

Item No.
3

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 7 January 2020	Classification For General Release	
Report of Executive Director Growth Planning and Housing		Ward(s) involved West End	
Subject of Report	Development site at 37-41 Great Titchfield Street, 42-50 Mortimer Street and 1A Little Titchfield Street, London, W1		
Proposal	Restoration of ground floor shopfronts, internal alterations across ground and lower ground floor and the installation of comfort cooling within central lightwell at first floor level (within new plant enclosure) and ventilation ducts within ground floor lightwell. Use of lower ground floor of 44 Mortimer Street and rear ground floor of 44 Mortimer Street (Little Titchfield Street frontage), as flexible/alternative Retail or Gymnasium (Class A1 or D2) use, with access to proposed gymnasium or shop from new entrance (at rear of 44 Mortimer St) adjacent to 1a Little Titchfield Street. Use of ground and lower ground floors of 46-50 Mortimer Street as Retail (Class A1).		
Agent	DP9 Ltd		
On behalf of	TH Real Estate		
Registered Number	18/06682/FULL 18/06683/LBC	Date applications amended/ completed	6 September 2018
Date Applications Received	7 August 2018		
Historic Building Grade	42-44 Mortimer Street, 37-41 Great Titchfield Street and 1a Little Titchfield Street: Grade II Listed 46-50 Mortimer Street: Unlisted		
Conservation Area	East Marylebone		

1. RECOMMENDATION

1. Grant conditional permission;
2. Grant conditional listed building consent;
3. Agree the reasons for granting listed building consent as set out in Informative 1 of the draft decision letter.

2. SUMMARY

The application relates to several small retail units that occupy the ground and basement floors of a listed building, and includes adjacent small showroom units at basement and ground floor of 46, 48 and 50 Mortimer Street. The upper floors of the buildings are in residential use.

Permission is sought to reconfigure the internal layout of the retail units, which includes the creation of a new unit occupying the whole basement of 44 Mortimer Street, accessed from a new ground floor entrance on Little Titchfield Street: permission is sought for the alternative use of this unit as either retail or a gym. The remaining units in this part of the site would be retained in retail use. Permission is also sought to change the three small showrooms at 46-50 Mortimer Street into Class A1 retail units.

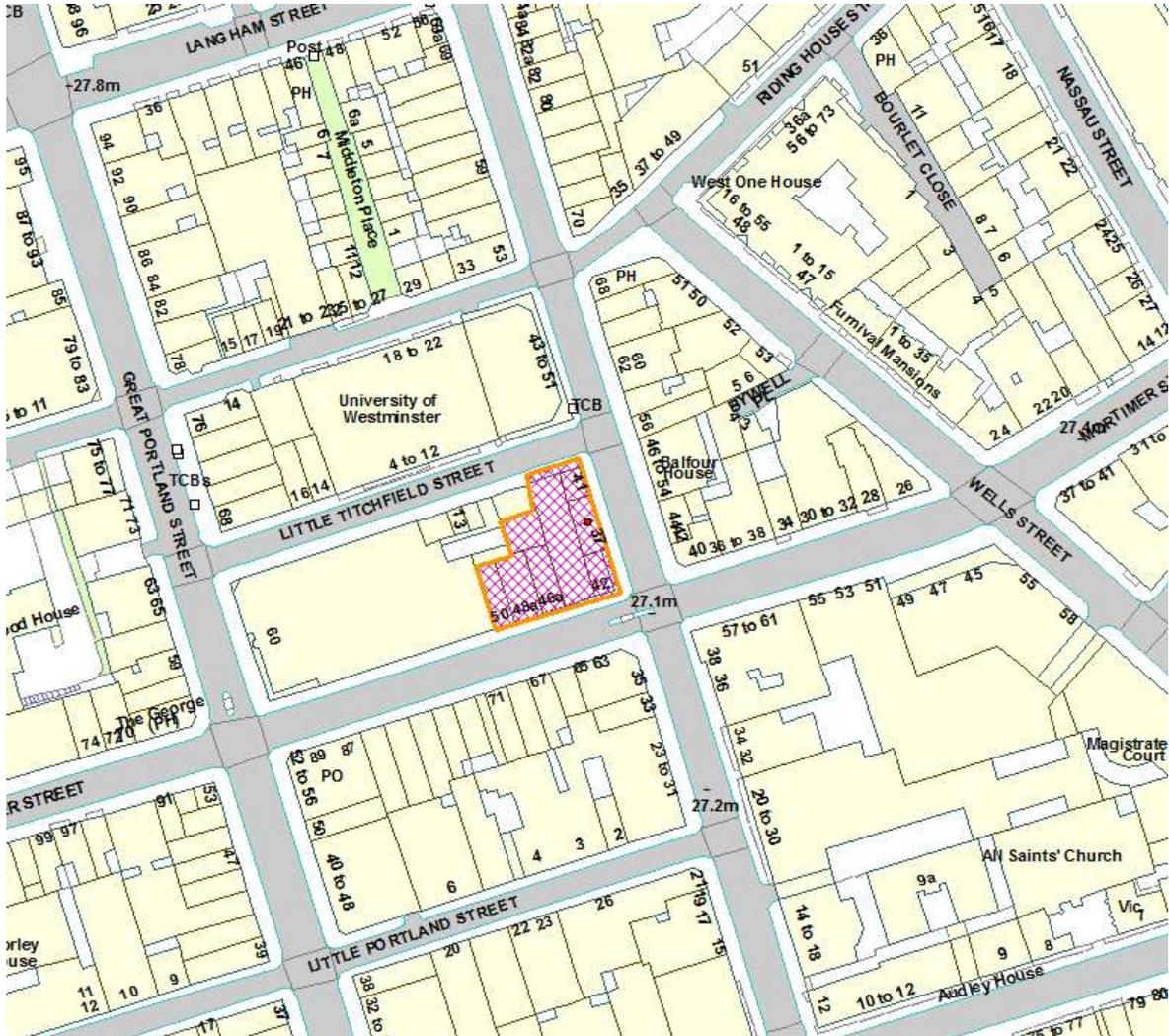
The application includes new mechanical plant and ventilation ducts at first floor level of the central lightwell above the shops. Alterations are also proposed to the shopfronts: these have been revised, including the removal of openable parts.

The key issues are:

- The introduction of the gym use and amenity concerns arising from that;
- Potential loss of retail floorspace;
- Amenity concerns about the proposed plant.

There have been some objections to the proposal from residents living above the site. However, for the reasons set out in the main report, the proposal is considered to be acceptable in land use, design, highways and amenity terms, subject to a number of stringent conditions.

3. LOCATION PLAN



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4. PHOTOGRAPHS

Mortimer Street Elevation



Great Titchfield Street Elevation



Corner of Great Titchfield Street and Little Titchfield Street Elevations



Little Titchfield Street (proposed entrance to gym/retail unit)



5. CONSULTATIONS

FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally

ENVIRONMENTAL SCIENCES

No objection subject to conditions

HIGHWAYS PLANNING

No objection subject to condition

WASTE PROJECT OFFICER

Waste storage details submitted not in line with Council requirements – recommended to secure by condition

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED –

Includes reconsultation with corrected description of development and revisions to shopfronts

No. Consulted: 92; Total No. of replies: 7 [5 from two residents];
No. of objectors: 3; No. of neutral comments: 1.

Objections from three residents have been received on some or all of the following grounds:

Amenity:

- Impact on amenity from the proposed gym, in particular increased levels of noise/loud music, dropped weights, etc and opening hours longer than existing retail unit which will create increased disturbance – need for substantial sound proofing;
- Noise impact on amenity of proposed mechanical plant (in central lightwell), including operation at later hours than retail uses and lack of sufficient information;
- Lack of natural light and ventilation to basement area;
- Ecological impact of comfort cooling and ventilation ducts;
- Measuring position used for acoustic report;
- Need to secure noise mitigation measures by condition;
- Concern regarding proposed installation of ventilation shafts in courtyard;
- Light pollution from the occupier in the area below the existing glass roof [incorrectly assumed to be the proposed gym – actually part of the retail shop];
- Claims that the proposed location of the proposed plant is not known;

Land Use:

- Loss of retail floorspace
- Possibility of change of use from flexible retail A1/Gymnasium D2 to A3 (restaurant) at later stage;

Highways and servicing:

- Increased footfall, vehicular traffic, and pressures on parking as a result of the gym use;
- Increased pedestrian and cycling use may increase the risk of accidents and create a need for increased cycle parking in the vicinity;

- Increased servicing for the gym and questions about where rubbish will be left for collection

Other:

- Unspecified implications for the listed building;
- Existing residents' electric meters being located in the basement and how access to these will be affected;
- Comment about impact on property values.

One neutral comment has been received on the following grounds:

- Concern about the type of business to be located in restored shop units and noise from these;
- Request for condition to limit noise from future retail occupiers, including sound proofing;
- Concern that area below existing glass roof will be used for the proposed gym [actually part of the retail shop];
- Light pollution from occupier of unit below existing glass roof, and
- Concerns about impact on parking.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

This application site comprises a group of buildings located on the east side of a block flanked by Little Titchfield Street to the north, Great Titchfield Street to the east, and Mortimer Street to the South. The site is located within the Core Central Activities Zone (CAZ) and the East Marylebone Conservation Area.

42-44 Mortimer Street, 37-41 Great Titchfield Street and 1A Little Titchfield Street are all part of a Grade II Listed building, a large corner block of shops and flats, originally built as a youth hostel in 1904 in the Arts and Crafts style. The rest of the site (46-50 Mortimer Street) is unlisted.

The properties located on Little Titchfield Street (effectively the rear of 44 Mortimer Street), Great Titchfield Street, and 48 and 50 Mortimer Street are all of roughly equal height and comprise of basement, ground and five upper floors, the top two of which are in mansard form. 46 Mortimer Street is a smaller building comprising basement, ground, and four upper floors, the top most of which is a mansard roof.

The basement and ground floors of 46-50 Mortimer Street are currently in showroom (suit generis) use (three separate units). The rest of the ground floors and basements are in retail (Class A1) use. The upper floors, from first floor and above, of all the buildings in the site are in residential use (Class C3) as flats – these do not form part of the proposals. These look onto a central lightwell that forms the roof of the ground floor shops. The adjoining property, 1-3 Little Titchfield Street, is also in residential use.

6.2 Recent Relevant History

Planning permission was granted in December 2005 (RN: 04/10096/FULL) at a development Site including 52 - 66 Mortimer Street, 1A Little Titchfield Street & 48 Mortimer Street. This permission allowed, among other works and uses, the provision of three wholesale showrooms (sui generis) at basement and part ground floor level of 46-50 Mortimer Street. The retention of these wholesale showrooms were secured by condition on that permission.

7. THE PROPOSAL

Permission is sought for a change of use of part of the ground floor and lower ground floor of 44 Mortimer Street to be split, so that the rear part on Little Titchfield Street and the whole basement change from retail (A1) to flexible/alternative retail (Class A1) or gymnasium use (Class D2), along with the change of use of the ground and lower ground floors of the three units at 46-50 Mortimer Street from showroom (sui generis) use to retail (A1).

Planning permission and listed building consent are also sought for alterations to the ground floor shopfronts, internal alterations across ground and lower ground floor and the installation of screened mechanical plant, for comfort cooling, within the central lightwell, on the first floor flat roof.

The land use figures for this proposal are detailed in the table below:

	Existing GIA (sqm)	Proposed GIA (sqm)	+/-
Retail (Class A1)	660	760	+100
Showroom (Sui Generis)	330	0	-330
Flexible Retail (Class A1) / Gym (Class D2)	0	230	+230
Total	990	990	0

The applications have been revised as follows:

- 42 Mortimer Street no longer features openable shopfronts, with a less subdivided return elevation along Great Titchfield Street proposed, featuring 3 vertical panels;
- Timber stall risers have been introduced to Nos 42 and 44 Mortimer Street and 1 Little Titchfield Street;
- Additional detail has been introduced to the frontage of 1 Little Titchfield Street with the inclusion of stall risers, framed glazing and a more traditional door;
- a platform lift has been introduced to provide step free access between the ground and basement of the proposed gym/retail unit;
- clarification has been provided about the location and function of the ventilation ducts in the central lightwell.

8. DETAILED CONSIDERATIONS

8.1 Land Use

Loss of Showroom (sui generis)

The lawful use of the basement and ground floors of 46-50 Mortimer Street is for showroom (sui generis) purpose (though currently vacant). This use is protected by condition 9 of the 2005 planning permission which granted the change of use to showroom (RN: 04/10096/FULL). That application was assessed against UDP policy COM 12 which, on sites within the designated East Marylebone Special Policy Area (SPA), sought to protect ground floor and basement wholesale showroom uses.

Policy COM12 and the associated East Marylebone SPA have since been deleted from the UDP and City Plan policies do not include a designated wholesale showroom SPA or seek to protect this use. In these circumstances, the loss of the wholesale showroom use to Class A1 retail use is considered acceptable. This permission will supersede the condition on the old permission.

Increase in Retail (Class A1) Floorspace

Policy S6 of the Westminster City Plan identifies the Core CAZ as an appropriate location for retail (Class A1) uses and encourages the provision of more retail throughout the area. City Plan Policy S21 looks to direct new retail floorspace to the designated shopping centres. Policies SS 4 and SS 5 of the UDP also protect and encourage retail shops.

This proposal will result in the provision of a minimum additional 100 sqm GIA of retail (Class A1) floorspace as a result of changing the basement and ground floors of No. 46-50 Mortimer Street to retail. This increase may rise to 330 sqm if the gym use is not implemented. Despite the loss of the retail floorspace at basement level elsewhere in the site (where the alternative gym use is proposed), there is still a net increase in retail floorspace, with more retail accommodation at ground floor level on the Mortimer Street frontage. This increase in retail floorspace and its relocation on the site is considered acceptable and in accordance with policies S6 and S21 of the Westminster City Plan.

Proposed Flexible Retail (Class A1) / Gym (Class D2) Floorspace

The area proposed for flexible retail (Class A1)/gym (Class D2) use is largely located at basement level, accessed from the ground floor of the Little Titchfield Street frontage (effectively the rear of 44 Mortimer Street) which will form a reception area. The total area for this flexible use will measure 230 sqm and extend at basement level the length of the site from Little Titchfield Street to Mortimer Street.

Should this area be used as retail (Class A1), this will lead to a further increase in retail floorspace which, as outlined above, is considered acceptable in accordance with policies S6 and S21 of the Westminster City Plan.

The proposed gym use is, under the definitions of the City Plan, a social and community use. Policies SOC1 of the UDP and S34 of the City Plan both encourage the provision of

new social and community infrastructure throughout the city at appropriate sites and where they do not harm residential amenity.

The applicant has provided limited details of measures that will be taken to ensure that noise and vibration is not transferred through the building by the gym use to the existing residential flats above. The applicant advises that this is due to not having a tenant for the premises at this time.

In light of this and in line with recommendations made by Environmental Health, it is considered necessary to apply a number of conditions to mitigate the possible impacts of the gym use (if that use is implemented). These will ensure that noise from the use will not be audible from outside the site, noise from music will be limited by the installation of sound limiter, and opening hours (06:00 - 22:00 Monday to Friday and 08:00 – 21:30 on Saturday and Sundays and bank/public holidays) and to ensure that noise transfer will not occur through the building. Furthermore, the use of the basement shall be restricted to that of a gym only and no other uses within the D2 use class. The applicant has agreed to a restriction on capacity of 50 customers.

Objections have been received in relation to the proposed gym from residential occupiers in the flats in the upper parts of the building. These largely relate to amenity impacts from the use and associated noise issues. It is considered that with adequate conditions to ameliorate potential noise nuisance from the gym, these objections cannot be upheld.

A couple of the objectors believe that the gym will occupy that part of the ground floor beneath the large rooflight at first floor level, on to which many of the flats face, with a greater chance of noise nuisance. However, this is not the case: that part of the ground floor will remain as part of the reconfigured retail use. One objection and one neutral comment have been received regarding the impact of light pollution from the existing roof light impacting their flat, on the assumption that this will now serve the proposed gym and this will open late. However, this objection cannot be upheld as the rooflight in question currently serves, and will still serve, the ground floor retail – as such there are no planning grounds for requiring the glazing in the rooflight to be changed.

One objection has been raised stating that the proposed gym hours are longer than those of the existing retail units. Initially, at the time of the objection, there were no hours proposed by the applicant for the gym use. The hours stated above were subsequently provided by the applicant and are not considered to be unreasonable in this commercial location. The opening hours of the existing retail units are not currently controlled by planning conditions as these uses are long standing. They could therefore, in theory, operate as late as the proposed gym use or even later. It would therefore be unreasonable for the Council to withhold permission on these grounds, as later opening may occur in the existing retail units regardless of the outcome of this application.

One objector also raised concerns that there will be increased footfall, resulting in extra noise in the street. While there may potentially be more visitors to the site than now, it is not considered that this would have a significant impact on amenity given the relatively small size of the gym (with only 50 customers), and the already busy location of the site. It would be considered unreasonable to withhold permission on these grounds.

One objector has raised concern regarding the proposed flexible use between gym and retail and that they believe this would allow a change to a restaurant (Class A3) use at a later stage. They have referred to the Town and Country planning (Use Classes) Order 1987 (as amended) in their objection. This application does not involve any aspect of restaurant (Class A3) use and it would be unreasonable for the Council to assume that the uses of these units will change to restaurant use without an appropriate application. While there may be scope for changes of use from retail (Class A1) to restaurant (Class A3) under permitted development rights, these are still subject to applications for prior approval to the Council, where the criteria of that Order are met, which require assessment and advertisement to neighbours. Should it transpire that the applicant wishes to open a restaurant within the site in the future, this will require the appropriate permissions from the Council. It would therefore be unreasonable to withhold permission on the grounds of this objection and it cannot be upheld.

8.2 Townscape and Design

42-50 Mortimer Street and 37-41 Great Titchfield Street is a site composed of a grade II listed building, and an unlisted building in the East Marylebone Conservation Area. The listed building is a 1904 building by Beresford Pite, and was a YWCA hostel, incorporating a public restaurant and a dining hall.

The most significant parts of the building, in listed building terms, are the exterior, including original aspects of shopfronts, and an interior space likely to have been either the restaurant or the dining hall. The interiors of all the retail units have not been inspected.

The proposed works consist of three main aspects:

- Changes to ground floor shopfronts,
- Internal demolition works, and
- Air conditioning equipment.

Shopfronts

The rendering of console brackets is considered to be acceptable and the reordering of modern aspects of the shopfronts is welcome. The proposed new cast iron grilles are modelled on the surviving example and are acceptable. The provision of empty blind boxes to accommodate awnings, is a suitable strategy. Insertion of awnings at a future date will require further consents, and must be traditional in form with cast iron brackets.

The detailed design of the shopfronts has been revised, and include improvements to the new shopfront in Little Titchfield Street (the entrance to the proposed gym/retail unit) and removal of an openable shopfront at 42 Mortimer Street. These revisions are welcomed.

Internal Demolition

The interior is of more modest interest, and the proposed works do not detract from the special interest of the building.

Air Conditioning

There is no design objection to the proposed location for the air conditioning equipment at first floor level within the central lightwell. The proposed louvered plant enclosure is acceptable in terms of its siting and appearance, and should be coloured dark grey, secured by condition.

The protection of any remaining elements of historic fabric will be necessary – windows, memorial stone, timber roof to the dining hall etc. If any other elements of historic fabric are discovered during the works they will need to be preserved pending a further consent.

8.3 Residential Amenity

In addition to amenity issues arising from the proposed gym use addressed above, the proposals initially included the installation of an openable shopfront at the retail unit at No.42 Mortimer Street, on the Great Titchfield Street elevation.

Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development. Similarly, Policies ENV 6 and ENV 7 of the UDP seek to control noise disturbance from development. Of particular relevance, is paragraph 9.108 of Policy ENV 7 which states that 'The City Council will discourage provision of openable shop fronts that would enable noise from inside the premises to be heard outside'.

However, the openable parts of the shopfront have been deleted, thereby overcoming these concerns.

One resident has expressed some concern about the type of business to be located in restored shop units and noise from these, with a request for condition to limit noise from future retail occupiers, including sound proofing. The type of business to occupy the refurbished shops is not a planning consideration, so long as they maintain the lawful retail use. As retail use is generally considered to be less problematic than bars and restaurants, it is not normally considered necessary to limit noise levels nor require sound proofing. This is particularly relevant in this case, where these are long standing retail uses and no change of use is involved, only their reconfiguration. Accordingly, there are no reasonable planning grounds for requiring these additional measures.

The screened plant at first floor level is close to some windows in 1-3 Little Titchfield Street. However, it is sufficiently set away from the window not to have any adverse impact on it. It is noted that the glazing in the window is obscure/etched glass and appears to be either a bathroom or kitchen. No objection has been received from the occupier of this flat.

8.4 Transportation/Parking

The Highways Planning Manager has assessed the application and advised that no cycle parking is provided in the proposal for the new uses. The London Plan would require retail (Class A1) use to provide 1 space per 250 sqm and a gym (Class D2) should provide 1 space per 8 staff, and so suggests there should be three or four spaces. However, the applicant has not provided any details about the number of staff in the gym, though given its small size there are not likely to be many. It is therefore

recommended that two cycle parking spaces are sought for the gym or alternative new retail unit in this location. As the existing retail units are being retained/reconfigured, and are small in size, it is not considered appropriate to insist on cycle parking for them.

One neutral comment and one objection have been received on the grounds that the proposals will have negative impacts on parking. The Highways Planning Manager has advised that the proposed new use at the site, the gym, would be unlikely to significantly increase visitation to the site to an extent that parking would be impacted. It would be considered that the majority of users for the new gym use, should it be implemented, would arrive to the site by public transport, given the site's location. Furthermore, the parking controls currently in place on residents' parking bays by the site operate until 20:30. Residents will be protected from anyone other than other local residents wishing to park in the area. As a result, it is not considered that these concerns can be upheld.

One objector raised concerns regarding the impact of extra service providers, resulting in additional traffic, in the vicinity. The Highways Planning Manager has stated that it is not considered that the revised layout of units and the new use on site would have a significantly different servicing requirement to the existing situation. It is therefore considered that this objection cannot be sustained.

8.5 Economic Considerations

No economic considerations are applicable for a development of this size, though the general refurbishment of the site to maintain general economic activity is welcome.

8.6 Access

Access to the residential flats above the site and the remaining retail units will be unaffected by the proposals. Access to the flexible retail (Class A1)/gym (Class D2) use will be from the ground floor in Little Titchfield Street. There is a change in floor level at this location and so a platform lift is proposed, which is secured by condition.

8.7 Other UDP/Westminster Policy Considerations

Plant

An acoustic support was submitted in support of the application which was assessed by Environmental Sciences. They have confirmed that the proposed plant (located on the existing roof at first floor in the rear area) is likely to comply with Westminster noise criteria. In order for the noise requirements to be met, the plant will only be able to operate between the hours of 06:00-22:00 daily (as identified in the report) and the shown acoustic enclosure (which includes an acoustic lid) must be installed and maintained. Both of these elements will be secured by condition.

Three objections have been received on the grounds of loss of amenity as a result of noise from the proposed mechanical plant. These concerns are noted, but it is considered that subject to the proposed mitigation and conditions, the proposed plant and equipment is unlikely to have a material impact on amenity. As a result, these objections cannot be upheld in this instance.

One objector has requested that noise mitigation measures be secured by condition. As discussed above, this will be the case and will allow the Council to take enforcement action should future occupiers be found to be in breach of any of the noise criteria set.

One objector also stated it is not known where the plant is going to be located. This is incorrect as it has been shown on the proposed drawings since submission and also in the submitted acoustic report. This aspect of the objection cannot be upheld.

Another objector stated that noise levels should be measured at flats higher up in the courtyard due to sound reflecting up the courtyard. The acoustic report submitted has used the standard method established, by taking measurement 1m outside the closest noise sensitive receptor. It is considered that the impact of a new noise source, such as mechanical plant, will be greatest at these windows closest to the proposed installation. Sound reflecting in the manner described by the objector is also already considered as standard practice when submitting acoustic reports. As a result, it would not be reasonable to withhold permission on these grounds.

One objection has been received regarding proposed ventilation shafts shown on the drawings. There are two ventilation ducts shown on the proposed drawings, which are located at the rear of the small lightwell to rear of No. 44 Mortimer Street. The objector states that these will run next to residential properties and that there is no details provided regarding height or scale of the shafts and questions if these contain any mechanical equipment which may create noise.

The drawings have been revised to clarify that these ducts do not run immediately next to residential properties: the ducts terminate within the lightwell at the height of the existing parapet wall, and it is possible the objector may have been mistakenly interpreted chimneys as ductwork. The ducts provide fresh air to the lower ground floor of the gym unit. To achieve the required air change there is a supply and extract duct. No odours will be extracted as they are for fresh air ventilation purposes only. With regards to concerns of noise from this ventilation, any mechanical equipment which is used in association with these ducts will be bound by the noise and vibration conditions attached the permission. It would therefore be considered unreasonable for the Council to withhold permission on the grounds of this objection.

Refuse /Recycling

The Waste Project Officer has commented on the application and noted that the details for waste a recycling storage shown on the proposed plans are not in line with the Councils requirements. These details can be secured by condition and it would therefore be unreasonable to withhold permission on these grounds.

8.8 Westminster City Plan

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 took place between Monday 12 November 2018 and Friday 21 December 2018. Following this informal consultation, the draft plan has been revised and formal consultation is now being carried out under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 between Wednesday 19 June 2019 and Wednesday 31

July 2019. In the case of a draft local plan that has been published for consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, including a second revision Regulation 19 plan, it remains at a pre-submission stage (i.e. has yet to be submitted to the Secretary of State for Examination in Public) and therefore, having regard to the tests set out in para. 48 of the NPPF, it will generally attract very limited weight at this present time.

8.9 Neighbourhood Plans

There is currently no adopted neighbourhood plan for this area.

8.10 London Plan

This application raises no strategic issues.

8.11 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.

Further to the Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the City Council cannot impose a pre-commencement condition (a condition which must be discharged before works can start on site) on a planning permission without the written agreement of the applicant, unless the applicant fails to provide a substantive response within a 10 day period following notification of the proposed condition, the reason for the condition and justification for the condition by the City Council. In this case there are no pre-commencement conditions proposed.

8.12 Planning Obligations

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

8.13 Environmental Impact Assessment

Not applicable

8.14 Other Issues

One objector has raised concern that the residents' electric meters are located in the basement and enquired if these will be retained and access maintained – the applicant has confirmed they will. However, this is considered a private matter which does not fall within the powers of the planning system. As a result, this objection cannot be upheld. One objector refers to ensuring that their property values are not affected by the proposals, but this is not a planning consideration.

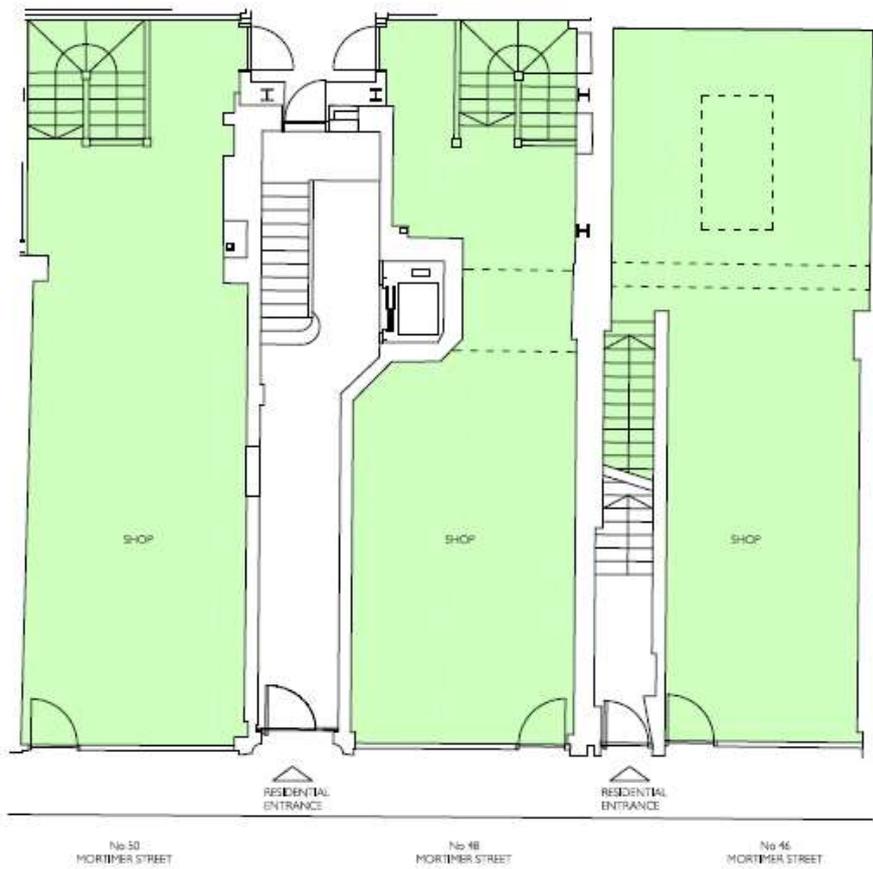
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: PAUL QUAYLE BY EMAIL AT pquayle@westminster.gov.uk

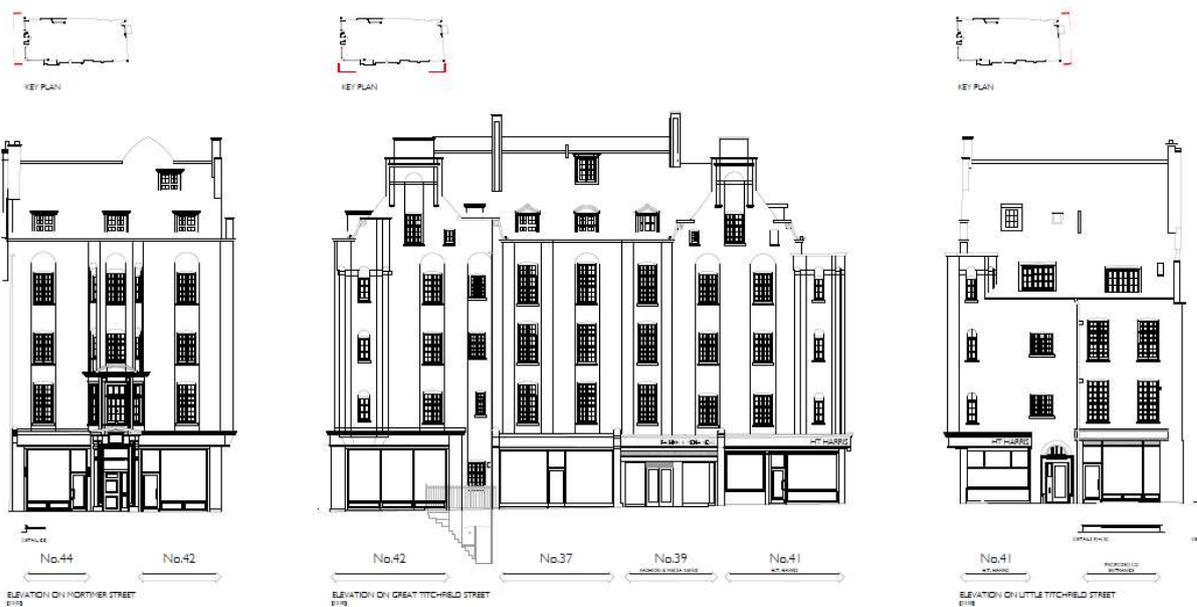
9. KEY DRAWINGS



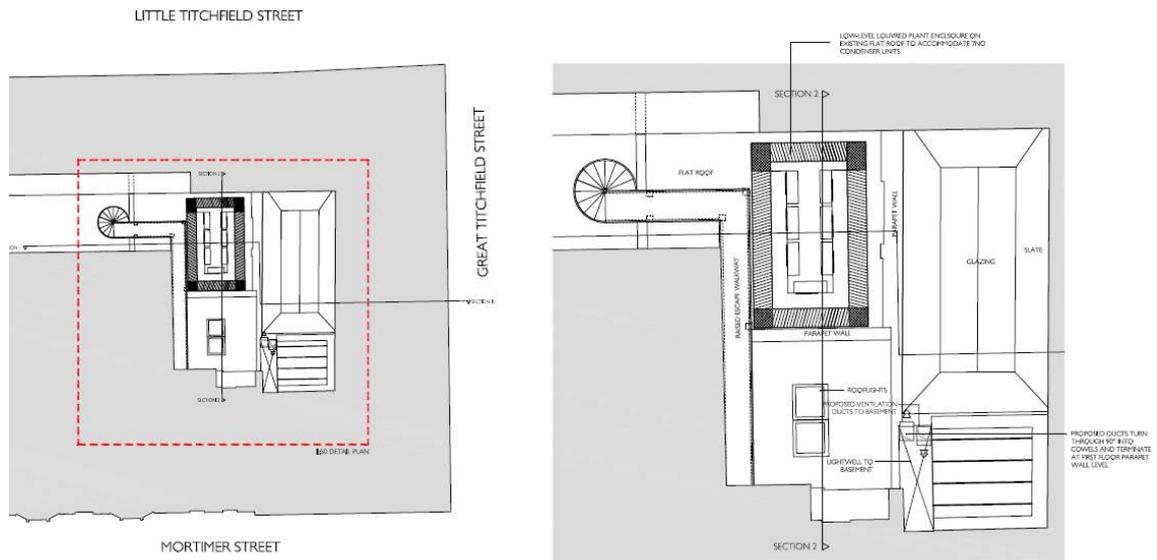
Proposed ground floor – 46-50 Mortimer Street



Proposed shopfronts



Proposed mechanical plant – central lightwell, first floor level



DRAFT DECISION LETTER – PLANNING PERMISSION

- Address:** Development Site At 37-41 Great Titchfield Street, 42-50 Mortimer Street And 1A Little Titchfield Street, London W1
- Proposal:** Restoration of ground floor shopfronts, internal alterations across ground and lower ground floor and the installation of comfort cooling within central lightwell at first floor level (within new plant enclosure) and ventilation ducts within ground floor lightwell. Use of lower ground floor of 44 Mortimer Street and rear ground floor of 44 Mortimer Street [Little Titchfield Street frontage, adjacent to No. 1a] as flexible/alternative Retail or Gymnasium (Class A1 or D2) use, with access to proposed gymnasium or shop from new entrance (at rear of 44 Mortimer St) adjacent to 1a Little Titchfield Street. Use of ground and lower ground floors of 46-50 Mortimer Street as Retail (Class A1).
- Reference:** 18/06682/FULL
- Plan Nos:** P(--)01 Rev D, P(--)02 Rev D, P(--)03 Rev C, P(--)05 Rev D, , P(--)11 Rev B, P(--)12 Rev B, P(--)13 Rev B, P(--)21 Rev C, , P(--)22 Rev B, P(--)23*, P(--)31 Rev A and P(--)32*.
- Case Officer:** Paul Quayle **Direct Tel. No.** 020 7641 2547

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)

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Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC),

- 3 Should you implement the gym use in the areas labelled as such on approved drawings P(--)01 Rev D and P(--)02 Rev D you may use this area only as a gym. You must not use it for any other use 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).

Reason:

We cannot grant planning permission for unrestricted use within Class D2 as we need to ensure that the precise use would have no harmful environmental or amenity impact

- 4 A Sound Limiter shall be installed and set by a competent acoustic engineer so that it maintains compliance with the criteria in Condition 5. 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:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R47AB)

- 5 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 residential dwellings. 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 residential dwellings.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R47AB)

- 6 Customers shall not be permitted within the gym (Class D2) premises outside the following hours: , 06:00 - 22:00 hours Monday to Friday and 08:00 - 21:30 hours on Saturday and Sundays and bank/public holidays.

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)

- 7 You must apply to us for approval of details of how waste and recycling is going to be stored on the site for the new unit accessed from Little Titchfield Street (for the approved A1 retail and/or D2 gym use). You must not commence either of these uses hereby approved until we have approved what you have sent us. You must then provide the waste and recycling store in line with the approved details prior to occupation, and clearly mark it and make it available at all times to everyone using the A1 retail or D2 gym use. You must not use the waste and recycling store for any other purpose.

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)

- 8 You must apply to us for approval of details of secure cycle storage for a minimum of two bicycles for the alternative A1 retail/D2 gym uses. You must not occupy this unit until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan 2016 (R22FA)

- 9 (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

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non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum., , (3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:, (a) A schedule of all plant and equipment that formed part of this application;, (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;, (c) Manufacturer specifications of sound emissions in octave or third octave detail;, (d) The location of most affected noise sensitive receptor location and the most affected window of it;, (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;, (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;, (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;, (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;, (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R46AB)

- 10 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. (R48AA)

- 11 The plant/machinery hereby permitted on the roof at first floor level shall not be operated except between 06.00 hours and 22.00 hours daily.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R47AB)

- 12 You must put up the plant screen and roof shown on the approved drawings before you use the machinery hereby approved on the flat roof at first floor level. You must then maintain it in the form shown for as long as the machinery remains in place. (C13DA)

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in 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. (R13AC)

- 13 Should you implement the gym use in the areas labelled as such on approved drawings P(--)01 Rev D and P(--)02 Rev D you may only allow a maximum of 50 customers in the premises at any one time.

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)

- 14 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 protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 15 The plant enclosure hereby consented must be painted dark grey and maintained in that condition.

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 16 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

Reason:

To protect the special architectural or historic interest of this listed building and to make sure the development contributes to the character and appearance of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1, DES 10 (A) and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R26FD)

- 17 You must provide the platform lift access for people with disabilities as shown on approved drawings P(--)-01 Rev D and P(--)-02 Rev D and as outlined in the 'Design, Access, Heritage and Impact Statement - Revision E' dated 30 July 2018 within the reconfigured unit accessed from Little Titchfield Street. You must not start either the A1 retail or D2 gym use until the lift has been installed and is available for use. It must then be permanently maintained.

Reason:

To make sure that there is reasonable access for people with disabilities and to make sure that the access does not harm the appearance of the building, as set out in S28 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R20AC)

- 18 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 residential dwellings.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R47AB)

- 19 In the event that the Class D2 gym use is implemented, within three months of it opening to the public you must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Conditions 4, 5 and 18 of this permission, or include details of remedial measures that are required to ensure compliance. In the event that additional insulation remedial measures are required, they must be implemented within three months of the Council's approval of the supplementary acoustic report, with written confirmation of this within one month of completion of the remedial measures.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007 (UDP), so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (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. (R47AB)

- 20 Should you implement the gym use in the areas labelled as such on approved drawings P(--)01 Rev D and P(--)02 Rev D, the ground floor entrance on Little Titchfield Street shall only be used as a reception, waiting area and for ancillary retail sales. No amplified music shall be played in the ground floor area.

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)

- 21 You must apply to us for approval of an operational management plan before the gym use commences, setting out measures to minimise potential noise and disturbance from customers arriving early in the morning and leaving late at night. You must not commence the gym use

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until we have approved what you have sent us. You must then manage the gym according to these details.

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)

- 22 In the event that the Class D2 gym use is implemented, the basement and ground floor units at 46-50 Mortimer Street shall only be used for Class A1 retail purposes.

Reason:

To make sure that you achieve the variety of uses included in the scheme as set out in S1, S6 and S21 of Westminster's City Plan (November 2016) and CENT 3 and COM 2 of our Unitary Development Plan that we adopted in January 2007. (R02FD).

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, neighbourhood plan (where relevant), 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 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the basement of No. 44 and part ground floor at the rear of No. 44 can change between the Class A1 and 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)
- 3 Conditions 9 and 11 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (I82AA)

DRAFT DECISION LETTER – LISTED BUILDING CONSENT

- Address:** Development Site At 37-41 Great Titchfield Street, 42-50 Mortimer Street And 1A Little Titchfield Street, London W1
- Proposal:** Restoration of ground floor shopfronts, internal alterations across ground and lower ground floor and the installation of comfort cooling within central lightwell at first floor level (within new plant enclosure) and ventilation ducts within ground floor lightwell.
- Reference:** 18/06683/LBC
- Plan Nos:** P(--)-01 Rev D, P(--)-02 Rev D, P(--)-03 Rev C, P(--)-05 Rev D, , P(--)-11 Rev B, P(--)-12 Rev B, P(--)-13 Rev B, P(--)-21 Rev C, , P(--)-22 Rev B, P(--)-23*, P(--)-31 Rev A and P(--)-32*.

Case Officer: Paul Quayle

Direct Tel. No. 020 7641 2547

Recommended Condition(s) and Reason(s)

- 1 The works 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:
To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)
- 3 You must not disturb existing ornamental features including chimney pieces, plasterwork, architraves, panelling, doors and staircase balustrades. You must leave them in their present position unless changes are shown on the approved drawings or are required by conditions to this permission. You must protect those features properly during work on site. (C27KA)

Reason:
To protect the special architectural or historic interest of this building and to make sure the

development contributes to the character and appearance of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

- 4 All new outside rainwater and soil pipes must be made out of metal and painted black. (C27HA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and paras 10.108 to 10.146 of our Unitary Development Plan that we adopted in January 2007. (R27AC)

Informative(s):

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT - In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan 2016, Westminster's City Plan (November 2016), and the City of Westminster Unitary Development Plan adopted January 2007, as well as relevant supplementary planning guidance, representations received and all other material considerations. The City Council decided that the proposed works would not harm the special architectural and historic interest of this listed building. In reaching this decision the following were of particular relevance: S25 and S28 of Westminster's City Plan and DES 10 including paras 10.130 to 10.146 of the Unitary Development Plan, and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.
- 2 You will need to contact us again if you want to carry out work on the listed building which is not referred to in your plans. This includes:
- * any extra work which is necessary after further assessments of the building's condition;
 - * stripping out or structural investigations; and,
 - * any work needed to meet the building regulations or other forms of statutory control.
- Please quote any 'TP' and 'RN' reference numbers shown on this consent when you send us further documents. It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent. (I59AA)

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.