The background noise level shall be expressed as the lowest LA90 (10 minutes) during which plant is or may be in operation.
(b) Following installation but before the new plant comes into operation measurements of noise from the new plant must be taken and a report demonstrating that the plant as installed meets the design requirements shall be submitted to and approved in writing by the Local Planning Authority.
(c) All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels approved by the Local Planning Authority.

REASON: To protect the amenities of neighbouring residential/commercial occupiers in accordance with the following policies of the Local Plan: DM15.7, DM21.3.

- 8 Before any mechanical plant is used on the premises it shall be mounted in a way which will minimise transmission of structure borne sound or vibration to any other part of the building in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to protect the amenities of commercial occupiers in the building in accordance following policy of the Local Plan: DM15.7.

- 9 The louvres providing for the air intake supply hereby approved shall be positioned flush with the brick face of the building and shall be finished in a colour to match the existing brick surround.
REASON: To ensure that the Local Planning Authority may be satisfied with the detail of the proposed development and to ensure a satisfactory external appearance in accordance with the following policies of the Local Plan: DM10.1, DM12.2.

- 10 The extract duct hereby approved shall be finished in a matt finish and in a colour to match the background to which it is fixed in accordance with details to be submitted to and approved by the Local Planning Authority before any works thereby affected are begun and all development pursuant to this permission shall be carried out in accordance with the approved details:
REASON: To ensure that the Local Planning Authority may be satisfied with the detail of the proposed development and to ensure a satisfactory external appearance in accordance with the following policies of the Local Plan: DM10.1, DM12.2.

- 11 The Class A3 hereby permitted shall not be open to customers between the hours of 23:00 on one day and 07:00 on the following day.

REASON: To safeguard the amenity of the adjoining premises and the area generally in accordance with the following policies of the Local Plan: DM15.7, DM21.3.

- 12 The premises shall not be used, occupied or operated other than in accordance with the approved Management Statement (or any amended Management Statement that may be approved from time to time by the Local Planning Authority) for the life of the use.
REASON: To safeguard the amenity of the adjoining premises and the area generally in accordance with the following policies of the Local Plan: DM3.5, DM21.3.

- 13 No live or recorded music shall be played that it can be heard outside the premises or within any residential or other premises in the building.

REASON: To safeguard the amenity of the adjoining premises and the area in general in accordance with the following policies of the Local Plan: DM15.7, DM21.3.

- 14 No servicing of the premises shall be carried out between the hours of 23:00 on one day and 07:00 on the following day from Monday to Saturday and between 23:00 on Saturday and 07:00 on the following Monday and on Bank Holidays. Servicing includes the loading and unloading of goods from vehicles and putting rubbish outside the building.

REASON: To avoid obstruction of the surrounding streets and to safeguard the amenity of the occupiers of adjacent premises, in accordance with the following policies of the Local Plan: DM15.7, DM16.2, DM21.3.

- 15 The refuse collection and storage facilities shown on the drawings hereby approved shall be provided and maintained throughout the life of the building for the use of the occupiers of the retail unit hereby approved.

REASON: To ensure the satisfactory servicing of the building in accordance with the following policy of the Local Plan: DM17.1.

- 16 Accompanying documents : Drawing nos. Site location plan; 016-161-02-rev I; 016-161-03 rev H; -16-161-04 rev I; 016-161-05 rev E; Plant Noise Impact Assessment rev 03 - Chapman Ventilation; Customer Management Plan updated December 2020 rec'd 11.12.2020; E mail (refuse storage) 30.03.2020 First Plan

INFORMATIVES

- 1 In dealing with this application the City has implemented the requirements of the National Planning Policy Framework to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in dealing with planning applications in the following ways:

detailed advice in the form of statutory policies in the Local Plan, Supplementary Planning documents, and other written guidance has been made available;

a full pre application advice service has been offered;

where appropriate the City has been available to provide guidance on how outstanding planning concerns may be addressed.

- 2 The Director of Markets and Consumer Protection states that any building proposal that will include catering facilities will be required to be constructed with adequate grease traps to the satisfaction of the Sewerage Undertaker, Thames Water Utilities Ltd, or their contractors.