

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 6 <sup>th</sup> February 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>17-18 Dover Street, London, W1S 4LT</b>		
<b>Proposal</b>	Dual / alternative use of the property either as retail accommodation (A1) at basement and ground floors and office accommodation (B1) on the first to fourth floors or dual / alternative use of part of the ground floor either as retail (Class A1) or restaurant (Class A3) accommodation and use of the remainder of the building as a sui generis use comprising gym and medical functions uses; installation of additional plant and screening at main roof level and within a rear lightwell area at basement and ground floor levels.		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	ArtsLans Urban Limited		
<b>Registered Number</b>	17/07525/FULL	<b>Date amended/ completed</b>	24 August 2017
<b>Date Application Received</b>	22 August 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional planning permission.

## 2. SUMMARY

17-18 Dover Street is an unlisted building located within the Mayfair Conservation Area, the Core Central Activities Area (Core CAZ) and the Mayfair Special Policy Area. It is not located within a stress area. The property comprises of basement, ground and first to fourth floor levels. The property is currently vacant but was last used as a retail unit (A1) at part basement and ground floor levels with the remainder of the property being used as office accommodation (B1).

Planning permission is sought for the dual / alternative use of the property either to continue the existing arrangement of retail and office accommodation or as a sui generis use comprising of gym and medical functions at basement, part ground and the entire upper floors with a ground floor unit as dual / alternative use as either retail or restaurant use. It is also proposed to install plant with

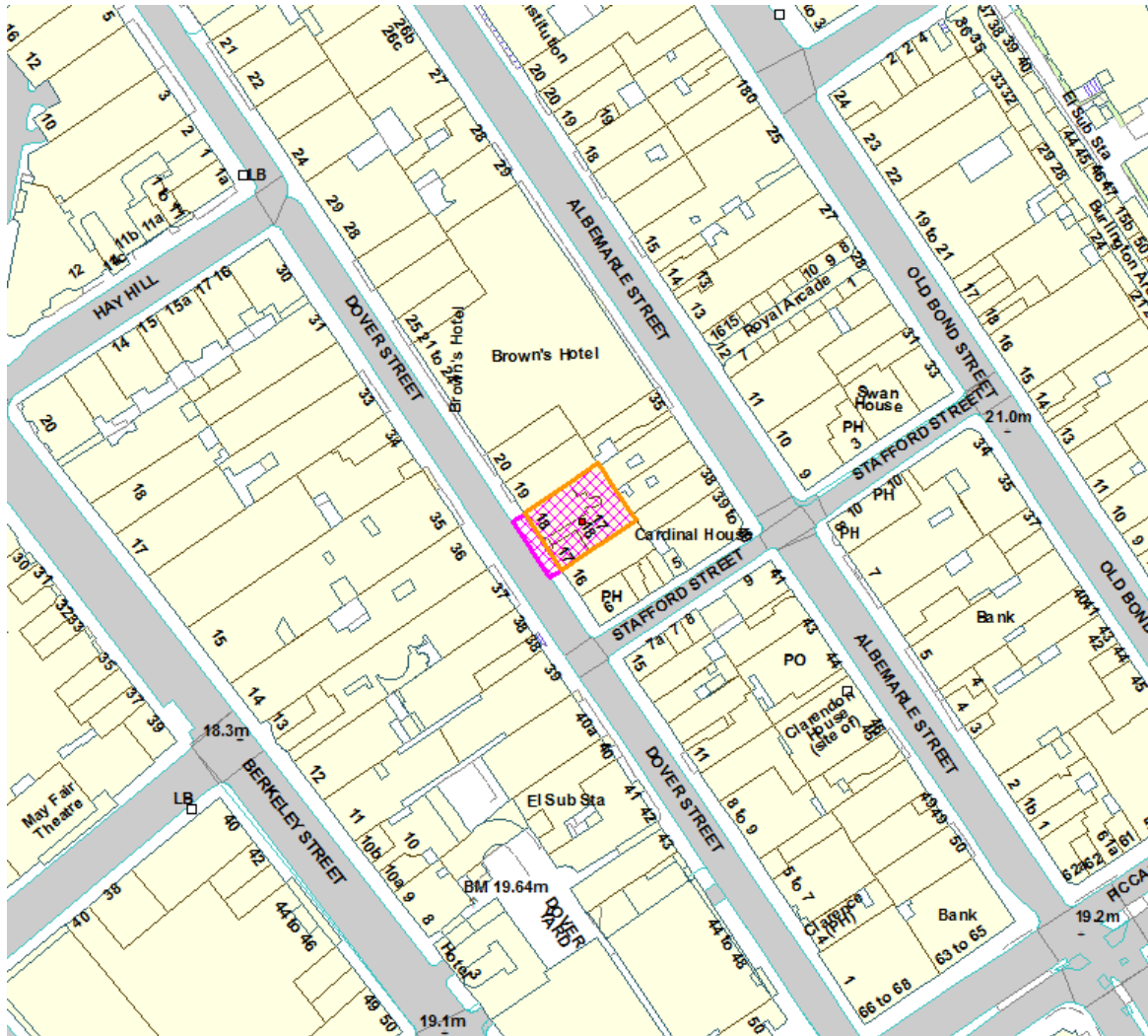
associated screening at main roof level and within a rear lightwell of the property at basement and ground floor levels.

The key issues are:

- The loss of existing retail accommodation.
- The impact of both the proposed potential restaurant and sui generis uses on the amenity of nearby sensitive occupiers.
- The acceptability of the design of the plant at main roof level in terms of its impact upon the appearance of the building itself and the character and appearance of the Mayfair Conservation Area.
- The impact of the development on the international reputation of the Mayfair Special Policy Area as a centre for the art trade.

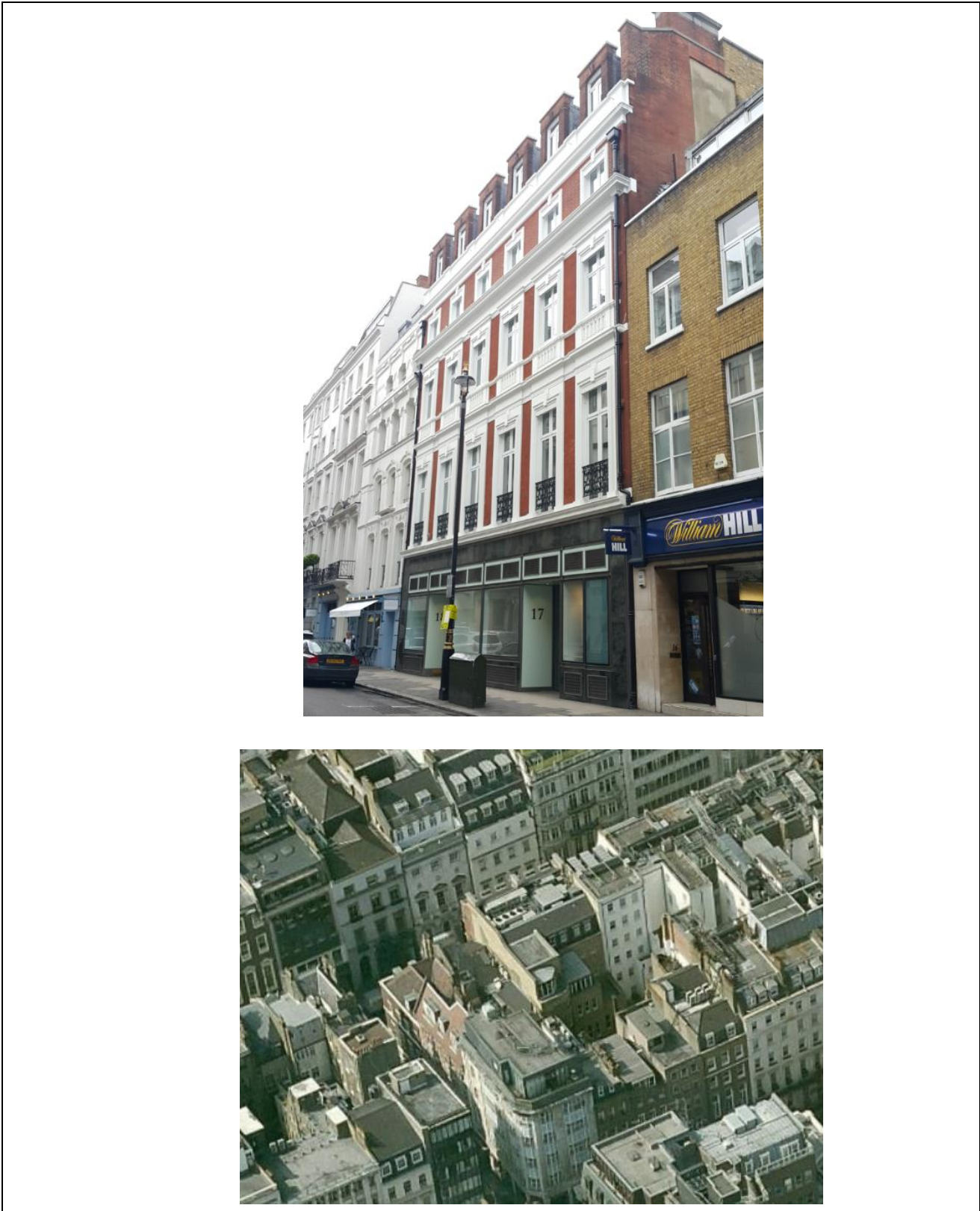
The loss of the retail accommodation is considered acceptable in this instance taking into account the large increase in floor space of a social and community use in the form of the proposed gym and medical use. Subject to appropriate conditions it is also considered the proposed gym and medical use and restaurant uses will be acceptable in terms of their impact upon residential amenity in the vicinity and upon the international reputation of the Mayfair Special Policy Area as a centre for the art trade. The proposal is therefore considered acceptable in land use, transport and amenity terms. The proposed plant at main roof level has been negotiated during the course of the application to reduce its height and the proposal is now considered acceptable in design terms with regard the appearance of this building and the character and appearance of the Mayfair Conservation Area. The application is therefore recommended for conditional planning approval.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS





## 5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR AND ST. JAMES'S  
Any response to be reported verbally.

### CLEANSING

No objection subject to conditions.

### HIGHWAYS

No objection subject to conditions.

### ENVIRONMENTAL HEALTH

No objection subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 51

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

17-18 Dover Street is an unlisted building in the Core CAZ, Mayfair Special Policy Area and the Mayfair Conservation Area comprising of retail accommodation at part basement and ground floor levels and office accommodation at part basement, part ground and the entire first to fourth floor levels. At main roof level there is a small tiled mansard to the front and rear elevations serving as plant screening. A high level extract duct has been installed routed internally through the building from ground floor level to terminate at main roof level.

### 6.2 Recent Relevant History

A lawful development certificate was granted on the 12<sup>th</sup> May 2016 confirming that the resumption of office use (Class B1) at basement (part), ground floor (part) and first to fourth floors would be lawful. (Ref: 16/02453/CLOPUD).

Temporary permission was granted on the 22 June 2004 for the; 'Use of first, second, third and fourth floors as a high fashion bazaar (sui generis) including retail showroom and live events (including fashion shows and exhibitions), art gallery and jewellery and clothing manufacture and ancillary offices for a temporary period not exceeding 5 years to be used in connection with the retail (Class A1) use at basement and ground floor.' (Ref: 04/02094/FULL). This temporary permission was extended on the 18<sup>th</sup> May 2009 (Ref: 09/02264/FULL) and on 13<sup>th</sup> May 2014 (Ref: 14/02224/FULL).

Permission was granted on the 3<sup>rd</sup> January 2003 for, 'Alterations including rear extension at ground to 2nd floor levels, roof-top plant, enclosure and new shopfront, all in connection with Class A1 (retail) use at basement and ground floors and Class B1 (office) use on 1st to 4th floors'.

## 7. THE PROPOSAL

Permission is sought for the dual / alternative use of the premises, either to continue its current use as offices at part basement, ground and the entire first to fourth floor levels with retail accommodation at part ground and basement or as a sui generis use over the basement, part ground and entire upper floors comprising a mix of gym, medical and lounge functions with dual / alternative use of part of the ground floor as either retail or restaurant accommodation. If permission is granted, any of the approved uses could take place for a period of ten years. The actual uses would become the lawful uses of the site at the end of this ten-year period.

It is also proposed to install plant with associated screening on the main roof level of the property. An internal high level extract duct has already been installed which could be used in association with the potential restaurant use. As this is routed internally planning permission is not required for its installation.

### Land Use Table (assuming that the proposed uses are implemented):

Use	Existing GIA (m <sup>2</sup> )	Proposed GIA(m <sup>2</sup> )	+/-
Office (Class B1)	967	0	-967
Retail (Class A1)	459	0	-459
Gym and medical use (Sui Generis)	0	1,226	+1,226
Restaurant (Class A3)	0	141	+141
Communal plant, storage and cycles	85	144	+59
Total	1,511	1,511	0

### Restaurant Table:

	<b>Proposed restaurant incorporating basement and ground floor level</b>
Total A3 Floorspace (m <sup>2</sup> )	141m <sup>2</sup>
No. of covers in restaurant	40
Hours of Operation	08:00 to 00:00 Sunday to Thursday, 08.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday.
Ventilation arrangements	Full height kitchen extract duct already installed.
Refuse Storage arrangements	Suitable waste and recycling storage is shown within the demise of the unit.

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of office use

The proposal could result in the loss of general office accommodation (Class B1). The City Council has no policies protecting office accommodation where the proposed change is to another commercial use. The potential loss of the office floor space is therefore considered acceptable in principle.

#### Loss of retail use

The proposal could result in the loss of the retail accommodation currently extending over part basement and ground floor levels comprising 459m<sup>2</sup>.

Policy S21 of the City Plan states that 'existing A1 retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let'. The supporting text advises that this approach will ensure that the needs of customers and retailers across the city are met through the retention of the number of shops and overall amount of retail floor space. Policy SS5 of the UDP also seeks to resist the loss of retail floorspace within the Core CAZ. Outside of the Prime Shopping Frontages the policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

The retail premises at the site are currently vacant and have been since the Dover Street Market vacated the property in April 2016 when the operation relocated to a new retail premises at 18-22 Haymarket. The applicant has submitted a short marketing statement from local estate agents (James Andrew International). They state they have been marketing the property for retail purposes since March 2016 but have been unable to secure a retail tenant with most of the interest coming from restaurant operators. The report author also suggests that interest in retail accommodation in Dover Street has been affected by the proposed increase in Business Rates and the relocation of the Dover Street Market which was a 'destination' retail unit.

The applicant argues that due to the period of vacancy of the unit and that the unit now occupied by the Dover Street Market resulted in the creation of new retail floorspace elsewhere in Westminster, that the proposed loss of retail accommodation should be considered acceptable.

The unit is located just to the north of the Dover Street junction with Stafford Street approximately 130m north of Piccadilly. This part of the street does still have a retail character with the Victoria Beckham and Jimmy Choo shops opposite. The adjoining unit to the south of the site is occupied as a betting shop whilst the adjoining unit to the north is occupied by a restaurant. The large frontage for Browns Hotel is then located to the north of this.



It is acknowledged that the proposal could result in three consecutive ground floor premises on the eastern side of Dover Street in non-A1 use, contrary to Part C of Policy SS5. However, Policy SS5 does allow for some flexibility for the introduction of a non-A1 use where it would not be detrimental to the character or function of the area which in this location is primarily high end retail and restaurant premises at ground floor level. The proposed restaurant would ensure that the ground floor frontage to Dover Street was maintained as a use open to visiting members of the public and retained an active frontage. The restaurant use would also only be in operation if the gym and medical use was implemented on the upper floors which would provide a large uplift in floor space open to visiting members of the public which would support the vitality and viability of the area.

The property is also located within the Mayfair Special Policy Area as defined by the City Plan. City Plan Policy CM2.5: (i) Protects existing art galleries / antique dealers within the area; (ii) Requires development in the Mayfair Special Policy Area to support and enhance its international reputation as a centre for the art trade, complemented primarily by other commercial uses; and (iii) Encourages new art galleries and new retail uses that are in keeping with the character and function of the street or area in which they are located.

The reasoned justification for this policy outlines how the character and function of this area is highly influenced by the art trade, with galleries being a long standing feature and draw of the area, providing attractive window displays while catering mainly for specialist high value retail visits, and not high street type shopping. It adds that galleries are complimented by other retail uses including restaurants, cafes and some specialist retailers.

The previous use of the site was as the Dover Street Market which occupied the site for a number of years as a high fashion multi-brand retailer. There is no evidence the site was previously occupied by an art gallery or antiques dealer use. Therefore, as the proposal does not involve the loss of the particular type of retail use that this policy primarily aims to protect, and neither does it involve redevelopment of the site providing opportunities for the re-provision of lost retail uses of the protected type, the proposal is not considered to conflict with the policy for the Mayfair Special Policy Area.

Further, the policy for the SPA encourages the provision of other commercial uses that complement the character of the SPA, and since the proposed gym and medical use would be a unique or one of a kind use and a restaurant at ground and lower ground floors which is recognised to be a complimentary use in the SPA, it is considered that these use would be beneficial to the area.

Taking into account the large uplift in social / community floor space (1,226m<sup>2</sup>) resulting from the proposed gym and medical use, which is considered a considerable benefit of the proposal, the loss of retail floor space is considered acceptable in this instance. Taking this into account the loss of retail accommodation is considered acceptable.

### **Proposed restaurant use**

The proposed restaurant at ground floor level of the building would measure 141m<sup>2</sup>. An entertainment unit of this type and size located within the Core CAZ but outside of any of

the designated stress areas would be considered against Policies TACE 8 of the UDP and S24 of the City Plan.

Policy S24 of the City Plan requires that, *'New entertainment uses will need to demonstrate that they are appropriate in terms of the type and size of use, scale of activity, relationship to any existing concentrations of entertainment uses and any cumulative impacts and that they do not adversely impact on residential amenity, health and safety, local environmental quality and the character and function of the area.'*

Policy TACE8 of the UDP has similar stipulations and relates to new entertainment uses which 'will generally be permissible'. Where the City Council considers the proposal will not have an adverse impact (including cumulative effects) resulting from noise, vibration, odour, late night activity or traffic implications permission may be granted but conditions would be required to restrict opening hours, capacity, servicing, arrangements for waste and recycling, any take-away from the premises, deliveries, music, bar areas and suitable arrangements should be made to prevent noise nuisance and to disperse cooking odours.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floor space to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

The immediate vicinity along Great Portland Street is characterised mainly by retail and restaurant units on the lower floors and offices on the upper floors with a small number of residential flats on the upper floors. The nearest residential units are located on the upper floors of a public house at 6 Stafford Street to the south at a distance of 21m and within 33 Dover Street being 45m to the north on the opposite side of the road, residential units are also indicated at the rear of the application site at 36, 37 and 28 Albemarle Street. It is noted that no comments have been received to the application from neighbouring occupiers.

Other licensed premises in the vicinity include the Casa di Stefano restaurant at 20 Dover Street with licensed opening hours of 10:00 till 00:30 Monday to Wednesday, 10:00 till 01:30 Thursday to Saturday; and 12:00 till 00:00 on Sundays and the Quattro Passi restaurant at 34 Dover Street with licensed opening hours of 09:00 till 01:00 Monday to Saturday and 09:00 till 00:30 on Sundays. It is not considered there is any saturation of entertainment premises in the vicinity with a wide mix of uses evident in the area.

It is proposed for the new restaurant premises to have 40 covers and opening hours of 08:00 to 00:00 Sunday to Thursday; 08.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday. Paragraph 8.88 of the UDP states, *'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'*. The proposed opening hours therefore accord with this approach

and the proposed premises would close around the same time as other licensed premises in the vicinity so the proposal would not introduce additional noise from patrons at a later hour.

Conditions are proposed to control the opening times and activity in order to limit the impact of the proposal. These conditions would ensure that the use would essentially be a sit-down restaurant with any ancillary bar limited to a small part of the premises (15%) and this could be used only by diners before and after meals.

A condition is also proposed stating that no music can be played in the premises which is audible externally or within adjoining properties. Given the limited number of covers in the premises (40) it is not considered necessary to require the submission of an Operational Management Plan.

A high level extract duct has already been installed at the property routed internally from the ground floor level to terminate at main roof level within the existing screened plant area. This is considered an acceptable method for odour dispersal from any new restaurant and a condition is proposed stating that if the restaurant use is implemented the extract duct is retained in situ.

The principle of the proposed restaurant premises is therefore considered to be in accordance with UDP Policy TACE8 and City Plan Policy S24 subject to these safeguarding conditions.

In order to avoid a partial implementation of the proposed use which would allow the restaurant to open without the large uplift in social and community floorspace (which makes the change of use acceptable) a condition is proposed to ensure that the approved restaurant can only be brought into operation if the gym and medical use is also implemented.

### **Proposed gym and medical use**

The proposed gym and medical use would measure 1,226m<sup>2</sup> and would comprise medical, fitness and treatments as well as associated lounge areas. The operation is a joint venture between The Arts Club who operate a private members club on the opposite side of the road and the Lanserhof which is an established operator of wellbeing and medical centres in Germany and Austria. The basement of the use would be used as fitness areas, storage and staff accommodation; the ground floor would be a reception and lounge area, the first to fourth floor levels of the property would be utilised as fitness / gym areas, changing rooms and a large number of treatment rooms. Members of the public will have access to all treatments and medical consultations whilst the lounge and gym areas will be limited to people who have membership. The estimated maximum capacity for both staff and customers within the entire premises is 140.

The City Plan includes 'gyms and fitness clubs, and other leisure clubs, where the services are provided on a commercial basis, for residents, workers, non-residents and visitors.' within the definition of 'social and community facilities (private)'. The definition of social and community uses within the City Plan also includes all private medical facilities. Policy S34 of the City Plan states that 'new social and community uses will be

encouraged throughout Westminster and will be provided on large scale development sites'. Policy SOC4 of the UDP states that, 'the retention, improvement and redevelopment of facilities for health service uses that meet local needs will be supported.'

It is likely that some music may be provided in certain areas shown on the drawings as being 'fitness' however, this will clearly need to be controlled at a low level due to the treatment rooms and medical functions within other parts of the premises. Notwithstanding this a condition is proposed stating that no music should be audible outside the premises or within adjoining buildings. The Operational Management Plan submitted with the application also states that all external windows will remain closed. A condition is proposed to require that the windows on the rear elevation of the property are kept shut in order to reduce any noise disturbance to residential windows within the properties at the rear fronting Albemarle Street.

Various areas within the gym and medical use would have different opening hours as detailed in the Operational Management Plan. These are as follows; gym areas 05:30 till 23:30; treatments 08:00 till 20:00 during the week and 10:00 till 16:00 on Saturdays; medical consultations 07:00 till 22:00 daily and members lounge access from 07:00 till 22:00 daily. These timings are considered acceptable in this commercial location with very limited residential uses in the area. It is also not considered the use would result in large groups of people visiting the premises together and most people will likely arrive / leave separately.

A lounge area is proposed at rear ground floor level which will be open to members. It is not considered the use of this area as a 'lounge' in association with the proposed gym and medical use is likely to result in any detrimental impact upon the amenity of any surrounding occupiers, given the size of the lounge area and its functional link with the gym / medical facility.

The provision of a new large scale social and community use is welcomed and accords with the principles of the relevant policies of the UDP and City Plan. Subject to the conditions detailed above and a condition requiring the operation to accord with the stipulations in the submitted Operational Management Plan, it is not considered the proposal would result in any detrimental impact upon residential amenity in the vicinity.

## **8.2 Townscape and Design**

The current form of the building at roof level dates from circa 2004 at around which time the alterations approved in 2003 (RN: 01/10133/FULL) were built. At that time, it was clearly the intention to ensure the mechanical plant at roof level was not visible from the street or upper floors of surrounding buildings. This is evident from the planning statement and the case officer's report at the time.

Photographs taken from street level and nearby buildings show the existing plant enclosure effectively conceals all the plant from view. Moreover, the detailed design of the enclosure, which takes the form of a slated roof and brick party wall makes it architecturally indistinguishable from the rest of the building. This accords with current development plan policies and ensures the building makes a positive contribution to the character and appearance of the Mayfair Conservation Area in which it is situated.

The proposed mechanical plant installation is mostly contained within the existing enclosure at the front of the building and within a newly screened section at the rear where a sham-roof is proposed. A small part of the proposed plant will be visible above the southern parapet wall, which is unfortunate, but it can be finished in a grey colour to minimise its visual impact to an acceptable extent. This accords with UDP policies DES 6 and DES 9 because the plant would be effectively screened in an appropriately sited and designed enclosure, thus maintaining the appearance of the building and the character and appearance of the surrounding conservation area.

### **8.3 Residential Amenity**

It is not considered the alterations at roof level to accommodate the installation of the plant would have any detrimental impact upon sensitive properties with regard an increased sense of enclosure or any impact upon the levels of daylight and sunlight.

The impact of the proposed uses with regard the residential amenity of surrounding occupiers has been considered in Section 8.1 above.

### **8.4 Transportation/Parking**

Cycle parking has been indicated in the basement of the property with 22 cycles shown in association with the gym and medical use. The Highways Planning Manager has confirmed this is acceptable, however, they have requested a condition be applied to any approval to show exactly how the 22 spaces would have been provided in this space. A condition is included as requested.

If the existing office / retail use was retained it would not be possible to require the provision of cycle parking.

### **8.5 Economic Considerations**

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

### **8.6 Access**

There is existing level access to the property with lifts providing access to all floors of the property. This arrangement will be retained with the proposed alternative uses with level access being provided to both ground floor uses as a lift serving all the floors within the gym and medical use.

### **8.7 Other UDP/Westminster Policy Considerations**

#### **Plant**

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance resulting from plant.

An acoustic report has been submitted in relation to the installation of plant at main roof level on the property. This is only a background noise assessment as the final plant specification has not been determined. Therefore, standard noise and vibration conditions are proposed in order to ensure compliance with the City Council's criteria. Further, a condition is attached requiring the submission of a supplementary acoustic report to demonstrate compliance once the plant is selected. With these safeguarding conditions in place Environmental Health have raised no objection to the proposal.

### **Refuse /Recycling**

Following negotiation further detailed information has been submitted relating to the provision of waste and recycling storage facilities in the demise of the property. The Cleansing Manager has confirmed they are satisfied with the revised arrangements and have requested a condition be applied requiring the provision and retention of the storage facilities as shown on the drawings. A condition is imposed as requested.

### **8.8 London Plan**

This application raises no strategic issues.

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

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

### **8.10 Planning Obligations**

Planning obligations are not relevant in the determination of this application and as the proposal does not result in an increase in the floor space of the building there is no CIL payment required.

## **9. BACKGROUND PAPERS**

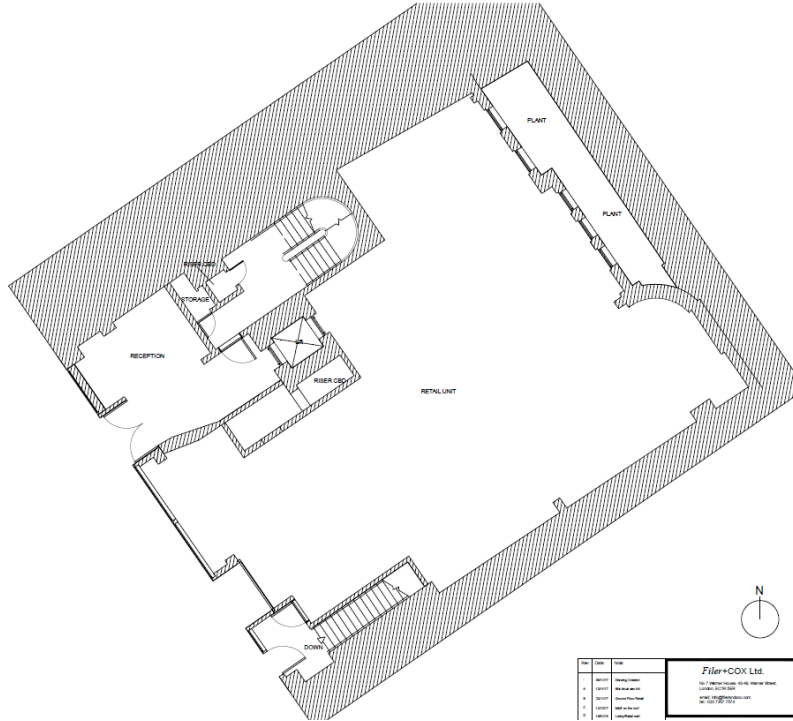
1. Application form
2. Response from Environmental Health dated 18 September 2017
3. Response from the Cleansing Manager dated 8 September 2017
4. Response from the Highways Planning Manager dated 11 October 2017

(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: MARK HOLLINGTON BY EMAIL AT <a href="mailto:mhollington2@westminster.gov.uk">mhollington2@westminster.gov.uk</a>

**10. KEY DRAWINGS**

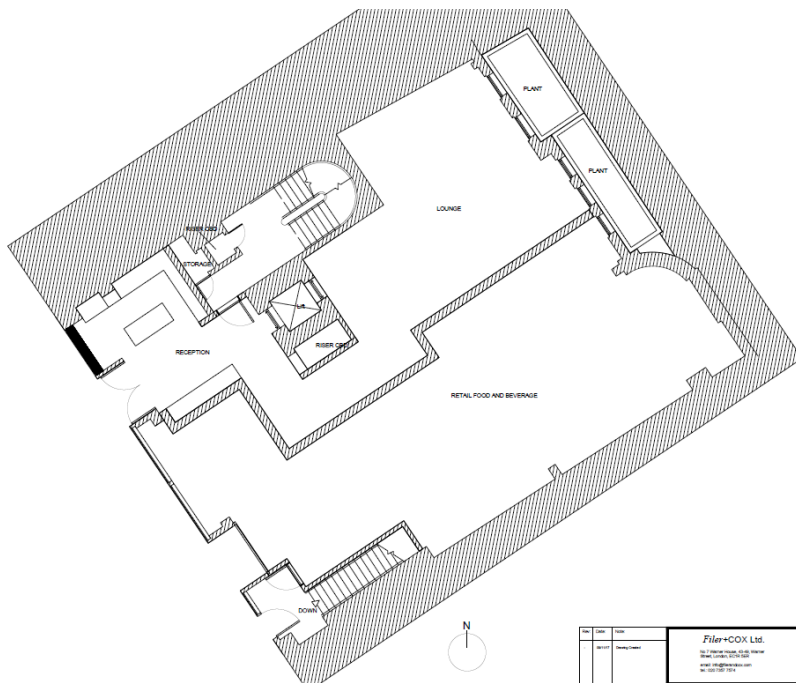
Existing Ground Floor:



REV	DATE	BY	CHKD	DESCRIPTION
A	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval
B	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval
C	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval
D	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval

**File+COX Ltd.**  
 10, The Quadrant, 11, The Quadrant,  
 London, EC2A 4PU  
 020 7461 0000  
 info@fileandcox.com

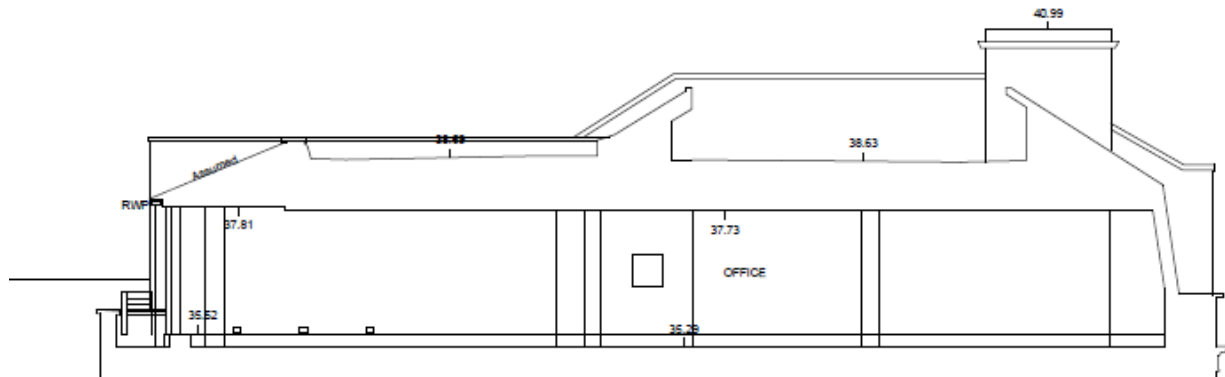
Proposed Ground Floor:



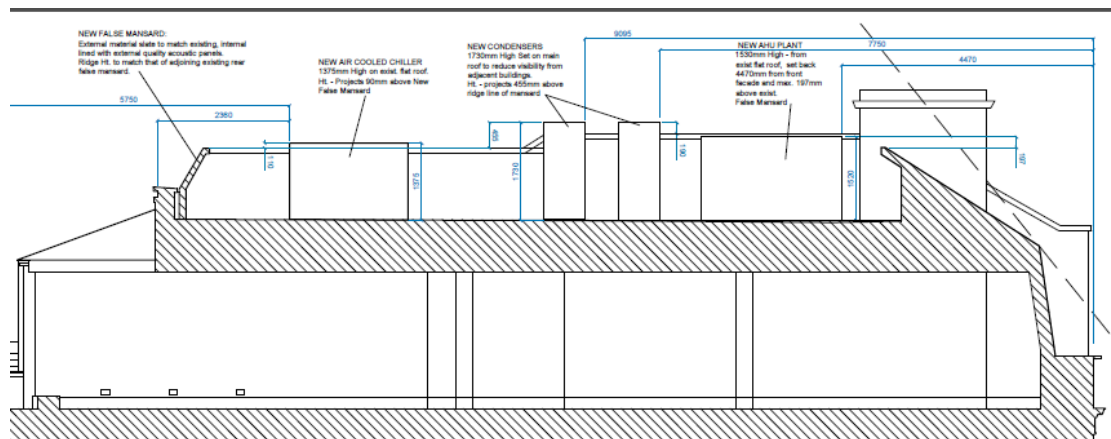
REV	DATE	BY	CHKD	DESCRIPTION
A	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval
B	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval
C	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval
D	10/10/2017	File+COX Ltd	File+COX Ltd	Issue for approval

**File+COX Ltd.**  
 10, The Quadrant, 11, The Quadrant,  
 London, EC2A 4PU  
 020 7461 0000  
 info@fileandcox.com

Existing Roof Section:



Proposed Roof Section:





**DRAFT DECISION LETTER**

**Address:** 17-18 Dover Street, London, W1S 4LT,

**Proposal:** Dual / alternative use of the property either as retail use (A1) at basement and ground floors and office use (B1) on the first to fourth floors or dual / alternative use of part of the ground floor either as retail (Class A1) or restaurant (Class A3) accommodation and use of the remainder of the building as a sui generis use comprising gym and medical functions uses; installation of additional plant and screening at main roof level and within a rear lightwell area at basement and ground floor levels.

**Reference:** 17/07525/FULL

**Plan Nos:** Operational Statement dated 18/07/2017, Noise Impact Assessment dated 11/07/2017, Drawings: 171109\_06\_05\_08\_PPO\_B RevC, 171109\_06\_05\_08\_PPO\_G RevD, 171109\_06\_05\_08\_PPO\_1 RevC, 171109\_06\_05\_08\_PPO\_2 RevC, 171109\_06\_05\_08\_PPO\_3 RevC, 171109\_06\_05\_08\_PPO\_4 RevC, 171109\_06\_05\_08\_PPG\_R RevF, 171110\_06\_05\_08\_P\_AA RevF, 171110\_06\_05\_08\_P\_BB RevE, 171110\_06\_05\_08\_P\_CC RevE, 171110\_06\_05\_08\_E RevE, 171109\_06\_05\_08\_PPC\_B RevC, 171109\_06\_05\_08\_PPC\_G, 171109\_06\_05\_08\_PPC\_1 RevC, 171109\_06\_05\_08\_PPC\_2 RevC, 171109\_06\_05\_08\_PPC\_3 RevC, 171109\_06\_05\_08\_PPC\_4 RevC, 171109\_06\_05\_08\_PPG\_R RevF, 171110\_06\_05\_08\_P\_AA RevF, 171110\_06\_05\_08\_P\_BB RevE, 171110\_06\_05\_08\_P\_CC RevE, 171110\_06\_05\_08\_E RevE.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

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

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:

- between 08.00 and 18.00 Monday to Friday;
- between 08.00 and 13.00 on Saturday; and
- not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- between 08.00 and 18.00 Monday to Friday; and

- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

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

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

Reason:

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

- 4 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 5 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 6 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition 3 of this permission. You must not start work on this part of the development until we have approved what you have sent us.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels.

- 7 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the sui generis use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm., and shall be representative of the activity operating at its noisiest.

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

hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include: (a) The location of most affected noise sensitive receptor location and the most affected window of it; (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location; (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures; (d) The lowest existing LA90, 15 mins measurement recorded under (c) above; (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition; (f) The proposed maximum noise level to be emitted by the activity.

Reason:

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

- 8 If you choose to implement the dual / alternative, gym and medical (sui generis) or restaurant (Class A3) uses you must provide the separate stores for waste and materials for recycling shown on the approved drawings prior to commencement of either of these uses. You must clearly mark them and make them available at all times to everyone using the property.

Reason:

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

- 9 If you choose to implement the restaurant use at part ground floor level you must retain the high level extract duct as shown on the approved drawings for as long as the restaurant is in operation.

Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 10 If you choose to implement the restaurant use at part ground floor level you must not allow more than 40 customers into the premises at any one time.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 11 If you choose to implement the restaurant use at part ground floor level you must not sell any take-away food on the premises even as an ancillary part of the primary Class A3 use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 12 If you choose to implement the restaurant use at part ground floor level you must not play live or recorded music within the restaurant that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 13 If you choose to implement the restaurant use at part ground floor level you must not open the restaurant use to customers, and you must not allow customers on the premises, outside the hours: 08:00 to 00:00 Sunday to Thursday; 08.00 to 00.30 Friday, Saturday and Sundays before a Bank Holiday.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE8 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 14 If you choose to implement the restaurant use at part ground floor level any bar and bar seating within the premises must not take up more than 15% of the floor area of the restaurant premises. You must use the bar (if provided) to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the Mayfair Conservation Area. This is in line with S24 of Westminster's City Plan (November 2016) and TACE 8 of our Unitary Development Plan that we adopted in January 2007.

- 15 If you choose to implement the gym and medical (sui generis) use you must not open the premises use to customers, and you must not allow customers on the premises, outside the hours: gym areas - 05:30 till 23:30 daily; treatments - 08:00 till 20:00 during the week and 10:00 till 16:00 on Saturdays; medical consultations - 07:00 till 22:00 daily and members lounge - 07:00 till 22:00 daily.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 16 If you choose to implement the gym and medical (sui generis) you must not play live or recorded music within the premises that will be audible externally or in the adjacent properties.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 17 If you choose to implement the gym and medical (sui generis) use the windows on the rear elevation of the property must be kept shut at all times.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 18 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)
- Reason:  
To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 19 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)
- Reason:  
To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 20 If you choose to implement the gym and medical (sui generis) or restaurant uses hereby approved you must apply to us for approval of details of secure cycle storage for the property. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation of either of the approved uses. You must not use the cycle storage for any other purpose.
- Reason:  
To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2015.
- 21 If you choose to implement the gym and medical (sui generis) use hereby approved, the use must be operated at all times in accordance with the stipulations of the Operational Statement dated 18 July 2017.
- Reason:  
To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)
- 22 Prior to the commencement of the approved restaurant (Class A3) use hereby approved the high level extract (including enclosure) shall be completed in its entirety in accordance with the approved drawings and this high level extract shall be retained in situ for as long as any part of the basement and ground floors is in use as a restaurant (Class A3).
- Reason:  
To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)
- 23 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

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

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 25 Any of the plant at roof level exceeding the height of the plant screening must be finished dark grey and maintained in that colour for as long as the plant remains in place.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 26 You must install the screening for the plant at main roof level as shown on the approved drawings at the same time as the plant is installed and maintain it in this form for as long as the plant remains in place.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Mayfair Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

### Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business causes noise, smells or other types of nuisance. (I06AA)

- 3 Please contact our Environmental Health Service (020 7641 2000) to make sure you meet their requirements under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. (I07AA)
- 4 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM's). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACM's, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations.htm](http://www.hse.gov.uk/asbestos/regulations.htm) (I80AB)
- 5 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public. Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. [www.opsi.gov.uk/SI/si1992/Uksi\\_19923004\\_en\\_1.htm](http://www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm), The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>, , BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances , BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 6 If any 'special treatment', as defined in the London Local Authorities Act 1991, is going to be given at the premises, you should ring our Licensing Service (on 020 7641 7822 or 020 7641 8549) about getting a licence for those treatments. You should also contact our Environmental Health Consultation Team (on 020 7641 3161) to make sure any treatment rooms meet the environmental health standards of construction. (I07BA)
- 7 Under Part 3, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995, the relevant parts of the property can change between the A1, A3, B1 and gym and medical (sui generis) uses we have approved for 10 years without the need for further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

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.