

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 11 October 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	83 Great Titchfield Street, London, W1W 6RH,		
Proposal	Dual/alternative use of the ground floor, including new upper and lower mezzanine levels, for retail purposes (Class A1) and use of the basement as offices (Class B1), or use of the basement, ground and upper and lower mezzanine levels as a Pilates studio, personal training area, physiotherapy/sports massage treatment rooms and retail floorspace (sui generis).		
Agent	Daniel Watney LLP		
On behalf of	Ten Health and Fitness		
Registered Number	16/05737/FULL	Date amended/ completed	24 June 2016
Date Application Received	20 June 2016		
Historic Building Grade	Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY

The application premises have a lawful use as a ground floor retail shop (Class A1) and basement offices (Class B1), confirmed by the implementation of a recent permission for these uses, including replacement basement and ground floor extensions. However, there is little evidence that the ground floor has been in bona fides retail use. The approved extensions have been constructed but include additional basement and ground floor mezzanine levels within the ground floor shop.

This application is for the use of the ground floor, including new upper and lower mezzanine levels, for Class A1 retail purposes and for the use of the basement as Class B1 offices, or for the use of the entire unit to provide a Pilates studio, physiotherapy treatment rooms/sports massage services, personal training facilities and retail floorspace selling sports/exercise related goods (sui generis). Objections have been received on the ground that the proposed alternative use would have an adverse impact upon the amenities of neighbouring residents.

The key issues in this case are:

- the acceptability of the proposal in land use terms
- the impact of the proposed alternative use upon residents' amenities.

The potential loss of the existing retail and office floorspace is considered acceptable in land use terms, as is the proposed alternative use, which would serve the local residential and working populations. Subject to operational controls, the proposed use, which is low-key in nature, would not adversely affect neighbours' amenities. The scheme complies with relevant UDP and City Plan policies and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

HIGHWAYS PLANNING

No objection subject to condition to secure cycle parking

CLEANSING

Details of arrangements for the storage of waste and recycling required.

ENVIRONMENTAL HEALTH

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 84; Total No. of replies: 5

No. of objections: 5; No. in support: 0

Objections:

- Existing uses are sympathetic to residential character of north end of the street; proposed uses would result in unacceptable intensification of level of activity on the site.
- Proposed use for assembly and leisure purposes, unsocial opening hours and seven day a week operation would result in increased noise and disturbance to local residents from customers entering/leaving the premises, noise nuisance from operation of gym machinery and loud music.
- Likely that a future application will be made for later opening hours to reflect those in other branches
- No demand for another gym in the area

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is an unlisted building, comprising basement, ground and four upper floors, located in the East Marylebone Conservation Area, outside of the Core Central Activities Zone. This site is not located on a Named Street or a designated Shopping Centre.

The upper floors are currently being converted to residential use.

The basement was previously accessed via a corridor within part of the adjoining building at 85 Great Titchfield Street and was linked, internally, to the basement of 81 Great Titchfield Street. The lawful use of the basement is for Class B1 purposes The ground floor is a

separate unit, accessed from street level, and also has a secondary access leading to the neighbouring office corridor.

Permission has been granted for a scheme, under construction, including the use of the basement as offices and the ground floor as a retail shop, with the demolition and replacement of basement and ground floor rear extensions. These rear extensions are nearing completion. At the rear of the shop, the floor level to the extension steps down slightly (to create a lower mezzanine), reducing the head height within the basement extension. An additional upper mezzanine has been created at the back of the shop unit, resulting in a slight increase in retail floorspace (30 sqm). The floorspace provided at basement level is unchanged.

The lawful use of the ground floor, including the new upper and lower mezzanine floors, is considered to be for (Class A1) retail purposes.

This part of East Marylebone is characterised by a mixture of commercial and residential uses however, to the north of Foley Street the street is largely characterised by residential and office uses. To the south of this junction, the mix is livelier, including numerous cafes and restaurants.

There are residential flats on the upper floors of the two neighbouring buildings (nos. 81 and 87 Great Titchfield Street), at no., 79 and opposite at nos. 90-102. There are also numerous flat flats at the rear of the site at nos. 2, 4, 6 and 7-8 Gosfield Street.

6.2 Recent Relevant History

19 June 2007: Permission granted for use of the ground floor at 83 Great Titchfield Street as a retail art gallery (Class A1). The applicant was Mummery + Schnelle

The officer's report advised:

"The applicants state that the premises were last used as a Class B1 office/showroom; the Council's own records are inconclusive, with the 'Study of Wholesale Showrooms In East Marylebone 2000' report referring to Nos. 81-83 being a fabric showroom, but Nos. 81 and 83 are quite separate, with No. 81 currently occupied by a textile showroom....."

As the site was located outside of the wholesale showroom special policy area (SPA), and as the unit, being on the fringes of the showroom area, did not contribute the character and function of the area, a new retail use was considered acceptable in land use terms.

A series of permissions has been granted, for no. 83 in isolation and as part of 81-83 Great Titchfield Street, which include alterations and extensions to no. 83, the demolition and replacement of the basement and ground floor rear extensions, the use of the basement either as offices or as a flat, and the use of the ground floor as a retail shop.

At the time of the submission of the first of these applications, in 2013, the ground floor of no. 83 appeared to be in office use. Photographs submitted as part of the application showed signage for "Mummery + Schnell".

The applicants contend that the premises were never used as a retail art gallery and that Mummery + Schnelle occupied the ground floor as offices and a viewing gallery, which was not open to visiting members of the public. They have advised that Mummery + Schnelle vacated the premises in July 2013 and that it was subsequently occupied as offices by a television production company, until December 2015.

However, other correspondence submitted in relation to a pre-application enquiry (from a different agent) advises that an art gallery use was introduced on the site, but this agent was of the opinion that the premises were either a mixed/office/retail/storage use (sui generis) or a Class D1 use (Non-residential institution). However, based on the information submitted at that time, officers took the view that the 2007 permission had been implemented.

29 September 2015: Permission granted for alterations at 83 Great Titchfield Street including the demolition and replacement of the basement and ground floor rear extensions, the erection of a first to third floor rear extension and replacement mansard roof extension, including an extension over the existing fourth floor rear terrace and a glazed enclosure, accessing a new roof terrace. Use of the building as basement offices, a ground floor shop and three flats on first to fourth floors (15/05246/FULL).

16 June 2016: Permission granted for alterations at 83 Great Titchfield Street including the demolition and replacement of the basement and ground floor rear extensions to the ground floor retail shop (Class A1) with louvres to the pitched roof to accommodate plant located directly beneath the roof ridge; the erection of a first to third floor rear extension and replacement mansard roof extension (with plant enclosed within the rear louvered roof), including an extension over the existing fourth floor rear terrace and a glazed enclosure, accessing a new roof terrace. Use of the building as basement offices, a ground floor shop and three flats on first to fourth floors, installation of a satellite dish to fourth floor level (16/02502/FULL). Implemented.

The approved plans do not show any rear basement and ground floor mezzanine levels. A plant area is shown directly beneath the roof, with ventilation louvres in the roof slopes.

The creation of additional floorspace within the shop unit does not require planning permission.

7. THE PROPOSAL

The application is for the dual use of the ground floor, and new upper and lower mezzanine level, as a retail shop (Class A1) and for the basement as offices (Class B1), or for the use of the basement, ground and lower and upper mezzanine levels as a single unit providing a basement level Pilates studio for a maximum of 10 clients (70 sqm), retail floorspace at ground floor level (58.5 sqm) and two sports massage/ physiotherapy rooms (total 30 sqm) and a personal training room (30 sqm) on the mezzanine levels. Changing rooms and showers will be provided within the basement.

The proposals are submitted on behalf of Ten Health and Fitness, a company which currently has studios all over London including at 6 Duke Street and 25 Hanover Square. Services on this site would be offered on a pay-as-you-go basis, with no membership or joining fees, making the use accessible to a wide client base.

All of the basement and ground floor accommodation would be accessed via the main ground floor shop entrance. The secondary access points would be used in the case of an emergency only.

As part of the alternative use, the premises would sell fitness products, such as sports-wear and nutritional products. The property is intended to be the applicant's flagship store, in terms of retail sales, and would maintain a shopfront display.

The use would operate between 0600 and 20.00 on Monday to Friday, 0800 and 1800 on Saturday and 08.00 to 20.00 hours on Sundays. The use would employ 10 members of staff.

The applicants have confirmed that the plant serving the office and retail use, and the alternative use, would be located within the ground floor roof, in accordance with the plans approved in 2016 and that the plant requirements for the permitted and proposed uses are the same.

Although, the applicant has applied for separate A1/D1/D2 uses in association with the proposed alternative use, and the proposal has been advertised accordingly, this is a single operation, with all areas internally linked, and is considered to constitute a mixed use (sui generis). The applicants have agreed to this amended description.

8. DETAILED CONSIDERATIONS

8.1 Land Use

8.1.1 Proposed retail and office uses

The continuation of the lawful retail and office uses is considered acceptable in land use terms.

8.1.2 Potential Loss of offices

The site is located outside of the Core CAZ. Under policy S1 of the City Plan (2016) the potential loss of basement level office floorspace is acceptable in land use terms.

8.1.3 Potential Loss of retail floorspace

Officers have previously taken the view that the 2007 permission was implemented but it is accepted, even if this was the case, that there is little evidence of a bona fides retail use on the site. This lawful retail use is now established by the implementation the 2016 permission.

As part of the proposed alternative use, the scheme would result in the loss of approximately 126 sqm (GIA) of retail floorspace within the on ground and mezzanine levels, albeit that the floorspace on the upper mezzanine level (approximately 30 sqm) was not shown on the approved plans.

UDP policy SS8 relates to shops outside of the designated shopping centres, outside of the Core CAZ, as is relevant to the consideration of this application. Under this policy, permission will not be granted for change of use from an A1 and will not be given for proposals that would

significantly harm residential amenity or local environmental quality as a result of smells, noise, increased late-night activity and disturbance, or increased parking and traffic. City Plan policy S21 seeks to protect existing retail floorspace 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 applicants have not sought to demonstrate that the existing retail unit is unviable. However, notwithstanding the policy presumption to protect the existing retail use, the alternative mixed use scheme would provide a significant retail function on the majority of the ground floor, and a shopfront display maintained, the potential loss of the Class A1 retail use is considered acceptable in this case and would not prejudice the retail character and function of the area.

8.1.4 Proposed alternative use

City Plan Policy S18 states that proposals for new commercial development will be directed to designated locations including the Core CAZ, the Named Streets and designated Shopping Centres, where proposals for new commercial uses must be appropriate in terms of the scale and intensity of land uses and the character and function of the area. The site is not within any of these designated areas. Policy S8 also directs commercial developments to Named Streets within Marylebone and Fitzrovia and directs retail uses to Marylebone High Street and the Local Shopping Centres. Outside of these locations, new commercial uses will not generally be appropriate unless they provide services to support the local residential community within that part of the wider CAZ. Again, the site is outside of any Named Streets within Marylebone.

As detailed above, the proposed alternative use is considered to constitute a sui generis use. As individual uses, the Pilates studio and personal training use would constitute an assembly and leisure use (Class D2); a physiotherapy use would fall within Class D1. It is considered most appropriate to consider the proposed use in relation to policies for new social and community uses, most of which fall within Class D1 and D2.

Policy SOC 1 generally encourages the provision of new social and community facilities requiring them to be located as near as possible to the residential areas they serve, not to harm the amenity of the surrounding area, including the effect of any traffic generated by the proposal, and to be safe and easy to reach on foot, by cycle and by public transport.

Policy SOC 4 seeks the retention, improvement and redevelopment of facilities for health service uses that meet local needs. In assessing proposed new facilities, the demand for the services will be set against the effect of the proposals on the surrounding area and nearby activities. These policies relate to both public and private facilities.

Policy SOC 5 relates to private medical facilities, including complementary medical uses. Outside of the Harley Street SPA, the demand for them will be considered in relation to the scale and location of the facility and its impact on the area in environmental terms.

City Plan policy S34 encourages the provision of new social and community uses throughout Westminster. Policy S29 requires new developments to maximise the opportunities to contribute to health and well-being, including supporting opportunities for healthier lifestyle choices.

Objections have been received on the grounds that there is no demand for another gym use in the area. However, the proposed use is not a gym but provides a mixture of leisure, health and medical-type functions, all of which are low key. In these circumstances, given the nature and scale of the proposed use, which could only be occupied for the purposes applied for, and which would serve the resident and working populations, the scheme is considered acceptable in principle in land use terms.

The impact of the use upon residents' amenities and the local highway network is discussed considered in sections 8.3 and 8.4 below.

8.2 Townscape and Design

No alterations are proposed.

8.3 Residential Amenity

City Plan policy S29 seeks to ensure that new developments do not adversely affect the amenities of occupants of neighbouring residents. UDP Policies ENV6 and ENV7 deal with the subject of noise pollution and vibration both from new uses, internal activity and the operation of plant. The policies require the potential for any disturbance to be ameliorated through operational controls and/or attenuation measures. Policy S32 requires disturbance from noise and vibration to be contained.

Under Policy ENV6 new developments are expected to incorporate design features and operational measures to minimise and contain noise levels in order to protect noise sensitive properties. Where developments adjoin other buildings, the applicant is required to demonstrate that, as far as reasonably practicable, schemes will be designed and operated to prevent the transmission of audible noise or vibration through the fabric of the building

8.3.1. Noise from internal and external activity

Objections have been received on the ground that the proposal would result in increased noise disturbance associated with clients entering and leaving the premises, disturbance from the operation of gym equipment and noise from loud music.

The proposed activities would take place below the level of the residential uses in the adjoining properties, and beneath new flats currently being constructed on the upper floors of the application building. The applicants are keen to stress that Pilates exercise involves the undertaking of slow movements to quiet music, played on a domestic music system, and that the use does not compare to a general gym use which often includes high impact exercise to loud music. The sports massage and physiotherapy treatment services, on a one-to-one basis, are similarly low-key.

Given the nature of the proposed use, as any change in the operating model is likely to require further planning permission, and subject to conditions to ensure that noise levels within neighbouring flats meet acceptable limits, and submission of an acoustic report to demonstrate that these levels can be achieved, it is not considered that noise levels from internal activity would have a material impact on the amenities of neighbouring flats. Furthermore, another condition limits noise levels from any music that may be played.

The applicants have confirmed that the premises would be accessed via the shopfront entrance on at 83 Great Titchfield Street and that other entrances/exits would only be used in the case of emergency. This would be controlled by condition. Given the limited numbers of clients visiting the premises at any one time, which is comparable with the potential numbers associated with the lawful office and retail uses, it is not considered that the disturbance caused by customers and staff entering and leaving the premises would adversely affect neighbours' amenities. In these circumstances, the proposed opening hours and 7-day operation are considered acceptable. The hours of use would be controlled by condition.

Objectors have expressed concern that an application could be made to extend these opening hours at some future date. Any such application would be considered on its merits at that time.

8.3.2 Plant noise

Objectors have also expressed concern about potential noise disturbance from the operation of plant associated with the use.

The approved scheme permits the installation of commercial plant beneath the pitched roof of the ground floor extension, ventilated by louvres in the roof slope. The applicants have confirmed that, given the nature of the activities taking place, the approved office/retail plant would be adequate for the proposed use. In these circumstances, it is considered appropriate to impose the same plant operating condition imposed on the previous application, including a requirement to submit a supplementary noise report once the plant has been selected demonstrating that the noise condition can be complied with.

Subject to these conditions, it is not considered that objections relating to the impact of the use on residents' amenities can be supported

8.4 Highways

8.4.1 Parking and cycle parking

The site is centrally located with a high level of public transport accessibility.

The site is located with a Controlled Parking Zone, meaning that any customers driving to the site will be subject to existing parking controls. However, it is not considered that the proposed alternative use would result in a significant increase in the number of vehicle trips or on parking levels in the area.

The Further Alterations to the London Plan set cycle parking standards for Class D1 and D2 uses. Given the number of staff, one parking space would be required. None is proposed as part of the application and a condition is recommended requiring the submission of plans showing the provision of a store to accommodate a minimum of 1 staff cycle space, in a secure and covered location.

8.4.2 Servicing

In common with the existing arrangements, the premises would be serviced from Great Titchfield Street. Areas within the Controlled Parking Zone permit loading and unloading at

the kerbside and it is not considered that the proposed use would have a significant increase in the level of servicing demand when compared with the lawful retail and office uses.

Subject to conditions, the scheme is considered acceptable in highways terms.

8.4 Economic Considerations

Any economic benefits generated by the scheme are welcomed. It is noted that the existing retail and office uses would be replaced by another commercial activity.

8.5 Access

The existing site access arrangements are as previously approved. Changes to the internal levels, and the creation of an additional mezzanine level are acceptable given the applicant's client base.

8.6 Other UDP/Westminster Policy Considerations

8.6.1 Refuse /Recycling

The Project Officer (Waste) has requested a condition requiring the submission of details of arrangements for the storage of waste and recyclable material in connection with the proposed uses.

8.7 London Plan

This application does not raise any strategic issues.

8.8 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.

8.9 Planning Obligations

This application does not trigger any planning obligations, nor would it generate CIL payments.

8.10 Environmental Impact Assessment

The scheme does not require the submission of an Environmental Impact assessment.

8.11 Other Issues

None relevant

9. BACKGROUND PAPERS

1. Application form and letter dated 19 July 2016
2. Memorandum from Project Manager (Waste) dated 13 July 2016

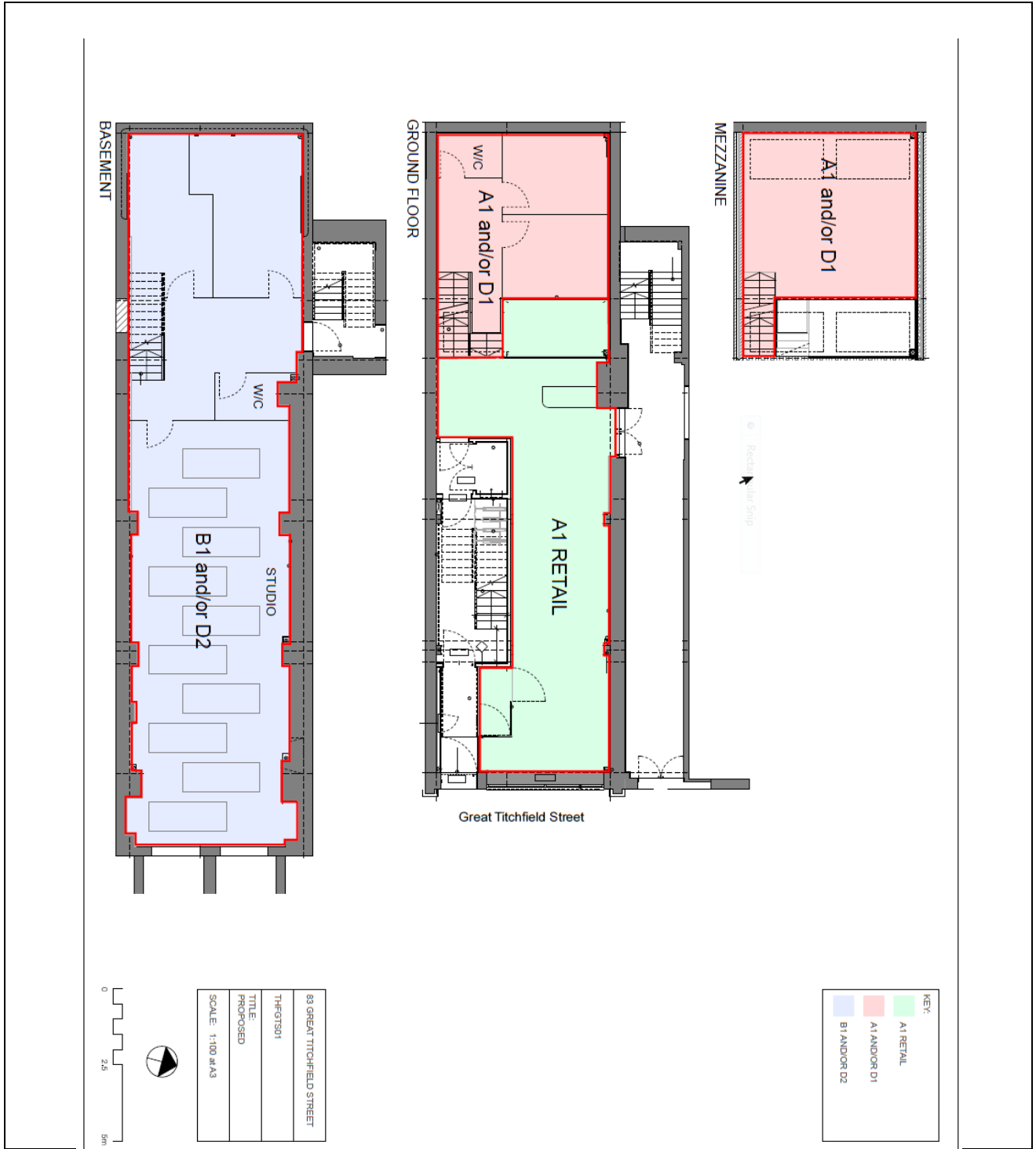
3. Memorandum from Highways Planning dated 30 June 2016
4. Letter from occupier of Flat 4, 87 Great Titchfield Street, dated 15 July 2016
5. Letter from occupier of Flat 6, 87 Great Titchfield Street, dated 16 July 2016
6. Letter from occupier of 87 Gt Titchfield St, London, dated 14 July 2016
7. Letter from occupier of 87 Great Titchfield Street, London, dated 14 July 2016
8. Letter from occupier of Flat 3, 100 Great Titchfield Street, London, dated 7 July 2016

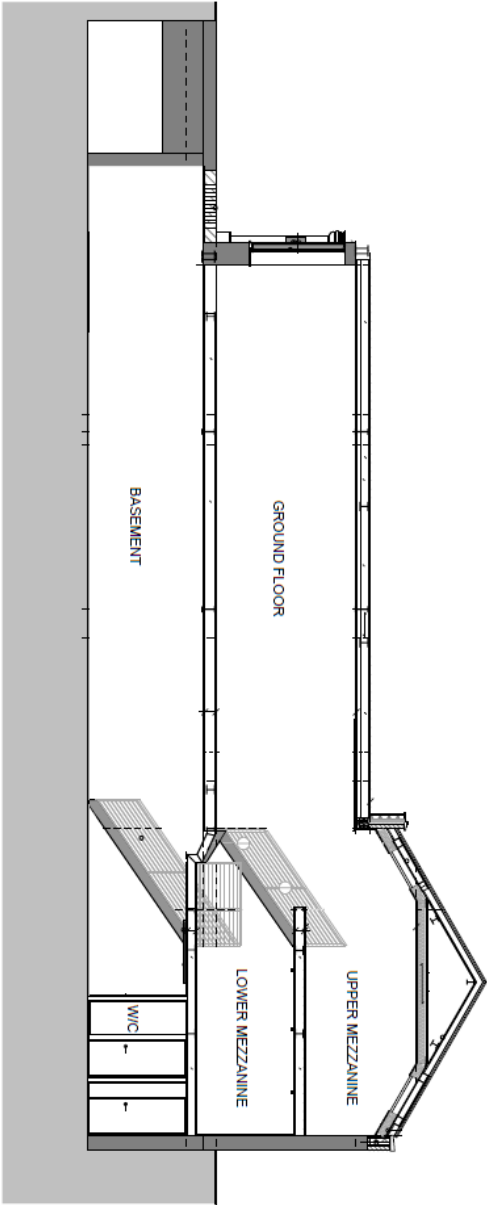
Selected relevant drawings

(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: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk.

10. KEY DRAWINGS





83 GREAT TITCHFIELD STREET
THRGTS01
TITLE: EXISTING - GROUND FLOOR & BASEMENT ONLY
SCALE: 1:100 @A3

DRAFT DECISION LETTER

Address: Ground Floor, Print Works House, 83 Great Titchfield Street, London

Proposal: Dual/alternative use of the ground floor, including new upper and lower mezzanine levels, for retail purposes (Class A1) of the basement as offices (Class B1) or use of the basement, ground and upper and lower mezzanine levels as a Pilates studio, personal training area, physiotherapy/sports massage treatment rooms and retail floorspace (sui generis).

Plan Nos: THFGTS01 (PROPOSED)

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641 3934

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

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

Reason:

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

- 2 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the H337/P010. (C14EC)

Reason:

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

- 3 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 4 You must apply to us for approval of details of secure cycle storage for the use. 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. 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 of the Further Alterations to the London Plan

- 5 You must apply to us for approval of details of a supplementary acoustic report demonstrating that sound insulation measures would ensure compliance with 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:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 6 No waste shall be stored on the highway

Reason:

To protect the environment as set out in S44 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

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

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

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

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

- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

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

- 8 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.

- 9 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 7 of this permission. You must not commence any of the uses hereby approved 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 (July 2016), by contributing to reducing excessive ambient noise levels.

- 10 Customers shall not be permitted within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms/retail area (sui generis) before 0600 or after 2000 hours on Monday to Friday (not including Bank Holidays and public holidays), between 08.00 and 18.00 hours on Saturdays and between 08.00 and 20.00 hours on Sundays, bank holidays and public holidays. (C12BD)

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 11 All access/egress to the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training room/retail area (sui generis) shall be via the ground floor shopfront entrance and the basement and ground floor doors leading into the adjacent corridor at 85 Great Titchfield Street, shown on drawing THFGTS01 (PROPOSED) hereby approved, shall only be used in the case of emergency.

Reason:

In accordance with the submitted application and to protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

- 12 The layout of the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (sui generis) must be provided and permanently maintained and the premises occupied in accordance with that layout as shown on drawing THFGTS01 (PROPOSED) hereby approved.

Reason:

In accordance with the submitted application, to prevent a use that would be unacceptable because of the character and function of this part of the East Marylebone Conservation Area and to ensure the provision of a retail trading area at ground floor level. This is in line with S21 and S25 of Westminster's City Plan (July 2016) and SS8 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 13 A retail shopfront display, situated immediately behind the ground floor shop window, and which must not contain any obscured elements shall be provided and permanently maintained for all times that the ground floor is occupied as part of the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail use (sui generis).

Reason:

To maintain the retail appearance of the premises as set out in SS 17 of our Unitary Development Plan that we adopted in January 2007. (R26IA)

- 14 (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 Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (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 Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (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 (July 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 15 No music shall be played within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms and retail area (sui generis) use that is audible outside the premises or within neighbouring properties.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally as set

out in S32 of Westminster's City Plan (July 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (July 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 This permission does not allow any work which would change the outside appearance of the property. (I18AA)
- 3 You will need to re-apply for planning permission if another authority or council department asks you to make changes that will affect the outside appearance of the building or the purpose it is used for. (I23AA)
- 4 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement, mezzanine and ground floors can change between within the Pilates studio/physiotherapy treatment rooms/sports massage facility/personal training rooms/retail area (sui generis) or the Class A1 retail and Class B1 offices uses we have approved for 10 years without 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. (I62A)
- 5 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement and ground floors (including the upper and lower mezzanine floors within the ground floor unit) can change between the ground floor retail (Class A1) and basement office uses (Class B1) and the Pilates studio, physiotherapy treatment room/sports massage facility and personal training room use (sui generis) we have approved for 10 years without 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. (I62A)

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.