

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 14 February 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Abbey Road	
<b>Subject of Report</b>	<b>27A Queen's Terrace, London, NW8 6EA,</b>		
<b>Proposal</b>	Variation of Condition 10 of planning permission dated 01 July 2014 (RN: 14/02259) for the use as a fitness studio (Class D2). Namely to remove the requirement to install a sound insulating suspended ceiling below the roof timbers and install a sound limiter instead.		
<b>Agent</b>	Mr Nigel Young		
<b>On behalf of</b>	Ms Jess Schuring		
<b>Registered Number</b>	15/09871/FULL	<b>Date amended/ completed</b>	22 November 2016
<b>Date Application Received</b>	22 October 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>			

## 1. RECOMMENDATION

Grant conditional planning permission.

## 2. SUMMARY

Permission is sought to vary the originally specified sound insulation strategy for the consented fitness Studio Use (Class D2), by way of replacing the originally specified suspended ceiling with a sound limiting device attached to equipment. Condition 10 of the original application required approval of the various sound mitigation measures in order to safeguard the amenity of adjoining occupiers from noise disturbance. This application has supplied these details and introduced the sound limiting device in lieu of the suspended roof, with accompanying pre and post installation sound testing analysis.

Objections from neighbours have been received expressing concern that the sound limiting device may not be as effective as the suspended ceiling.

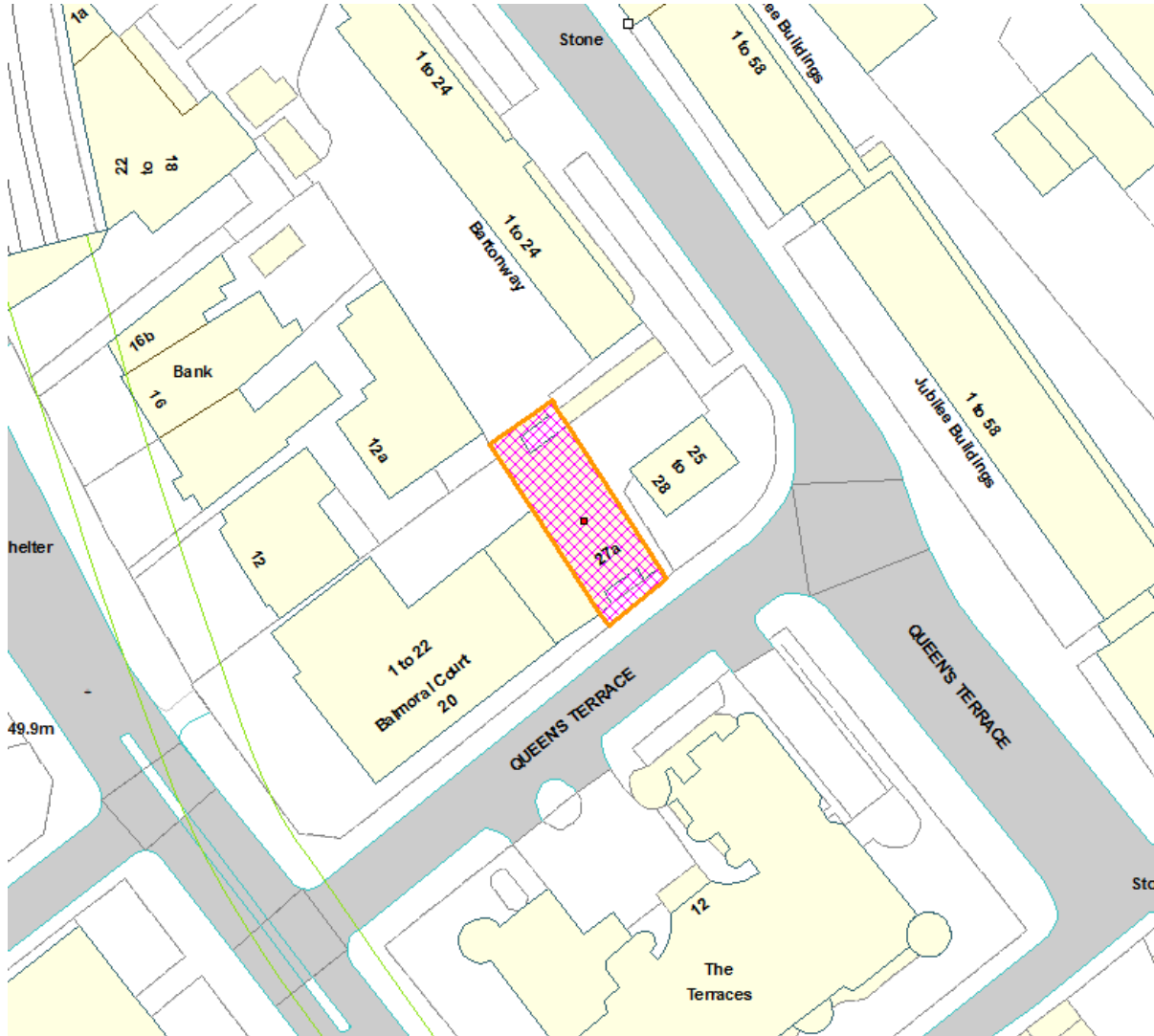
Additional acoustic analysis confirms that with the benefit of insulation measures and a sound limiting device secured by way of condition, the measures would be sufficient to prevent any music noise breakout and meet the conditions and criteria of the planning permission. These details have been reviewed by the City Councils Environmental Health Officers who have no objections to the

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proposals on environmental noise or nuisance grounds. As such approval of the amended noise mitigation strategy is recommended.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS

Site frontage and first floor



## 5. CONSULTATIONS

### ENVIRONMENTAL HEALTH

Soundweb limiter system in lieu of suspended ceiling, in addition to other noise mitigation measures specified in acoustic report submitted with this application, are sufficient to control amplified noise so that noise stays 10db below established background noise levels as recorded in original Noise Assessment dated 10 March 2015.

### ADJOINING OWNERS/OCCUPIERS

No. Consulted: 112

Total No. of replies: 3

No. of objections: 2

No. Of neutral: 1

Two objection received on the following grounds:

\* Concerned that variation of condition will compromise effectiveness of sound insulation causing disturbance at 16 Balmoral Court.

\* Ensure amended details are equivalent to that imposed originally.

One comment stating:

\*Request that sound limiter is as efficient as sound insulated suspended ceiling originally specified and music is maintained at level to avoid nuisance to neighbours, in particular occupier within 20 Queens Terrace.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

### **Additional consultation; 20 December 2016**

*“Supplementary noise report dated 24 May 2016 prepared in relation to use in operation taking into account improvements to building fabric already undertaken as per recommendations of condition 10 (not including suspended ceiling).”*

### ST JOHNS WOOD SOCIETY

Any response reported verbally.

### ENVIRONMENTAL HEALTH

No objection to this application on environmental noise or nuisance grounds.

The applicant has provided a Sound Limiter setting certificate dated November 2016 on the basis of the findings of acoustic report by Shaun Murkett Dated 24th May 2016 and as requested by the Council.

I have considered these documents and on the basis of these I have no objection to the application subject to an appropriate condition to retain the Sound Limiter use in future.

## ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 112  
Total No. of replies: 0

### 6. BACKGROUND INFORMATION

#### 6.1 The Application Site

This application site comprises a two storey former ecclesiastical building on the north side of Queen's Terrace. Planning permission was granted 1 July 2014 for use of the building as a fitness studio (Class D2). This use is presently in operation at the site.

#### 6.2 Recent Relevant History

14/02259/FULL  
Use as a fitness studio (Class D2).  
Application Permitted 1 July 2014

Condition 10 of this permission required the submission to the City Council for approval of noise mitigation measures as specified in the submitted Noise Assessment (ref: 14/0055/R01-1), prior to the commencement of the D2 fitness use.

15/08066/ADFULL  
Details of waste / recycling storage pursuant to Condition 2 of planning permission dated 1 July 2014 (RN: 14/02259).  
Application Permitted 21 September 2015

15/08099/ADFULL  
Detailed drawings showing the provision of a minimum of 3 cycle parking spaces on the site pursuant to Condition 8 of planning permission dated 1 July 2014 (RN: 14/02259).  
Application Permitted 8 October 2015

### 7. THE PROPOSAL

This application has been submitted to obtain approval from the City Council of an amendment to the sound mitigation strategy for the consented fitness studio (Class D2), namely the inclusion of a sound limiting device in lieu of the originally specified suspended ceiling, details of which were required to be submitted to the City Council for approval pursuant to condition 10 of the original permission dated 1 July 2014 RN: 14/02259/FULL.

This condition reads as follows;

*"Before you begin to use the fitness studio hereby approved you must install the following noise mitigation measures as specified in the submitted Noise Assessment (ref: 14/0055/R01-1):*

- (a) Installation of a sound insulating suspended ceiling below the roof timbers (as specified in 6.3.2 of the Noise Assessment).*
- (b) Installation of secondary glazing to windows in the eastern elevation with a minimum spacing of 50mm between the existing windows and the secondary glazing.*
- (c) Infill of ventilation holes within the eastern facade at basement level.*
- (d) All existing external windows checked to ensure that they have no gaps and seals are working effectively (where they are not they must be appropriately repaired).*
- (e) Installation of a lobbied doorway at the main entrance to the premises that achieve a minimum sound reduction value of  $R_w$  35dB.*

*You must keep the noise mitigation measures in place for as long as the fitness studio remains in use.”*

This condition was imposed to ensure amplified music and noise would be limited to a level so as to comply with standard noise conditions (5 and 6) of permission 14/02259/FULL that relate to noise and vibration to adjoining residential properties.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Residential Amenity**

The appointed acoustic engineers for the applicant have undertaken sound testing and provided details of sound insulation pursuant to the requirements of condition 10 in this current application. The submitted acoustic report prepared by Shaun Murkett dated 28 August 2015, provides details of sound testing undertaken at the property prior to any mitigation measures being installed. The report explains that the ‘Heartcore’ Moorgate City branch was visited to observe typical noise levels to inform the testing at the application site. The report concludes that, following improvements as recommended in the appendices including; installation of a sound insulating suspended ceiling below the roof timbers, installation of secondary glazing, infilling of ventilation holes, checks to existing windows for air tightness, and installation of a lobbied doorway at the main entrance, pursuant to parts (a) – (e) of the condition 10 respectively, the D2 fitness use would be capable of operating without causing disturbance to neighbouring residents.

However, page 16 of that report identified that an acoustic ceiling would only be necessary if high music levels are required in the first floor/mezzanine area. It goes on to state that if reduced music sound levels are used, which upon further consideration is better suited to the yoga and other quieter intended uses on the upper floor, then a sound limiter, in conjunction with other measures pursuant to parts (b) – (e) of condition 10, would be sufficient to prevent any music noise breakout and meet the conditions and criteria of the planning permission. Officers were therefore asked to consider both options.

As part of this application, further acoustic testing was carried out after undertaking works to the fabric of the building pursuant to parts (b) – (e) of condition 10 but prior to the use commencing. The acoustic consultant also provided details of the sound limiter in lieu of the suspended ceiling pursuant to part (a) of condition 10. The findings are summarised in the updated acoustic report dated 24 May 2015. It concluded that; with the music set at an acceptable level controlled by internal sound limiters and with the

benefit of all other noise mitigation installed, there was no music noise breakout at the neighbouring properties.

These results were reviewed by the City Councils Environmental Health Officers who were satisfied that the use by Heartcore Studios would not have an observable effect on residents. However it was raised that there needed to be suitable mechanisms for controlling the sound limiter in perpetuity, and assurance needed to be given that noise from amplified voices could also be limited through the system. Planning Officers also raised concerns regarding sound from un amplified voices and the ability of the building, in the absence of the suspended ceiling, to provide suitable sound insulation.

In November last year, the agent provided the City Council with a calibration certificate following the installation and setup of an approved sound limiter, with all sources routed through the sound limiter, including any vocal microphones and music sources. This sound limiter is located in a rack in a locked room away from the fitness studio rooms, and has been set and calibrated to the sound levels undertaken in the sound test and detailed in the report dated 24th May 2016. Officers undertook further consultation with residents and statutory consults including Environmental Health to advise of this additional information. No further representations were received. Environmental Health have commented and have no objections on noise and nuisance grounds subject to conditions to secure the restrictions to the sound limiter.

As such on the basis of a revised condition (10) to secure the details as submitted as part of this variation application in lieu of an approval of details application, and the additional condition as recommended by Environmental Health, the proposals are considered acceptable.

## **8.2 London Plan**

This application raises no strategic issues.

## **8.3 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.

## **8.4 Planning Obligations**

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

## **8.5 Other Issues**

In order to secure the sound mitigation measures as set out in the application documents, which condition 10 of the original permission required details of under the approval of details regime, it is recommended that this varied permission provide a reworded condition (10) that secures the details as submitted in this application. A separate approval of details application has been lodged however this is not considered necessary in order to deal with revised details as discussed. This has been withdrawn following the advice of Officers.



**9. BACKGROUND PAPERS**

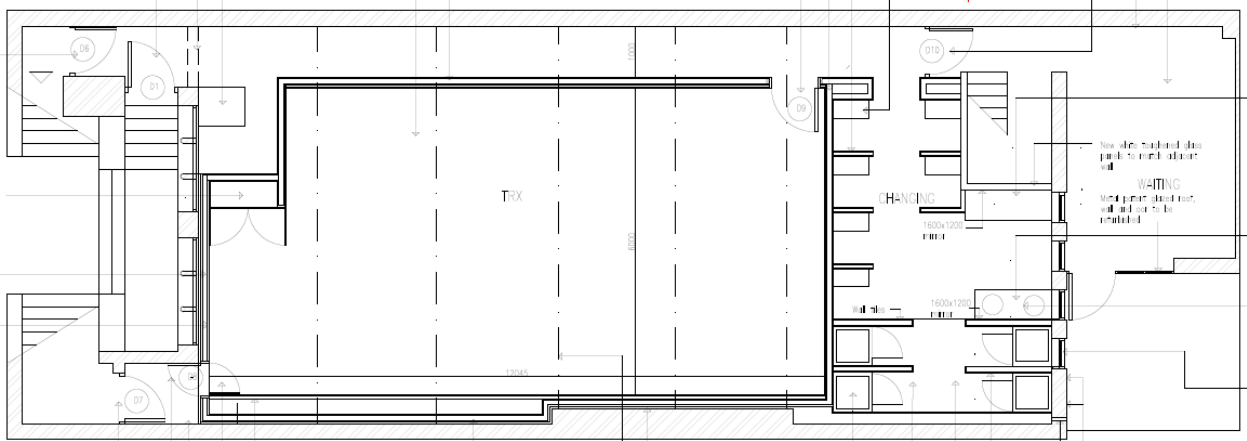
1. Application form
2. Acoustic report dated 24 May 2016.
3. Response from Plant And Equipment, 28 June 2016, 31 August 2016 and 13 December 2016.
4. Letter from occupier of Chairman, , 20 Queens Terrace, 15 Balmoral Court, dated 11 December 2015
5. Letter from occupier of 16, Balmoral Court, 20 Queen's Terrace, dated 13 December 2015
6. Letter from occupier of 2, Balmoral Court, 20 Queens Terrace, dated 13 December 2015

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

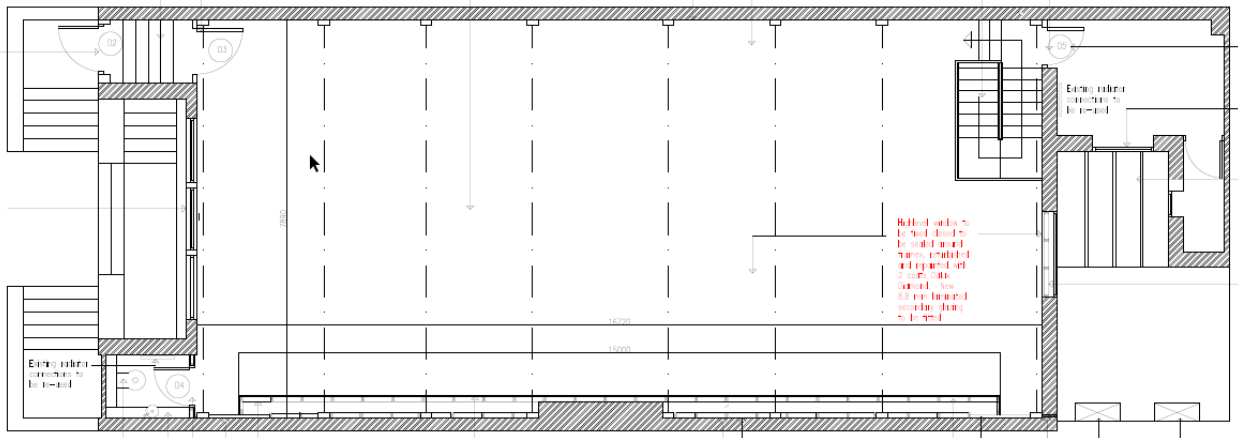
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: KIMBERLEY DAVIES BY EMAIL AT [kdavies1@wesminster.gov.uk](mailto:kdavies1@wesminster.gov.uk)

10. KEY DRAWINGS

Ground floor plan



First Floor/ Mezzanine



**DRAFT DECISION LETTER**

**Address:** 27A Queen's Terrace, London, NW8 6EA,

**Proposal:** Variation of Condition 10 of planning permission dated 01 July 2014 (RN: 14/02259) namely remove the requirement to install a sound insulating suspended ceiling below the roof timbers and install a sound limiter instead (as specified in 6.3.2 of the Noise Assessment.),

**Reference:** 15/09871/FULL

**Plan Nos:** Site location plan, 55/113A, 55/123A, Cover letter dated 22 October 2015, Acoustic report and appendices prepared by Shaun Murkett dated 28 August 2015, Acoustic report and appendices prepared by Shaun Murkett dated 24 May 2016, Sound limiter statement dated 30 November 2015, Soundweb London BLU-100 sound limiter specification, Calibration Certificate dated 22 November 2016

**Case Officer:** Samuel Gerstein

**Direct Tel. No.** 020 7641 4273

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

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

Reason:

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

- 2 You must 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, unless you implement waste and recycling storage in accordance with details approved 21 September 2015 under reference 15/08066/ADFULL. 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 fitness studio.,

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)

- 3 You must not open the fitness studio premises to customers, and you must not allow customers

on the premises, outside the following times: between 07.00 and 21.45 hours on Monday to Friday (not bank holidays and public holidays), between 08.30 and 17.45 on Saturdays and between 09.30 and 17.45 on Sundays, bank holidays and public holidays.

Reason:

To protect the environment of people in neighbouring properties as set out in CS28 and CS31 of our Core Strategy that we adopted in January 2011 and ENV 6, ENV 7 and SOC1 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 The windows to the fitness studio hereby approved shall be kept closed whenever fitness classes are taking place or music is being played.

Reason:

To protect the environment of people in neighbouring properties as set out in CS23, CS28 and CS31 of our Core Strategy that we adopted in January 2011 and ENV 6, ENV 7 of our Unitary Development Plan that we adopted in January 2007

- 5 (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 5 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 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., , (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:

As set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(2) 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.

- 6 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.

- 7 You must use the fitness studio hereby approved only for that purpose. You must not use it for any other purpose, including any within Class D2 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any equivalent class in any order that may replace it). (C05AB)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet ENV6, ENV7, TRANS22 and SOC1 of our Unitary Development Plan that we adopted in January 2007 and S29, S32 and S34 in Westminster's City Plan: Strategic Policies that we adopted in November 2013. (R05AB)

- 8 You must apply to us for approval of detailed drawings showing the provision of a minimum of 3 cycle parking spaces on the site, unless you implement cycle parking in accordance with

details approved 8 October 2015 under reference 15/08099/ADFULL. Thereafter you must install the cycle parking in accordance with the details we approve and permanently maintain them for the life of the development.

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.

- 9 Only a maximum of two simultaneous classes may operate within the approved fitness studio hereby approved and each class shall contain no more than 15 persons (excluding the instructor(s)).

Reason:

To protect the noise environment of people in nearby noise sensitive properties and limit demand for on-street parking in the vicinity of the site as set out in ENV 6, ENV 7 and TRANS22 of our Unitary Development Plan that we adopted in January 2007 (UDP) and S29, S32 and S41 in Westminster's City Plan: Strategic Policies that we adopted in November 2013.

- 10 You must maintain at all times the mitigation measures as specified in the submitted Acoustic report and appendices prepared by Shaun Murkett dated 24 May 2016 comprising; , (a) Sound limiting device in accordance with calibration certificate dated 22 November 2016. , (b) Installation of secondary glazing to windows in the eastern elevation with a minimum spacing of 50mm between the existing windows and the secondary glazing., (c) Infill of ventilation holes within the eastern facade at basement level., (d) All existing external windows checked to ensure that they have no gaps and seals are working effectively (where they are not they must be appropriately repaired)., (e) Installation of a lobbied doorway at the main entrance to the premises that achieve a minimum sound reduction value of Rw 35dB. , , You must keep the noise mitigation measures in place for as long as the fitness studio remains in use.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the use hereby permitted does not cause noise and vibration nuisance as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 11 The sound limiter fitted to the musical amplification system (including tutor microphones) shall be operated at all times in accordance with the Calibration Certificate signed by Shaun Murkett Acoustic Consultants Ltd dated 22 November 2016. The limiter shall be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the premises operator. The limiter shall not be altered unless agreed in writing by the Council. No additional sound generating equipment shall be used on

the premises without being routed through the sound limiter device. A sound limiter device which meets the aforementioned requirements shall be installed and maintained for any future use of the building where music is intended to be played for the purposes of fitness classes.

**Reason:**

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the use hereby permitted does not cause noise and vibration nuisance as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013 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 (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 You must ensure that the environment within a workplace meets the minimum standard set out in the Workplace (Health, Safety and Welfare) Regulations 1992 with respect to lighting, heating and ventilation. Detailed information about these regulations can be found at [www.hse.gov.uk/pubns/indg244.pdf](http://www.hse.gov.uk/pubns/indg244.pdf). (I80DB)
- 3 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained., Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:,\* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;,\* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;,\* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;,\* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;,\* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 4 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 , [www.bsi-global.com/Building/Utilities;](http://www.bsi-global.com/Building/Utilities;), , o BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances , o BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances.
- 5 You are reminded that this decision does not grant permission for any external mechanical plant. If such equipment is required in connection with the proposed use to ventilate the fitness studios, you will need to make a further planning application for such equipment before it is installed.
- 6 You are reminded that Condition 4 attached to this permission requires the windows of the premises to be kept shut whenever fitness classes are taking place or music is being played.,

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.