

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 22 May 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Marylebone High Street	
Subject of Report	62-64 Baker Street, London, W1U 7DF,		
Proposal	Use of ground floor and part basement as a gym with juice and coffee bar (sui generis). Installation of new shopfront.		
Agent	Cushman and Wakefield		
On behalf of	Chainge		
Registered Number	17/10950/FULL	Date amended/ completed	15 December 2017
Date Application Received	11 December 2017		
Historic Building Grade	Unlisted		
Conservation Area	Outside of a conservation area.		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

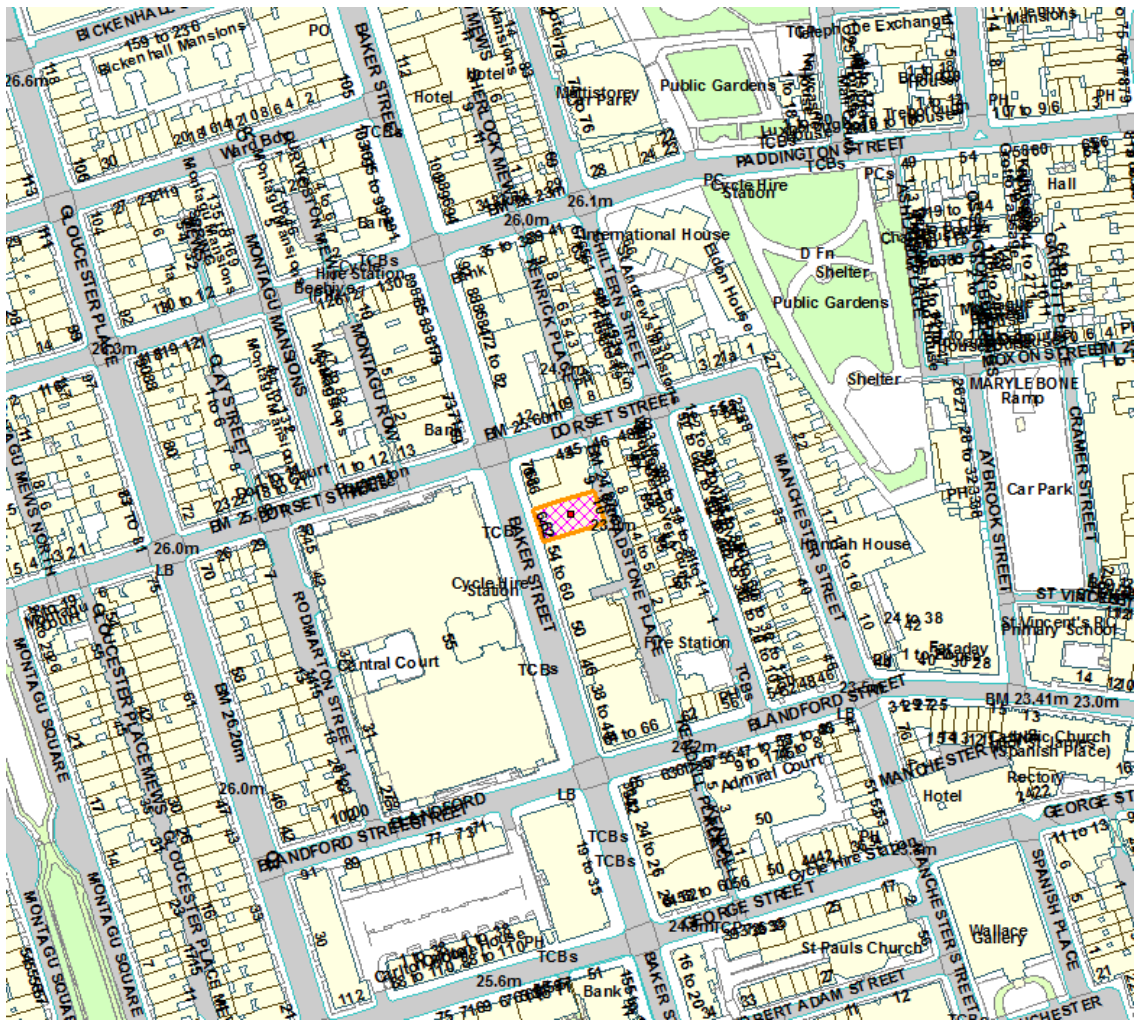
The application site comprises part basement and ground floor retail unit. The site is in the wider CAZ and is located on a CAZ Frontage and is a Named Street. The property comprises basement, ground and five upper floors. This building is not located in a conservation area, nor is it listed. The ground floor and part basement is in retail (class A1) use, but has been vacant for over 2 years. Permission is sought for the use of the ground floor and part basement as a gym with retail areas at front ground floor level including a juice and coffee bar (sui generis). Permission is also sought for the installation of new shopfront

The key issues for consideration are:

1. The loss of the retail use on the character and function of the area; and
2. The impact of the proposed gym on the amenity of the surrounding area

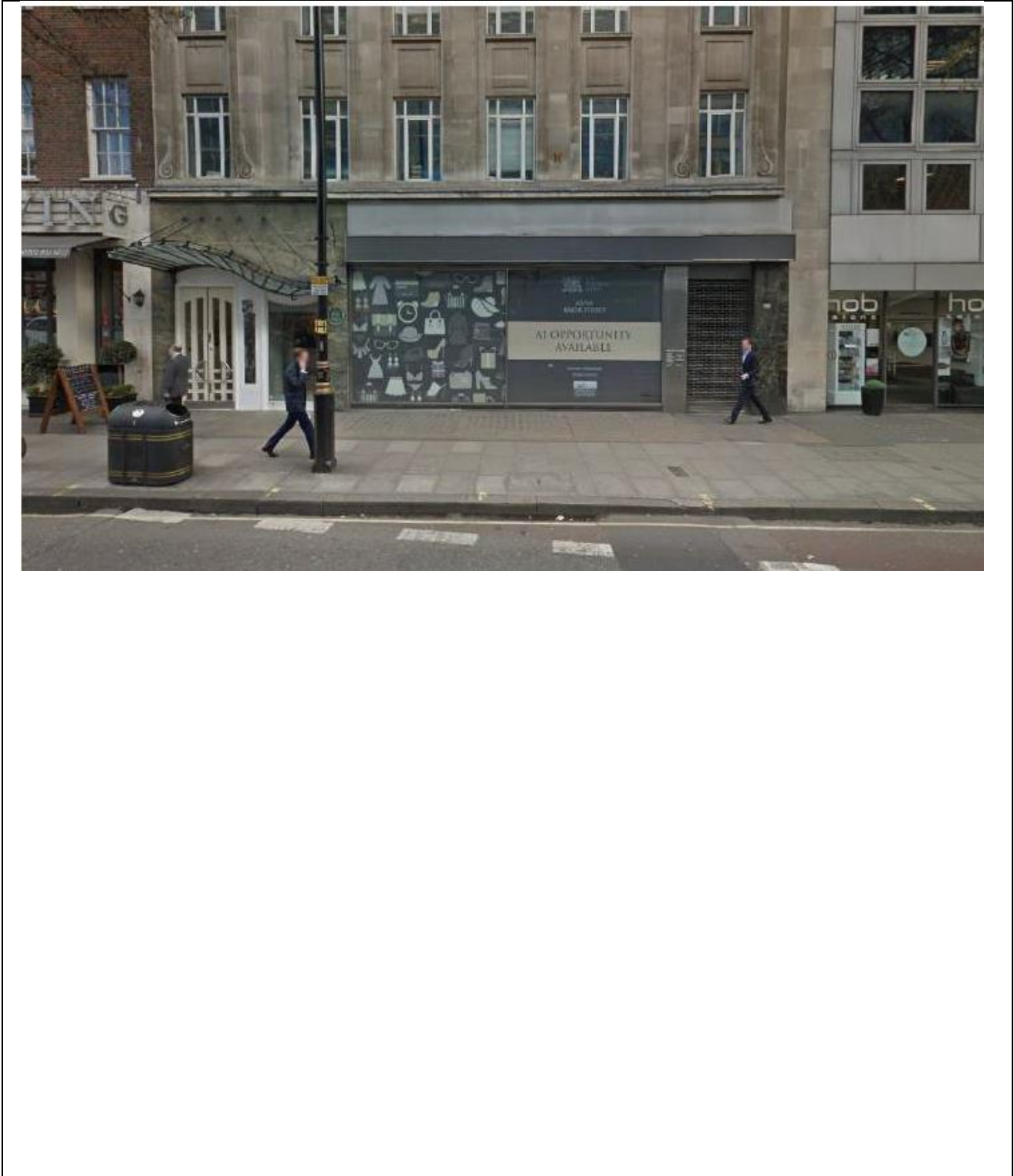
The scheme is considered acceptable in land use terms as the applicant has provided evidence to demonstrate that the existing retail unit is not viable despite reasonable attempts to let. It is not considered the proposed use would negatively impact on residential amenity nor detract from the character and function of the area. The scheme is therefore recommended for approval and complies with the policies set out in the Unitary Development Plan (UDP) and Westminster's City Plan (City Plan)

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

MARYLEBONE ASSOCIATION

Any response to be reported verbally.

ENVIRONMENTAL HEALTH

No objection subject to conditions.

HIGHWAYS PLANNING

No objection subject to conditions.

CLEANSING

Objection - proposed waste storage insufficient.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 34

Total No. of replies: 3

No. in support: 3

Three letters of support have been received on some or all of the following grounds:

- Potential retail occupiers (such as tile shops and pharmacies) would be detrimental to the aspirations of the street,
- Existing use adds little to the vision of the area,
- Proposed use would be a good fit for the street,
- Proposed use would add vibrancy to the street, and
- Proposed use would be a positive contribution to the improvements on Baker Street.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site lies in the wider CAZ and is located on a CAZ Frontage and Named Street. The property is located on the east side of Baker Street between Dorset Street and Blandford Street. The property comprises basement, ground and five upper floors. This building is not located in a conservation area, nor is it listed.

The ground floor and part basement is in retail (class A1) use, but has been vacant for over 2 years, and the upper floors and the rest of the basement are in office (Class B1) use. The application site backs onto Broadstone Place to the rear.

6.2 Recent Relevant History

There is no recent relevant history at this site.

7. THE PROPOSAL

Planning permission is sought for the use of ground floor and part basement as a gym. The gym will be situated to the rear ground floor and will include changing rooms at part basement level and ground floor level. The front ground floor will be used as a retail area, including a juice and coffee bar. As the use does not fall within one of the defined use classes it is classed as being sui generis. Permission is also sought for the installation of new shopfront.

The floorspace figures for the proposal are outlined in the table below.

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (Class A1)	339	0	-339
Gym/retail use	0	341	+341
Total	339	341	+2

The business proposed for the unit, Change, is a start-up gym offering high intensity interval training (HIIT).

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of Retail.

City Plan Policy S21 protects retail floorspace through the Westminster except where the Council considers the unit is not viable, as demonstrated by long-term vacancy (18 months) despite reasonable attempts to let. UDP Policy SS5 seeks an appropriate balance of town centre uses on CAZ Frontages and states that *“A1 uses at ground, basement and first floor level in the CAZ and CAZ frontages will be protected.”* It goes on to state that the introduction of non-A1 town centre uses at these floors will only be granted where it would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality. Non-A1 uses also must not lead to, or add to, a concentration of three or more consecutive non-A1 uses.

To demonstrate compliance of the proposal with Policy S21, the applicant has submitted a Retail Marketing Report by Kenningham Retail. This outlines the marketing history of the site and shows that the unit has been vacant since 10 November 2015 and marketed since that time. It describes the marketing undertaken and the two offers made on the unit, which were subsequently withdrawn following several months of negotiations.

This report has been independently assessed by Carter Jonas to establish if the marketing for the unit was reasonable. They have concluded the marketing campaign undertaken has been rigorous and that, while the rent price asked for is considered high in the context of rental values in this section of Baker Street, this reflects market practice for retail agents (of quoting high both to test the market and allow for some negotiation on offers). They go on to note that the two offers made on the property were below the asking rent.

In light of the assessment made by Carter Jonas and the prolonged period which the unit has been vacant and marketed for, it is considered that it is acceptable to allow the loss of the retail unit and this would be in line with the exception set out in Policy S21.

Due to the unit being vacant for a pro-longed period, it would not be considered that the unit has contributed to the area. Therefore the loss of this retail unit would not be detrimental to the character and function of the area or to the vitality or viability of this shopping frontage or locality.

The loss of the retail unit would lead to a concentration of three or more consecutive non-A1 uses in a row (resulting in four in this location), therefore not complying with UDP Policy SS5. However, the proposed use includes a retail element to the front ground floor and it is considered that this will contribute to the character and function of the area and is considered acceptable in this instance.

Proposed Gym/Retail Use.

The front part of the ground floor will be used as a reception/retail/coffee and juice bar. This area will include retail walls selling products associated with the gym. There is also some seating included in the area to accommodate customers. The applicant advises that the front area is designed to encourage customers and gym users to use the premises, even if not attending a gym session. To ensure that the retail element of the proposal is maintained, a condition is recommended to ensure that the retail displays shown on the approved drawings are maintained for the life of the development.

Policies SOC1 of the UDP and S34 of the City Plan both encourage the provision of new social and community infrastructure, which includes gyms throughout the city at appropriate sites and where they do not harm residential amenity.

Council records indicate that the closest residential properties to the site are located a significant distance away. The closest to the front of the site is at No.71 Baker Street, some 45m away, and the closest at the rear are in Wendover Court, on Chiltern Street.

The applicant has advised that the opening times of the unit will be 06:00 – 23:00 Monday to Friday and 08:00 – 20:00 on Saturdays, Sundays and Bank Holidays with a proposed capacity of 42 users in the gym. Considering the sites location and the lack of residential properties in the proximity, the proposed hours and capacity are considered acceptable and shall be secured by conditions.

Environmental Health have commented on the application and raised no objection to the proposed use subject to conditions restricting noise levels from the use, requiring a sound limiter to be fitted to any amplification equipment and ensuring the design and structure of any separating structures is sufficient to prevent noise transfer.

Accordingly, the proposed use is considered acceptable in this location.

8.2 Townscape and Design

The only design implication of the proposal relates to the replacement of the existing shopfront. The existing shopfront consists of aluminium framed glazing and its removal is considered uncontentious in design terms.

The proposed design shows steel framed windows with glazing bars and aluminium cladding to the shop frontage and fascia. Given that there is little consistency to the design of shopfronts in this group of buildings, and given that the proposed design will relate more successfully to the appearance of the building above, the design of the shopfront is considered acceptable.

The proposed drawings show a large unacceptable projecting sign, which does not form part of the considerations of this application for planning permission and will be subject to a separate application for advertisement consent (still to be submitted).

The proposal is considered compliant with DES 5 of the UDP and is recommended for approval in design terms.

8.3 Residential Amenity

The impact of the proposed use on residential amenity is covered in section 8.1 above.

8.4 Transportation/Parking

The Highways Planning Manager has assessed the application and raised no objection to the change in use subject to cycle parking being provided. For a gym, The London Plan requires 1 space per 8 staff and 1 space per 100sqm of floorspace for visitors. This would require a total of 4 cycle parking spaces. However, given the size limitations of the site and the lack of suitable and accessible areas for such parking, it is not considered that permission could be withheld on these grounds.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

While there are minor alterations to the location of the entrance door on Baker Street, access arrangements will still be the same

8.7 Other UDP/Westminster Policy Considerations

Refuse /Recycling

The Cleansing Officer has assessed the application and noted that the drawings submitted showing waste storage are not in line with the Council recycling and waste storage requirements. Details of correct storage for waste and recycling can be requested by condition.

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.

8.11 Environmental Impact Assessment

Not applicable

8.12 Other Issues

Letters of Support

The applicant has provided a letter of support from The Portman Estate, the freeholders of the unit, with their submission. Furthermore, comments in support have been received from the Baker Street Quarter Partnership and two neighbours on Baker Street and Dorset Street.

9. BACKGROUND PAPERS

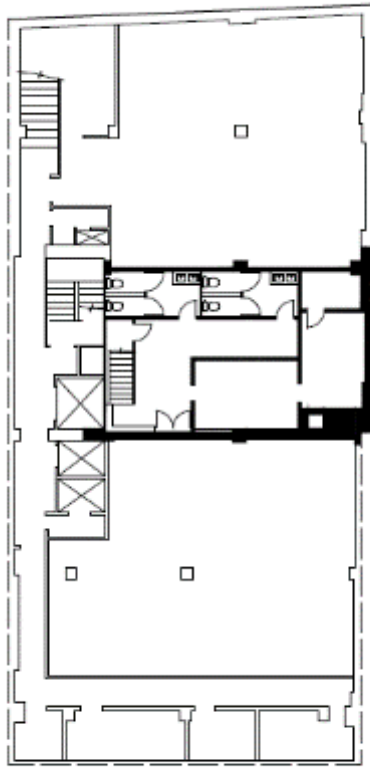
1. Application form
2. Response from Marylebone Association, dated 8 January 2018
3. Response from Cleansing, dated 3 January 2018
4. Response from Highways Planning, dated 7 February 2018
5. Response from Environmental Health, dated 01 May 2018
6. Letter from occupier of 43/45 Dorset Street, London, dated 25 January 2018
7. Letter from occupier of Baker Street Quarter Partnership, 64 Baker Street, dated 22 January 2018
8. Letter from occupier of 7th Floor, 55 Baker Street, dated 26 January 2018
9. Letter from occupier of The Portman Estate, 40 Portman Street, dated 7 December 2017
10. Report by Carter Jonas (excluding Appendix) titled "Advice Relating to the Marketing Viability of 62-64 Baker Street, London, W1j 7DF" dated 16 April 2018

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

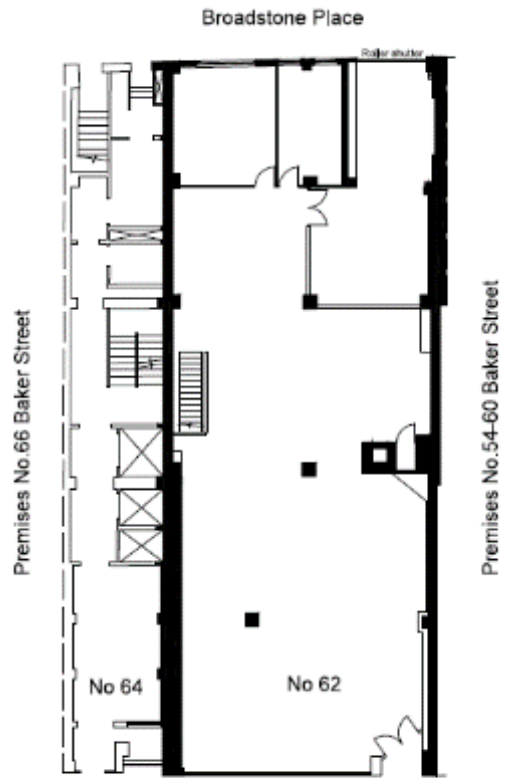
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk

10. KEY DRAWINGS

Existing Basement and Ground Floor Plans

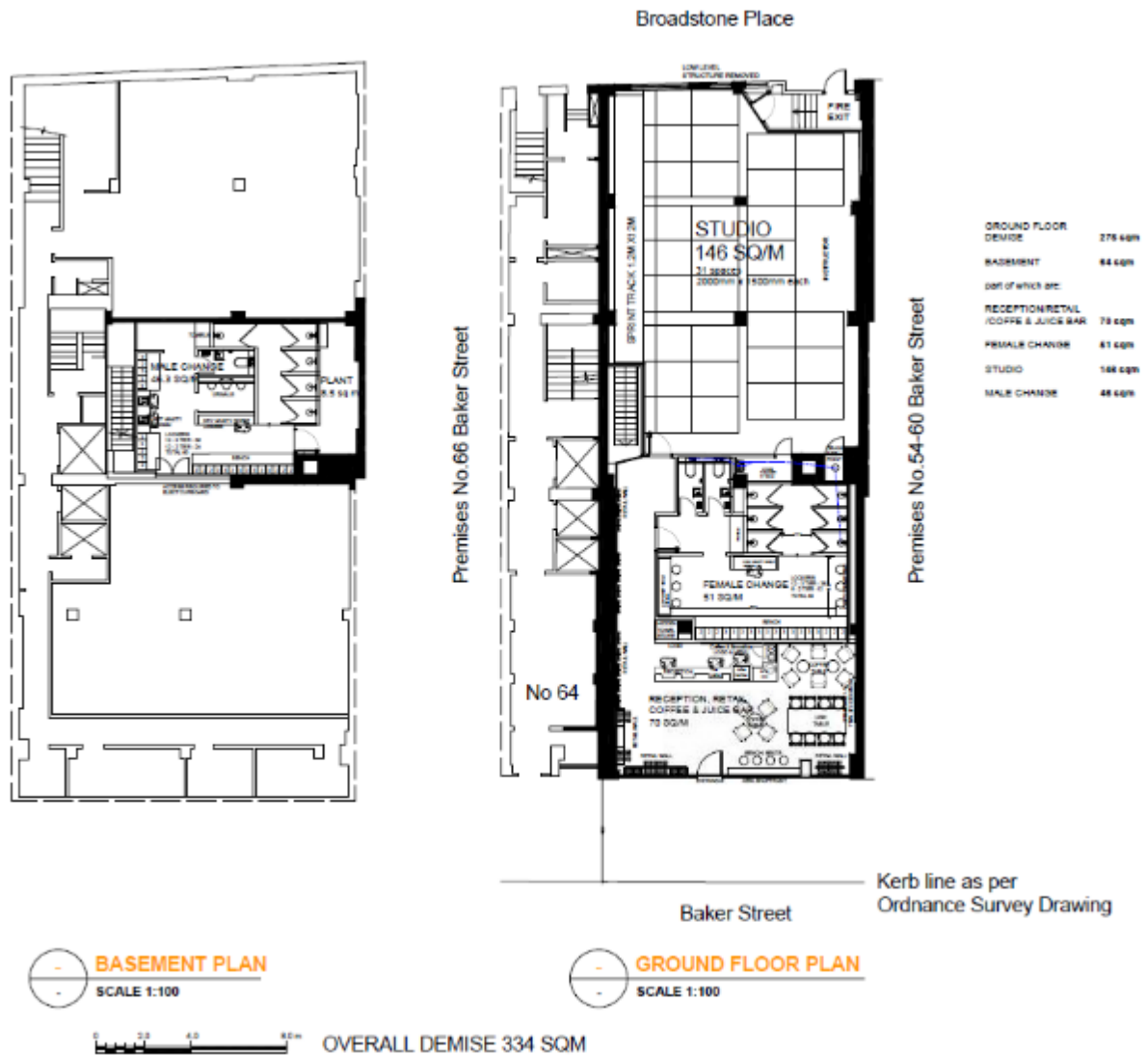


Basement

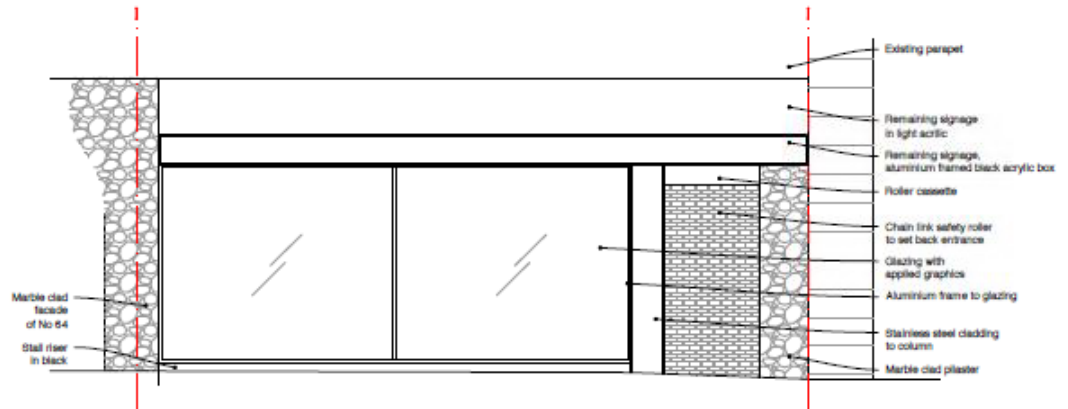


Ground Floor
Baker Street

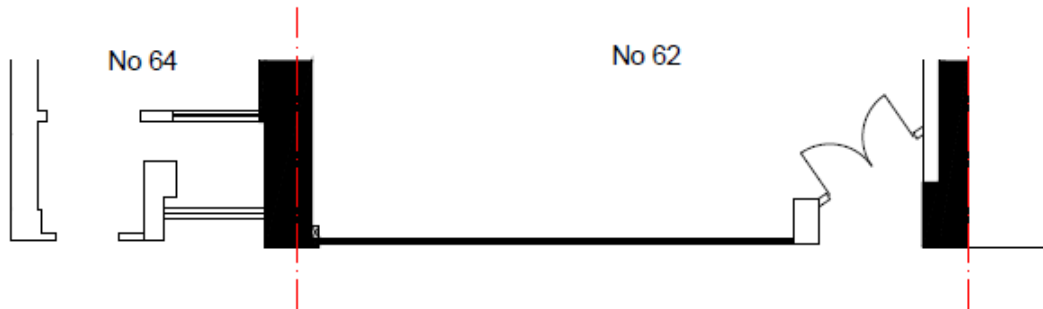
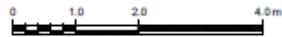
Proposed Basement and Ground Floor Plans



Existing Front Elevation



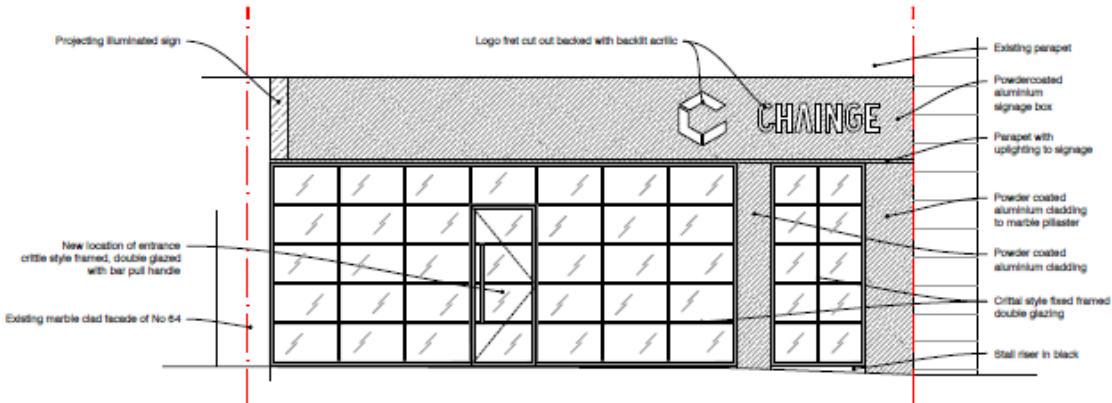
2 EXISTING SHOP FRONT ELEVATION
SCALE 1:50



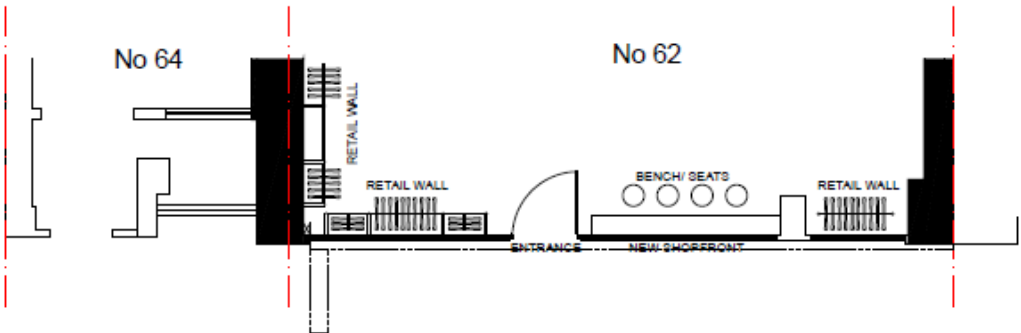
1 EXISTING SHOP FRONT PLAN
SCALE 1:50



Proposed Front Elevation



4 PROPOSED SHOP FRONT ELEVATION
 SCALE 1:50



3 PROPOSED SHOP FRONT PLAN
 SCALE 1:50



DRAFT DECISION LETTER

Address: 62-64 Baker Street, London, W1U 7DF,

Proposal: Use of ground floor and part basement as a gym with juice and coffee bar (sui generis). Installation of new shopfront

Reference: 17/10950/FULL

Plan Nos: Z650-00-101 ; Z650-00-100-02 Rev. A

Case Officer: Adam Jones

Direct Tel. No. 020 7641 1446

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

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

- o between 08.00 and 18.00 Monday to Friday; and
- o 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 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 the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 4 You must provide and maintain for the life of the development the retail displays of products for sale on the walls (labelled as "Retail Wall") and Coffee and Smoothie counter area within the gym/retail use unit hereby approved and as shown on drawing Z650-00-100-02 Revision A.

Reason:

To protect the retail character of the unit and ensure that a retail display is maintained to accord with S21 of Westminster's City Plan (November 2016) and SS 5 of our Unitary Development Plan that we adopted in January 2007.

- 5 Customers shall not be permitted within the premises before 06:00 or after 23:00 on Monday to Friday (not including bank holidays and public holidays) and before 08:00 or after 20:00 on Saturdays, Sundays, bank holidays and public holidays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and SOC 1 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 6 You must not allow more than 42 gym users in the approved studio area (as labelled on drawing Z650-00-100-02 Revision A) at any one time

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet SOC 1 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 7 The design of the separating structures should be such that all noise generated by the proposed new development (including noise from general operations, gym equipment, internal plant and equipment, amplified sound and music etc.) In terms of LAeq,5mins should be demonstrated to be 10 dB below the existing background noise level measured in terms of LA90,5mins inside existing premises with party wall connections. The background noise level used in the assessment should be representative of the most sensitive times (quietest) at which the new development is in operation (and generating noise). For music noise; the indices of Leq and LFmax in the octave bands 31.5 Hz, 63 Hz and 125 Hz should also be demonstrated to be 10 dB below the existing background noise level measured in terms of L90,5mins (31.5Hz, 63Hz, 125Hz) inside the existing premises with party wall connections

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)

- 8 A Sound Limiter shall be installed and set by a competent acoustic engineer so that it maintains

compliance with the above criteria. All amplification equipment within the development including music generating equipment and fitness instructor's announcement equipment shall be routed and controlled through the sound limiter. The operational panel of the noise limiter shall be secured by key or password so that only persons with management responsibility have access. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

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)

- 9 The design of the separating structures (including the gym flooring) should be such that the received maximum noise levels generated by the proposed new development in terms of LAFmax should be demonstrated not to exceed the NR 15 curve inside the existing premises with party wall connections.

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)

- 10 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 commence the use 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 unit.

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)

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 are advised that the projecting sign shown on the approved drawings is not approved under this permission. Separate advert consent will be required for any advertisements shown. You must note that the large projecting sign currently shown is likely to be highly contentious and to not receive support from the Council. Any future advert application should have a smaller projecting sign in line with our supplementary guidance on adverts.

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.