

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 22 May 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	2 Monck Street, London, SW1P 2BQ,		
Proposal	Use of ground floor commercial unit 2 for Class A1 (Shop), A2 (Financial and Professional), A3 (Food and Drink), B1 (Office), D1 (Non Residential Institution) or D2 (for gym/exercise class only). Use of Unit 1 within either Class A1, A2, A3, B1, D1, sui generis marketing suite (temporary use for 3 years) or D2 (gymnasium use only).		
Agent	MR STUART BLAKLEY		
On behalf of	Taylor Wimpey Central London		
Registered Number	18/00387/FULL	Date amended/ completed	26 January 2018
Date Application Received	16 January 2018		
Historic Building Grade	Unlisted		
Conservation Area	No		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application site comprises two ground floor commercial units (Units 1 & 2) located on Monck Street. The commercial units form part of the recently constructed Westminster Quarter development that provides a further two ground floor commercial units and 102 residential flats on the upper floors.

The application site is located in the Core Central Activities Zone. The north end of Monck Street is characterised by mixed use buildings with commercial uses at ground floor level and residential flats above. The commercial uses that currently exist on Monck Street include a Tesco Express (Class A1) and B1 offices.

Under the 2014 permission for this development the ground floor commercial units can be used for a wide range of uses within Class A1 (Shop), Class A2 (Financial and Professional Services), Class A3 (Food and Drink), Class B1 (Office), and/or Class D1 (Non Residential Institution). In addition Unit 1 can also be used as a sales and marketing suite for three years until January 2020.

Unit 1 is currently in use as a sales and marketing suite for the residential flats (sui generis) whereas

Unit 2 is currently vacant. The applicant advises that Units 3 and 4 are to let as a crèche (Class D1).

Permission is sought to allow the use of Unit 1 (119sqm) and Unit 2 (103sqm) for Class D2 use for gym/exercise classes only. This would be in addition to the other permitted alternative uses set out above. The application does not include details of a named operator for the Class D2 gym/exercise class. As originally submitted it was proposed to introduce a Class D2 use to all four commercial units however the scheme was subsequently amended to apply to Units 1 and 2 only.

The application has attracted a number of objections from residents who live opposite the site in Bentinck House, Cavendish House, Pelham House and Vestry Court on Monck Street. Their objections principally relate to noise and disturbance from the gym use and to highway concerns.

The use of Units 1 and 2 for Class A1 (Shop), A2 (Financial and Professional), A3 (Food and Drink), B1 (Office), D1 (Non Residential Institution) or sui generis marketing suite has already been established by the 2014 permission. Despite the dense character of Monck Street noted by some objectors, the introduction of small scale Class D2 uses is considered acceptable subject to there being no harm to residential amenity or causing any highway issues.

The concerns of local residents about noise and disturbance are noted. However Units 1 and 2 are small and they can already be used for a wide range of commercial uses as set out above. It is considered that a Class D2 use, which is restricted to gymnasium use only, would have a similar impact on local environmental quality as the permitted uses. Furthermore conditions are recommended to restrict the opening times to 10.00 to 22.00 Monday to Friday, 10.00 to 21.00 Saturday and 10.00 to 20.00 on Sundays, Bank Holidays and Public Holidays and to ensure there is no noise outbreak from the commercial units. It is considered that with these conditions the residential amenity of neighbouring residential occupiers, including the future occupiers of the residential flats above, will be protected in terms of policy ENV 6 and ENV 7 of our UDP. The relevant conditions for the Class A1, A2, A3, B1 and D1 uses which were attached to permission ref 14/05687/FULL are repeated as this proposal could be implemented as a standalone permission.

No car parking is provided for the proposed D2 use. The site is within a Controlled Parking Zone which means anyone who does drive to the site will be subject to those controls. Residential Bays are restricted from 0830 till 1830 Monday to Saturday (except Maunsel Street which is 0830 till 2230 Monday to Saturday) with single yellow lines and all other bays restricted from 0830 till 1830 Monday to Friday. Given that the site is well served by public transport the size of the proposal and the parking restrictions in the area it is considered that the trips associated with the site are unlikely to have a significant adverse impact on the public highway or parking in the vicinity of the site.

The site is located within a Controlled Parking Zone, which means that single and double yellow lines outside the site (where restrictions permit) allow loading and unloading to occur. The largest service vehicle expected to be associated with this development is the refuse collection vehicle. Given the proposed use, the servicing requirement is expected to be limited in nature when compared to the other permitted uses. A condition is recommended to secure details of refuse storage for the Units 1 and 2.

The applicant has indicated that up to 20 full time jobs could be created by this proposal. Whilst this figure is no longer accurate given that the scheme now applies to Units 1 and 2 only, the employment that could be generated by this proposal is welcome.

One objector has made reference to the fact that there are other gyms in the area. It is not

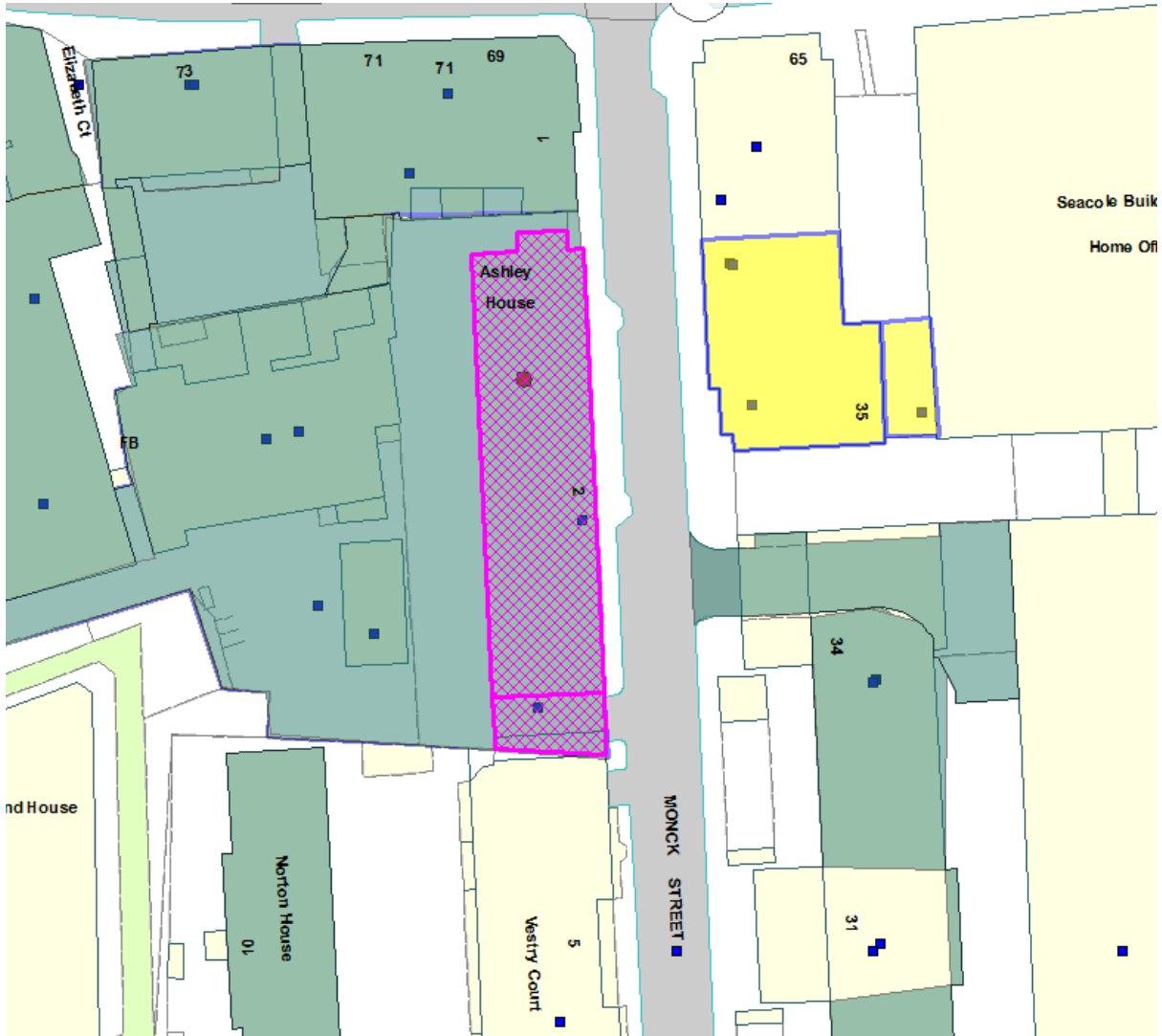
considered that there is an overconcentration of such uses in the locality and as such this is not considered a sustainable reason for refusal.

The application site is located in Flood Zone 3a. The applicant provided a Flood Risk Assessment on 4 April 2018. This is an amended Flood Risk Assessment from the original application in 2014. This document reveals that the proposed D2 use is classed as a less vulnerable use and is therefore compatible with Flood Zone 3a.

One objector makes reference to the proposed A3 use which would be detrimental to the amenity of the area. The A3 use has already been permitted within this site and a refusal on this basis could not be justified against policy.

The reference to bright lights being left on in the building is noted and an informative will be added to the draft decision notice, however, this is a non-planning matter in terms of the assessment of this application.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Ground floor commercial units 2 Monck Street

5. CONSULTATIONS

Thorney Island Society
No objection

Cleansing Manager
No objection subject to a refuse condition.

Highways Planning Manager
No objection

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 300
Total No. of replies: 8
No. of objections: 8
No. in support: 0

The letters of objection raise the following issues:

Amenity

- No details of opening hours provided.
- Upto 20 full time employees would be employed.
- The proposed D2 use would cause noise, traffic, litter and anti-social behaviour.
- Monck Street is densely packed and is not suitable for leisure use.
- Any opening hours should be restricted to 8am-6pm Monday to Saturday and 1pm to 6pm on Sundays.

Highways

- Detrimental impact on parking, traffic and pedestrian safety.

Other

- The application lacked the necessary Flood Risk Assessment.
- There are already gyms provided in the area.
- Bright lights are currently left on in the building.
- The proposed A3 use would be detrimental to the amenity of the area.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 Recent Relevant History

17/08565/FULL

Use of flexible use commercial units 1, 2, 3 and 4 to either Classes A1, A2, A3, B1, D1, D2 or sui generis (marketing suite - temporary for 3 years).
Application Withdrawn 28.11.2017

16/09931/FULL

Use of Unit 1 and part of Unit 2 as a marketing suite (sui generis) for a temporary period of 3 years. Alterations to shop front.
Application Permitted 31.01.2017

14/05687/FULL

Demolition of existing buildings and erection of two replacement buildings comprising a part eight, part seven storey building and a five storey building to provide a total of 103 residential units above 308m² commercial floorspace for either A1 (retail), A2 (financial and professional), A3 (restaurant), B1 (office) or D1 (non residential institution) at ground floor level on Monck Street, with associated basement to provide 56 residential car parking spaces and cycle parking spaces and mechanical plant.
Application Permitted 10.12.2014

15/05573/NMA

Amendments to planning permission dated 10 December 2014 (RN: 14/05687), namely to amend the seventh floor plan to create a 4 bedroom dwelling which would reduce the total number of flats in the development to 102.
Application Permitted 07.07.2015

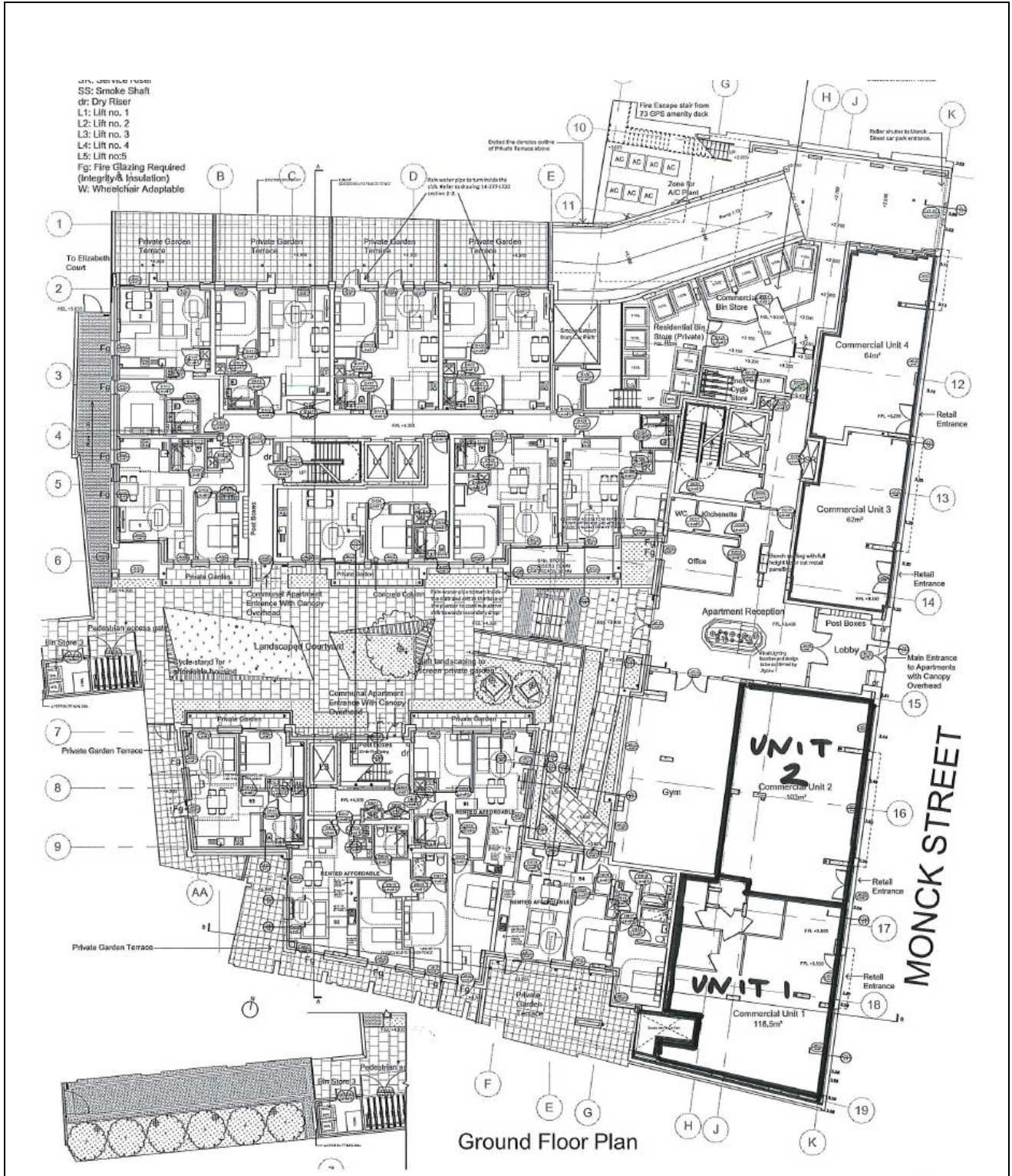
7. BACKGROUND PAPERS

1. Application form
2. Memorandum from Highways Planning Manager dated 9 May 2018.
3. Memorandum from Cleansing Manager dated 26 February 2018.
4. Response from Thorney Island Society, dated 21 February 2018
5. Letter from occupier of 34 Monck Street, London, dated 2 March 2018
6. Letter from occupier of Flat 506 Cavendish House, 31 Monck Street, dated 7 March 2018
7. Letter from occupier of 34 Monck street, London, dated 2 March 2018
8. Letter from occupier of Flat 42, Vestry Court, dated 2 March 2018
9. Letter from occupier of 205 Bentinck House, 34 Monck Street, dated 26 March 2018
10. Letter from occupier of 207 Cavendish House, 31 Monck Street, dated 2 March 2018
11. Letter from occupier of 603 Bentinck House, 34 Monck Street, dated 12 March 2018
12. Letter from occupier of Flat 62 Pelham House, 65 Great Peter Street, dated 3 March 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: MATTHEW MASON BY EMAIL AT mmason@westminster.gov.uk

8. KEY DRAWINGS



DRAFT DECISION LETTER

Address: 2 Monck Street, London, SW1P 2BQ,

Proposal: Use of ground floor commercial unit 2 for Class A1 (Shop), A2 (Financial and Professional), A3 (Food and Drink), B1 (Office), D1 (Non Residential Institution) or D2 (for gym/exercise class only). Use of Unit 1 within either Class A1, A2, A3, B1, D1, sui generis marketing suite (temporary use for 3 years) or D2 (gym/exercise class only).

Reference: 18/00387/FULL

Plan Nos: Flood Risk Assessment,

Case Officer: Matthew Mason

Direct Tel. No. 020 7641 2926

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 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 occupy the premises for Class A1, Class A2, Class A3, Class B1, Class D1 (Non Residential Institution) or Class D2 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 commercial units. (C14EC)

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)

- 4 Notwithstanding the provisions of Class A1 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) the Class A1 retail accommodation hereby approved shall not be used as a food retail supermarket.

Reason:

Insufficient information has been provided to assess the impact from a food retail supermarket on public safety, the free flow of traffic and residential amenity. This is as set out in S29, S32 and S41 of Westminster's City Plan (November 2016) and ENV 6, TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007.

- 5 Notwithstanding the provisions of Class D1 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) the non residential use hereby approved shall not be used as a Needle Exchange Clinic or Place of Worship.

Reason:

To prevent a use that would be harmful to residential amenity or detrimental to highway safety. In the interests of public safety, to avoid blocking the road and to protect residential amenity. This is as set out in S29, S32 and S41 of Westminster's City Plan (November 2016) and ENV 6, TRANS 2, TRANS 3 and TRANS 20 of our Unitary Development Plan that we adopted in January 2007.

- 6 Notwithstanding the provisions of 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) the assembly and leisure use hereby approved shall only be a gymnasium use only.

Reason:

To prevent a use that would be harmful to residential amenity or detrimental to highway safety. In the interests of public safety, to avoid blocking the road and to protect residential amenity. This is as set out in S29, S32 and S41 of Westminster's City Plan (November 2016) and ENV 6, TRANS 2, TRANS 3 and TRANS 20 of our Unitary Development Plan that we adopted in January 2007.

- 7 In the event that the ground floor commercial unit is occupied for Class A3 purposes, you must apply to us for approval of detailed drawings showing the external appearance of the kitchen extract ventilation system. You must not cook raw or fresh food within any Class A3 use until we have approved what you have sent us. Thereafter you must carry out the work according to these details and the kitchen extract ventilation system shall be retained and maintained for as long as the Class A3 unit is in place.

Reason:

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in S24 and S29 of Westminster's City Plan (November 2016) and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 8 In the event that a ground floor commercial unit is used for Class A3 purposes, customers shall not be permitted within the Class A3 restaurant premises before 0730 or after 2300 Monday to Saturday and before 0800 or after 22.30 on 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 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 In the event that a ground floor commercial unit is used as a gymnasium within Class D2 customers shall not be permitted within the gymnasium before 10.00 or after 22.00 Monday to Friday, 10.00 to 21.00 Saturday and before 10.00 or after 20.00 on 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 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 10 Kitchen extract equipment approved under Condition 7 to control the emission of fumes and smells from the premises shall be operated at all times when cooking is taking place but not outside the hours of 07.30 to 2300 Monday to Saturday or before 0800 or after 22.30 on, Sundays, Bank Holidays and Public Holidays.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007.

- 11 (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 Class D2 (gymnasium) 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 Class D2 (gymnasium) 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, 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: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels.

- 12 (1) Where noise emitted from any plant and machinery associated with the kitchen extractor equipment approved under condition 7 of this permission 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 any plant and machinery associated with the kitchen extractor equipment approved under condition 7 of this permission 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 any plant and machinery associated with the kitchen extractor equipment approved under condition 7 of this permission, 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 (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.

- 13 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.

- 14 You must apply to us for approval of details of a supplementary acoustic report demonstrating that any plant and machinery associated with the kitchen extractor equipment approved under Condition 7 of this permission will comply with the Council's noise criteria as set out in Condition 12 of this permission. You must not operate any kitchen extract equipment approved under Condition 7 of this permission until we have approved what you have sent us.

Reason:

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

- 15 The marketing suite (sui generis) use allowed by this permission can continue until 31 January 2020. After that the land must return to its previous condition and use. (C03AA)

Reason

The use is not as set out in S20, S21 and S34 of Westminster's City Plan (November 2016). Use for more than a limited three year period would be harmful to the objectives of the Plan. (R03AB)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have

made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please make sure that the lighting in the building is designed so that it does not cause any nuisance for neighbours at night. If a neighbour considers that the lighting is causing them a nuisance, they can ask us to take action to stop the nuisance (under section 102 of the Clean Neighbourhoods and Environment Act 2005). (I39AA)
- 3 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Units 1 and 2 can change between the Class A1, A2, A3, B1, D1 or D2 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)

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.