

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 16 October 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved Lancaster Gate	
Subject of Report	37-41 Westbourne Grove, London, W2 4UA,		
Proposal	Use of the ground floor for mixed use (Use Class D2 (Assembly and Leisure) /Class A1 (retail), comprising of a spin studio, changing and shower facilities, a cafe/energy kitchen and retail area.		
Agent	Mr John Mumby		
On behalf of	C/O Agent		
Registered Number	17/09491/FULL	Date amended/ completed	25 October 2017
Date Application Received	25 October 2017		
Historic Building Grade	Unlisted		
Conservation Area	Westbourne		

1. RECOMMENDATION

Refuse permission – loss of retail (Class A1) and insufficient information relating to impact of means of ventilation on design of shopfront and amenity of nearby residents.

2. SUMMARY

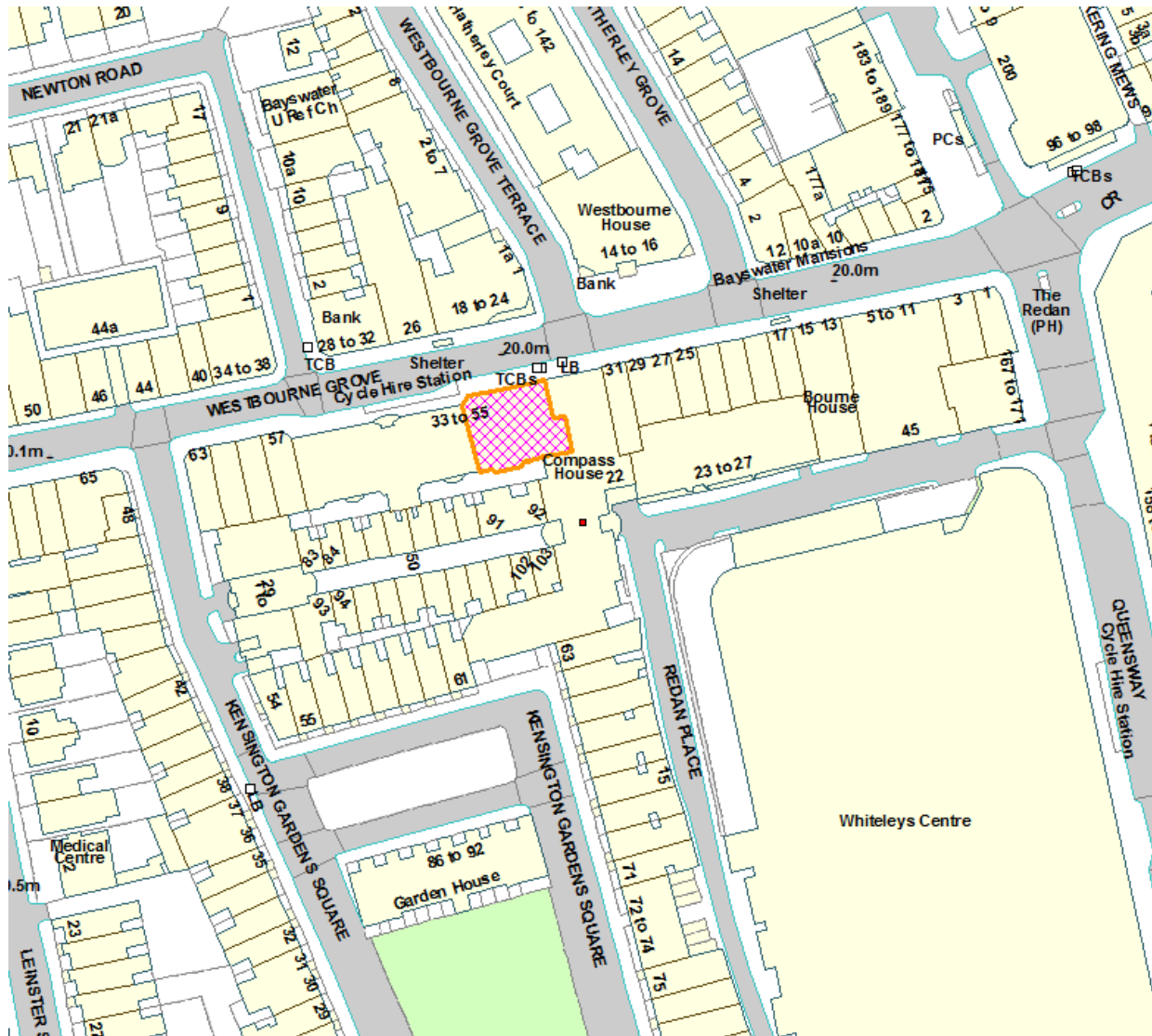
Permission is sought to use the vacant retail (Class A1) floor spaces as a mixed use (Class D2/Class A1), comprising of a spin studio, changing and shower facilities, a café/energy kitchen and a retail area.

An objection has been received from the South East Bayswater Residents Association to the loss of retail and loss of vitality within the Queensway/Westbourne Grove Shopping District. The freeholder of the site has written in support.

The proposal would result in the loss of viable retail (Class A1) floor space, of detriment to the viability and vitality and character and appearance of the Queensway/Westbourne Grove District Shopping Centre.

This is contrary to policy SS6 of the Unitary Development Plan that we adopted January 2007(UDP) and policies S13 and S21 of Westminster's City Plan (November 2016) (the City Plan). Furthermore, insufficient information has been submitted with respect to ventilation and potential changes required to the shopfront. As such, it is recommended that permission be refused.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Front elevation (top) and rear elevation (from Redan Place) (bottom)



Photos of the inside of the triple unit, showing each of three areas with dividing walls

5. CONSULTATIONS

SOUTH EAST BAYSWATER RESIDENTS ASSOCIATION

- Object - detrimental to the District Shopping Centre and the vitality of A1 retail use in Westbourne Grove
- The internal layout towards the front of the unit includes a bike rack in the shop window area which is taking up A1 space
- The unit could be marketed as 3 individual units or other configuration

BAYSWATER RESIDENTS ASSOCIATION

Any response to be reported verbally

HIGHWAYS PLANNING MANAGER

No objection; subject to a condition to secure cycle parking spaces.

WASTE PROJECT OFFICER

No objection subject to a condition requiring a revised plan to be submitted indicating proposals for storage of residual waste and recyclable materials

ENVIRONMENTAL HEALTH OFFICER

No objection subject to further details relating to noise mitigation via condition and other standard conditions relating to noise and vibration.

DESIGNING OUT CRIME

Any response to be reported verbally

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 99

Total No. of replies: 1

A letter of support has been received on behalf of the owner of the site:

- Development accords with the physical requirements of the development plan to retain an active shopfront
- Comprises a retail function already fronting onto Westbourne Grove that will help to retain the established use.
- Due to the long term vacancy a proactive approach should be taken
- The vacancy of the unit has a negative impact on the shopping centre from both a customer and operator perspective
- The premises have been actively marketed to a range of potential retail operators.
- Nothing in the relevant policies that requires an applicant to look to sub-divide or reconfigure the floorspace in order to secure its re-occupation.
- No evidence of harm to the vitality and viability of the Centre as a result of the proposed change of use.
- Development is a mixed use that includes a retail function within the front area of the premises, therefore will have an active frontage

- Westminster City Council has previously supported applications for changes of use that retain a retail function at ground floor and active shopfront. Eg 16 Baker Street: permission was granted from retail to mixed use including retain and gym (Classes A1 and D2) (Planning ref: 16/08165/FULL).

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

No. 37-41 Westbourne Grove comprises of a retail (Class A1 unit) with residential above and to the rear. The application relates to the ground floor large retail unit located in the Queensway/Westbourne Grove Shopping Centre (Core Frontage). The site is also located within the Queensway Stress Area and the Westbourne Conservation Area. The unit is currently vacant, with the most recent occupiers being the furniture shop 'Gautier'. The 400m² ground floor unit would have originally been three separate units. There is off street servicing access to the unit from the rear, via Redan Place.

6.2 Recent Relevant History

17/03710/FULL

Use as a mixed Class D2/A1 (sui generis use) comprising an exercise studio with 49 bikes, changing and shower facilities, a café /energy kitchen and a clothing and retail area.

Application Refused 18 October 2017

This application was refused for the following reason:

1. The proposed development would result in the loss of a retail shop (Class A1) unit within the Core Frontage of the Queensway/ Westbourne Grove District Shopping Centre. This would reduce the range of shopping facilities, reducing the attractiveness of the centre to shoppers, and would be detrimental to the vitality, character and function of the shopping centre, contrary to Policy SS6 of the Unitary Development Plan that we adopted January 2007 and Policies S13 and S21 of Westminster's City Plan (November 2016).

7. THE PROPOSAL

Planning permission is sought to change the use of the ground floor vacant retail (Class A1) floor space to a mixed use comprising of a spin studio with changing and shower facilities and a café/energy kitchen and retail area.

The majority of the proposed floor space is proposed to be for the exercise studio, with associated changing, shower, office, reception and storage facilities situated towards the rear section of the site, measuring approximately 325sqm. The main exercise studio is to accommodate 51 exercise bikes for the spinning studio 'Psyche', who are the proposed operators for this use. Towards front of the site is to be a café/energy kitchen and retail area, measuring approximately 74.2sqm.

This will provide a café area with tables, which will provide energy drinks, associated with the exercise studio and a retail shop area which will sell items associated with the exercise studio. There is also a cycle stand proposed within the frontage, which will provide space for five bicycles.

The proposed opening hours of the unit are between 06.00 hours and 21.30 hours every day, including weekends and bank holidays.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of retail use (Class A1)

Impact on shopping centre

The proposal would result in the loss of 400m² of retail floorspace (Class A1) from the Queensway/Westbourne Grove District Shopping Centre (Core Frontage).

Policy SS6 states that within Core Frontages at ground floor level, proposals for, non-A1 town centre uses will only be permitted where the proposals would not harm the vitality or viability, or character or function of the parade, Core Frontage or the centre. In addition:

1. The total length of Core Frontage in non-A1 use at ground floor level must not exceed 25% in Queensway/Westbourne Grove District Centre.
2. The proposal must not lead to, or add to, a concentration of non-A1 units in any individual frontage or parade.
3. The proposal must not result in more than two non-A1 units located consecutively in a frontage.
4. The proposal must not reduce the range of local convenience shops or shopping facilities, or reduce the attractiveness of the centre to shoppers.

Policy S21 of the City Plan explicitly states that existing A1 retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let.

In this case, it is the Council's view that the proposal would fail to meet all of the above criteria. The loss of such a significant amount of retail floor space within a Core Frontage of a District Shopping Centre would inevitably harm the vitality, viability, character, and function of this centre. It would add to the concentration of non-A1 uses, resulting in more than three consecutive non-A1 uses in the secondary frontage, which already exceeds 25%, being closer to 40% non-retail, and would result in the loss of a unit last used as a retail furniture shop (Gautier).

In considering UDP policy SS6, taking into account the whole of this District Shopping Centre, the City Council's shopping survey indicates that this shopping centre already exceeds the 25% threshold for non-A1 uses at ground floor, with it currently being approximately 40% non-retail.

The existing retail unit is a large unit comprising of over 400m² of floor space, all provided at ground floor level. By virtue its size, the unit holds a prominent location on Westbourne Grove, occupying a frontage spanning the equivalent of three shop units.

The premises occupy what had originally been three separate units and so the proposal would result in the loss of more than two non-A1 units located consecutively in a frontage. The proposal does however also include an element of ancillary floor space towards the frontage of the premises includes a 'retail area', a reception area and an 'energy' kitchen, which is annotated as measuring 87sqm.

On this particular stretch of the south side of Westbourne Grove, from the junction with Queensway and the Kensington Gardens Square, there are 23 units at ground floor, (at odd numbers 1-63 inclusive) most of which are single units. However, there are also some double and triple units that have shop frontages. This does not include premises at 11 Westbourne Grove which provides access to offices above at upper floor levels of 5-11 Westbourne Grove, and also at 47-49 Westbourne Grove which provides access to residential flats above. Not including the application premises at 37-41 Westbourne Grove, of the remaining 22 units, only 8 units are A1 units. If the current application for the change of use of 37-41 Westbourne Grove was permitted then this would mean that there are 9 units out of 23 that are A1, resulting in only 39% of the units in A1 use.

As stated previously, some units are double units, including No. 5-7; No. 21-23; and No. 43-45 Westbourne Grove; and the application premises is a triple unit at No. 37-41. If considering the number of *units* that are in this block, then there are 29 units, with currently 14 out of 29 in use as A1 retail, being 48%. However, on the basis of number of units, if the current change of use of No. 37-41 is permitted, this would reduce the A1 units to 38%; or to consider it the other way: 62% of the units would be non-retail.

This illustrates that there would be a larger percentage of non-retail units within this particular block within the Queensway/Westbourne Grove District Shopping Centre. Consequently, it is considered that the proposal adds significantly to a concentration of non-A1 units in this this particular individual frontage or parade.

The application site is a triple unit, and it is considered that this large expanse of frontage as a result would count as more than two consecutive non-retail units. This is notwithstanding that the proposal also includes a small area of ancillary A1 use within the frontage of the premises. There are several consecutive units which are within non-retail use within this stretch on the south side of Westbourne Grove:

19 Westbourne Grove - 'Arancina' - Italian Restaurant
21-23 Westbourne Grove - The Banana Tree Canteen - Indo-Chinese Restaurant
25 Westbourne Grove - 'Fresco' - Lebanese Restaurant
27 Westbourne Grove - 'Sadaf' - Middle - Eastern Restaurant
27 Westbourne Grove - 'Tiroler Hut' - Austrian Restaurant
31 Westbourne Grove - 'Lokkanta' - Turkish Restaurant

This highlights that there are already 6 consecutive non-retail uses within this stretch of Westbourne Grove, including a double unit. These are only a few doors away from the application unit at 37-41 Westbourne Grove. The adjoining unit at no. 35 is a laundrette.

If the current proposal is permitted, there would only be one retail unit amongst nine consecutive units, and that is not taking into consideration that there is a double unit and a triple unit within that group of units. Consequently, the proposal would exacerbate the existing concentration of non-retail uses within this parade on Westbourne Grove.

The proposal would result in the loss of a retail shop unit, failing to comply with policy SS6 of the UDP, which states that any proposal should not reduce the range of local shopping facilities, or reduce the attractiveness of the centre to shoppers. The proposed A1 floor space shown on the submitted plans is to be ancillary to the gym use, - with the intention to provide clothing likely to be related to the gym, - as will the proposed 'energy kitchen'. These facilities are more likely to be used by those using the gym rather than attract other independent shoppers. Furthermore, despite the retail/café/energy kitchen unit it being along the whole of the frontage of the shop, it includes a cycle store for five spaces (in pursuance of the cycle parking standards) and so measures only 72.2sqm of the 400sqm, which accounts for only 18% of the whole floor area.

As such, the proposal is contrary to policy SS6.

Policy S13 of the City Plan relates to areas outside the Central Activities Zone (CAZ) and North Westminster Economic Development Area (NWEDA) and clearly states that the Queensway/Westbourne Grove Major Shopping Centre will be maintained and enhanced by securing retail growth and improved retail space, and ensuring that A1 retail provision is the priority within Core Shopping Frontages. The proposal would result in the loss of a large retail unit.

For the above reasons the proposed loss of Retail (Class A1) would further reduce the range of shopping facilities and reduce the attractiveness of the centre to shoppers, which is exacerbated by the loss of a large unit located amongst a parade of already significantly reduced retail provision. As such, the proposed loss of Retail (Class A1) is unacceptable and contrary to policy SS6 of the UDP and S21 of the City Plan. This view is supported by the South East Bayswater Residents' Association, who also consider the proposal detrimental to the Queensway/Westbourne Grove shopping centre.

Viability of retail use

Notwithstanding the above, policy S21 of our City Plan states that existing retail (Class A1) uses will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let. In this case, the unit at 37-41 Westbourne Grove has been vacant since February 2016. The application is accompanied by a marketing report by Nash Bond in support of the change of use from retail to spin studio and associated retail and café/energy kitchen.

The report has been independently assessed on behalf of the City Council by HRH Retail. It is accepted that the premises have been marketed by Nash Bond for a continuous period of 18 months, with marketing of the unit commencing in May 2016.

It is also accepted that a large 400sqm unit is unviable in this location.

However, the premises would be attractive to a retail operator if the unit was sub-divided as there is demand for smaller units in this area. HRH also consider that it is possible that the unit could easily be subdivided into smaller, better configured units, and that the cost would be a viable proposition.

Given the conclusion of the independent Consultant that the unit would be viable as smaller retail class A1 units, the loss of retail floor space is unacceptable and contrary to policy. Consequently, the proposal is contrary to policy S21 as insufficient justification has been provided to allow the loss of retail on viability grounds.

Proposed Exercise Studio/Gym use (Class D2)

Notwithstanding the unacceptable loss of retail (Class A1), were its loss have been considered acceptable, then a spin studio would be an appropriate town centre use in land use terms.

Other examples put forward by the owner of the site

The owner of the application site has put forward examples of other cases where loss of retail has been permitted, including the Whiteleys development and at Baker Street. However, these cases are not considered to be comparable and therefore are not material considerations for this proposal.

Land use conclusion

The proposed loss of viable retail (Class A1) floor space within the Queensway/Westbourne Grove District Shopping Centre (Core Frontage) is detrimental to the vitality and viability and character and function of the Queensway/Westbourne Grove District Shopping District, contrary to policies SS6 of our UDP and S13 and S21 of our City Plan.

8.2 Townscape and Design

No external alterations are proposed as part of this application, although an indicative shopfront elevation has been submitted for illustrative purposes only. This indicated external louvres with the shopfront for ventilation of the premises. As this does not form part of the application and in the absence of sufficient details, it is not possible to make a full assessment of the potential impact on the street frontage and the Conservation Area.

As the property is located within the Westbourne Conservation Area, the character and appearance of the shopfront would be required to preserve or enhance the character of the conservation area. It is expected that louvres and or other measures are likely to be required for ventilation of internal mechanical plant, especially given the nature of the use. However insufficient information has been submitted to demonstrate that any measures affecting the exterior of the building would not result in harm to the character and appearance of the building or conservation area as required by UDP policies DES1, DES 5 and DES 9 and City Plan policies S25 and S28 as well as Westminster's our 'Supplementary Planning Guidance: Shopfronts, Blinds and Signs - A Guide to their Design.' (1993).

8.3 Mechanical Plant and Residential Amenity

It is proposed to install all mechanical equipment internally. Whilst installation of internal plant does not require planning permission, external manifestations, such as louvres, inlets and outlets, require planning permission and a full assessment in noise and visual amenity terms. The applicant has submitted a noise report which indicates that proposed plant is likely to meet our standard noise conditions. However, in the absence of full details of the associated required external alterations to the shopfront (louvres, inlet/outlet etc.) it is not possible to fully assessment this element of the proposal. The design and noise implications are intrinsically linked and require a holistic assessment.

There are residential properties directly above the premises and towards the rear of the site. The proposed use of the premises as an exercise studio would have potential noise from music and human voices, whether amplified or non-amplified. Although the applicant is proposing to operate as a spinning studio, primarily using exercise bikes, consideration would have to be made to the possibility of a different operator who may wish to use the premises for a more conventional gym which may include equipment which would produce greater noise emanation.

The application is accompanied by a Noise Impact Assessment, which has been considered by the City Council's Environmental Health Officer. The report has proposed certain mitigating measures to minimise noise and vibration transmission to residential units above; including the installation of an acoustic ceiling; enhancing external wall lining with columns of given dimensions; mounting all equipment on independent AV mounts with an isolation efficiency of at least 90%; and all access points to be provided with high quality acoustic doors. The Environmental Health Officer has no objection to the proposal, subject to conditions, and it is considered that there would not be a harmful impact on neighbouring residential amenities as a result of noise from the use of the premises as an spin studio.

The proposed opening hours of for the gym applied for are from 6.00am until 9.30pm every day. However given the proximity of residential properties directly above, it is considered that a more appropriate opening time would be 6.30am. This could be controlled by condition.

As other uses within the Class D2 use classes very varied and have the potential to have adverse impact on residential amenity, traffic and transport, a restriction on permitted development to change uses and use classes would be appropriate in this case.

8.4 Transportation/Parking

The proposed ground floor plan shows that there is to be proposed cycle stand for 5 spaces within the front of the unit. The Highways Planning Manager confirms that this meets the requirements for cycle parking for this use as required by the London Plan standards. However, it is considered to be more appropriate to locate the cycle parking provision towards the rear of the site, rather than in the shopfront. This could be required by condition.

There is an existing off-street servicing yard at the rear, accessed via Redan Place, which will be sufficient to serve the proposal and could be secured by condition.

Details of waste and recycling would be secured by condition.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size

8.6 Access

No changes are proposed.

8.7 Other UDP/Westminster Policy Considerations

The implications of the revisions to the City Plan for the development subject of this report are outlined elsewhere in the report

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.

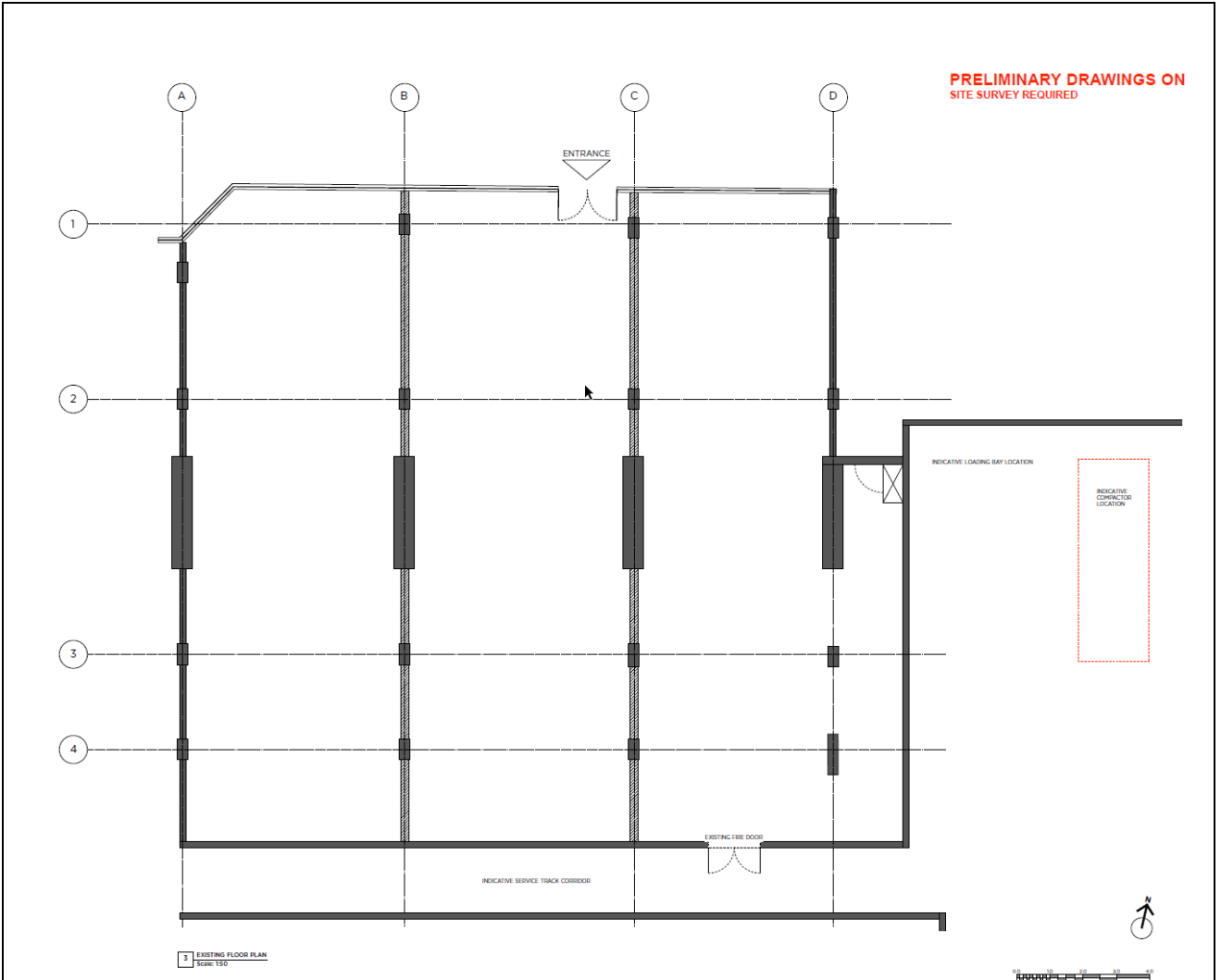
8.11 Environmental Impact Assessment

Environmental Impact Assessment is not relevant in the determination of this application.

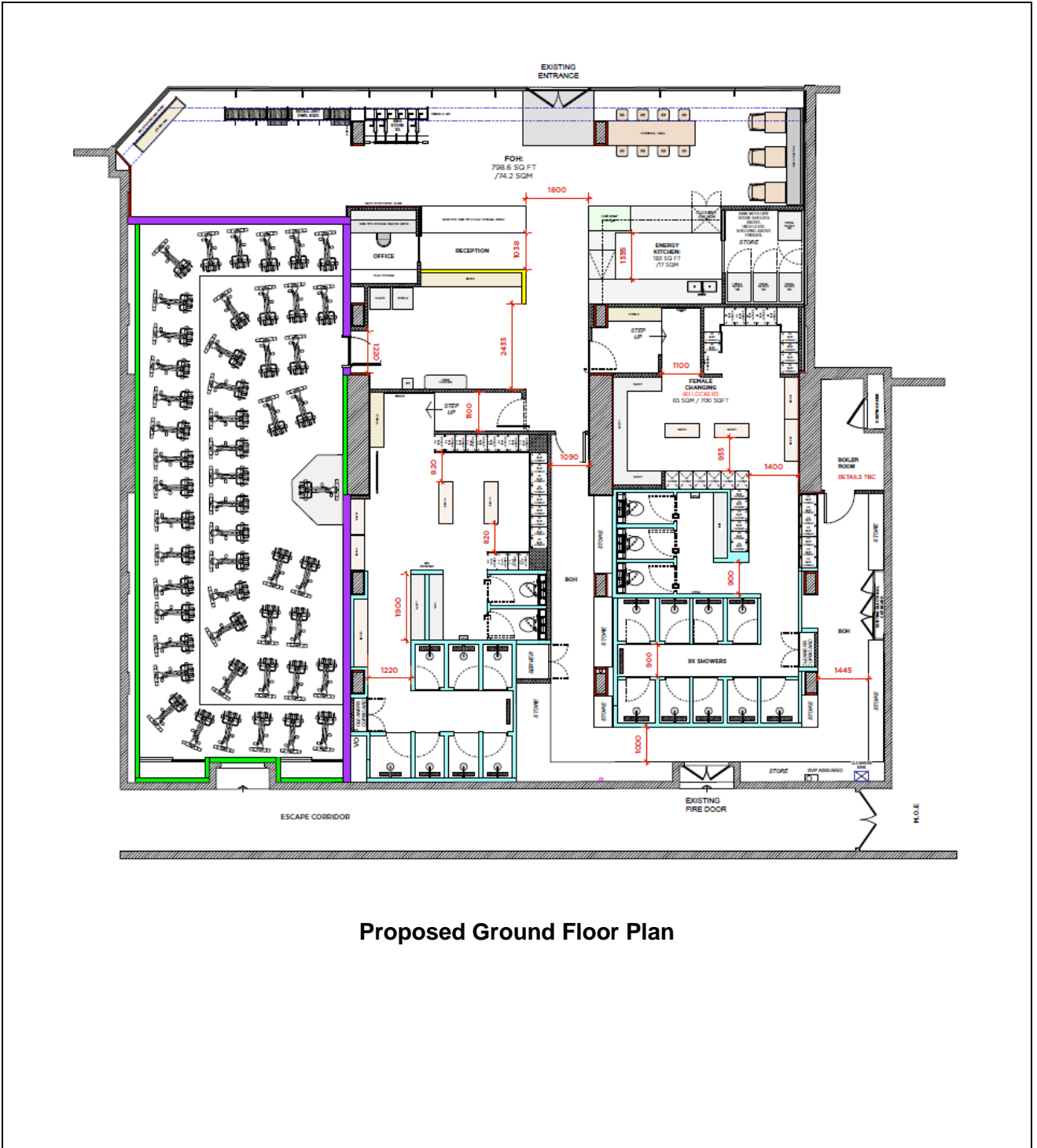
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT swhitnall@westminster.gov.uk

9. KEY DRAWINGS



Existing Ground Floor Plan



Proposed Ground Floor Plan

DRAFT DECISION LETTER

Address: 37-41 Westbourne Grove, London, W2 4UA,

Proposal: Use of the ground floor as a mixed (Class D2/Class A1), comprising of an exercise studio, changing and shower facilities, a cafe/energy kitchen and retail area.

Reference: 17/09491/FULL

Plan Nos: 1000; 1100 Rev A; 3000; 6000; Noise Impact Assessment dated 02/05/2017; Planning Statement dated October 2017; Letter of response from agent to independent review dated 9 May 2018;

Case Officer: Avani Raven

Direct Tel. No. 020 7641 2857

Recommended Condition(s) and Reason(s)

- Reason:
- 1 The proposed development would result in the loss of a retail shop (Class A1) unit within the Core Frontage of the Queensway/ Westbourne Grove District Shopping Centre. This would reduce the range of shopping facilities, reducing the attractiveness of the centre to shoppers, and would be detrimental to the vitality, character and function of the shopping centre, contrary to Policy SS6 of the Unitary Development Plan that we adopted January 2007 and Policies S13 and S21 of Westminster's City Plan (November 2016).
- Reason:
- 2 Insufficient information has been submitted to demonstrate that the proposal would not lead to unacceptable noise nuisance as any required alterations to any proposed new shopfront required to mitigate the impact of noise may be harmful to the character and appearance of the building and may fail to maintain or improve (preserve or enhance) the character and appearance of the Westbourne Conservation Area. This is contrary to DES 5, DES 9, DES 1 and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007 and the advice in our 'Supplementary Planning Guidance: Shopfronts, Blinds and Signs - A Guide to their Design.' (1993)

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 so far as practicable. 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. However, we have been unable to seek solutions to problems as the principle of the proposal is clearly contrary to our statutory policies and negotiation could not overcome the reasons for refusal.

Item No.
3

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.

BACKGROUND PAPERS - 37-41 Westbourne Grove, London, W2 4UA, 17/09491/FULL

1. Application form
2. Response from South East Bayswater Residents Association, dated 28 December 2017
3. Response from Waste Project Officer - Development Planning, dated 13 November 2017
4. Response from Highways Planning - Development Planning, dated 20 December 2017
5. Response from EH Consultation, dated 8 February 2018
6. Letter from Savills on behalf of owner of application site, dated 21 March 2018