

Dear Councillor Carman,

Thank you for your email. This matter is the subject of investigation by my colleague Danielle Cherry (cc'd) who will be able to provide you with details of the current position regarding her investigation. I would though suggest that the residents contact the 24 hour Noise Team on 020 7641 2000 when being impacted by noise from the yard so that this may be monitored to determine whether a statutory nuisance is occurring. I know that Danielle has been in constant contact with Waitrose and they have made a number of changes to the way they operate and to the deliveries which take place in order to reduce the noise levels.

Kind regards

Roald

Roald Piper
Planning Enforcement Team Leader
Place Shaping and Town Planning
Growth, Planning and Housing
Postal Address: PO Box 732, Redhill, RH1 9FL
Tel: 07866 034 666

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<https://www.westminster.gov.uk/>



From: Carman, Maggie (Cllr): WCC <mcarman@westminster.gov.uk>
Sent: 21 December 2021 15:48
To: Piper, Roald: WCC <rpiper@westminster.gov.uk>
Cc: Coulson, Amanda: WCC <acoulson@westminster.gov.uk>
Subject: Colonnades Petition

Dear Roald

I attach a letter from residents of the Colonnades W2 6AR. Could you kindly look into this?

Many thanks

Maggie

The Colonnades

London W2 6AR

6 December 2021

Re: NOISE NUISANCE EFFECTING RESIDENTS (NOISE FROM TR PROP INV PLC & WAITROSE 13/12442/FULL)

Dear Counsellor Carmen

We wish to bring to your attention the noise caused by the TR Property Investment Trust plc and Waitrose development 13/12442/FULL which was built in the middle of the colonnades residential 100 block. This noise is affecting residents, affecting health and quality of life and the basic amenities and is unacceptable. You have heard videos of it and agree it is not acceptable. TR Property Investment Trust plc and Waitrose have breached numerous planning conditions to date. They are in breach of the noise condition 9 which states that the design of the development shall be of a standard that residents in the building and adjoining buildings are protected from noise from any part of the development which exceeds 35 decibels LAeq daytime and 30 decibels LAeq night-time. There are also ongoing breaches of condition 12 - SMP. Numerous attempts have been made for years to stop the noise and resolve this with the freeholder and the council to no avail.

The council planning department have not enforced condition 9 nor condition 12 SMP properly, even after notification, and are even trying to allow the condition restrictions to be lifted, which will make the noise worse for residents. The council have been informed of this but don't care.

The noise affects the flats which surround the service yard, all the way up to the sixth floor (top floor). We have been told by a counsellor Emily Payne that Waitrose is threatening to close if they receive a breach notice, and the council are making excuses such as there was a mistake with the wording of Condition 9. The Council are refusing to put in an application to vary the wording of condition 9 saying it is not fair to TR Property Investment Trust plc and Waitrose.

The residents of the Colonnades were assured there would be no noise from the development 13/12442 FULL, but this is not the case. *Noise through 100 block:*

Noise caused by the development (noise also reverberate):

1. The Waitrose scissor lift built into the service yard. Screaming/squealing (with high frequencies) from it when it is used that penetrates our flats 100 block and the streets. And also bangs from it when in use. Used from 7am to 7pm daily
2. The Waitrose lorry bay built into the service yard – Waitrose lorries put engines and units on and the vibration and noise from them penetrates into the 100 block flats. Used from 7am to 7pm daily. *Also on the road.*
3. Running metal cages etc. along metal floors and metal walls in the lorries and scissor lift and *yard & building* These are crashed hard into one another and echo and penetrate the 100 block flats and creates a huge amount of noise. From 7am to 7pm daily
4. Service yard gates and door 'werring' noise and slamming metal gate doors by Waitrose staff. All day and night. The gates were not built for this purpose and were not there prior to the development.
5. Slamming lorry doors
Noise from public bins at all hours

6. Waitrose staff shouting, talking loudly in the day and night. Not talking in hushed voices as required.
7. Badly re- manoeuvring Waitrose 16.5m HGVs in road and yard, no staff directing, in breach of condition 12
8. Beeping HGVs before 8am in breach of Condition 12 and also after 8am, when there should be staff directing the HGVs

No one is monitoring/ stopping breaches as per SMP. The development 13/12442 also creates Air Pollution, with windows open it is really bad, leaving items black and setting off devices which detect pollution when the Waitrose HGVs have engines/units on.

Prior to the development 13/12442/FULL the Waitrose and shop delivery area, which had the loading bay was roofed. Lorries were required to use the roofed area to deliver. The only way to stop the noise is with an acoustic soundproof roof over the service yard and other soundproofing. It needs to be an enclosed soundproof space.

Planning Aid have also complained and attempted to resolve this with the council.

In addition, TR Property Investment Trust plc are in breach of condition 25 and are refusing to allow residents access to their bins. They are appealing it with the Inspectorate rather than allowing residents access to our service yard.

Definition Development 13/12442/FULL: Reconfiguration of the ground-floor supermarket-there was substantial change in use of the service yard and service road as compared to previous design permissions, Waitrose scissor lift and Lorry bay were built on the open service yard/ service road, gates built, kerbs removed from service road, Large opening (it is therefore not a building).

Yours sincerely

LEE, SE HO Flat 173



Yuening Li Flat 168



Shervin Salani Flat 174



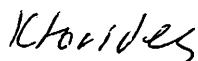
Farah Alq

ALAN OUILVER FLAT 184



Flat 190
Farah

Gupta P. G. uph 170




KAREN RODRIGUEZ

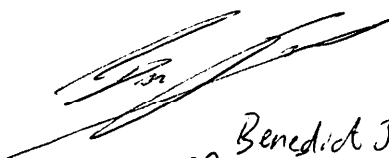
FLAT 191



FLAT 175



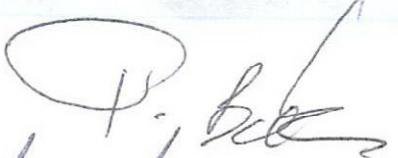




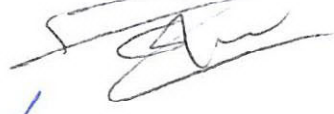



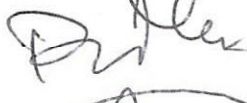

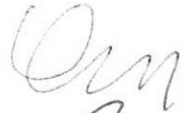


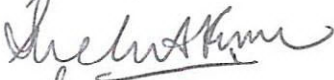


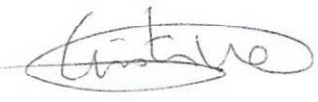

Flat 178



Benedict Jones

CHARLOTTE MORRIS FLAT 177

Flat 186
Alcira Vengjuna
Bj

PEDRO BAETA	FLAT 192	
Veronica Lopez	Flat 198	Sofia Lopez Lopez
Serafin Jacine	Flat 198	
Hermunia Calvo	Flat 188	Hermunia calvo
Beatrice DI FRANCESCO	Flat 166	
Way Berjanni	Flat 164	
Sara Mirza	flat 160	
Shawn Mohel.	Flat 101	
M. TAKA	FLAT 102	
Oscar Nilsson	FLAT 104	
Ayeru Cherny	FLAT 105	
Helga Bolor	Flat 138	
Yoice	NO 6 MEWS	
ILARIA GRASSO	N 2 MEWS	
DIPO OSHO	flat 133	
NATALIA Mueyrie	Flat 188	
S PUNROSE	FLAT 197	
P. W	Flat 195	
I. ZERKOUS	Flat 183	
Cristina Salmeron	flat 167	
Zacharias Karavasilis	Flat 107	

VIVIANA GOSWAMI

F111

Wm

FLAT 136

FLAT 136

Deborah Silva

FLAT 136

Dogser Wilian Flat 125

~~FLAT 125~~

Dory FARINA FLAT 123

Dory Farina

Danya Kowaidi FLAT 103

Danya

Raou Aljaff 194

Aljaff

Jose Vicente Sanchez 165

Sanchez

M.N. Drouf

103

Coulik

Leen Saab

122

Kos

Nadia Rahmy

122

Rahmy

Shawn Saab

122

Saab

Nunu Saab

122

Saab

John James

127

John

LIXIA LIM

129

LIM

ALVARO FABRIZAR M. HADID FARO

130

FABRIZAR

F.M. FAVIZ 10

10

Councillor Maggie Carman

mcarman@westminster.gov.uk

Please reply to: Danielle Cherry

Direct Tel. No: 07866035882

Email: dcherry@westminster.gov.uk

Date: 7th January 2022

Dear Councillor Carman,

Thank you for your email and the attached letter from the residents of The Colonnades. My apologies for the delay in responding to you following me being on leave for the Christmas break.

I have been investigating complaints at this property since March 2020 and whilst a number of them have been resolved, there are a couple of investigations that remain ongoing. I have summarised the complaints and the status of each investigation below (the three highlighted in red are the three that are referred to in the resident's letter.

The key issue at the heart of the majority of these investigations relate to concerns about noise. The City Council is not averse to taking the appropriate action to alleviate noise nuisance being caused by the service yard, but this needs to be progressed through the appropriate mechanisms, which are; through tackling any breaches of Condition 12 and the SMP, which is currently being resolved, and also through an Environmental Health investigation into whether there is a statutory noise nuisance. Both Planning Enforcement and Environmental Health have advised the residents that in order to progress investigations by the Environmental Health team to assess the noise and establish whether there is a nuisance, the residents need to provide contact details when making a noise complaint. Of all of the roughly 500 complaints made to the noise team to date, every complaint has been made anonymously, which has meant that noise assessments have never taken place and the Noise Team/Environmental Health Team investigations have never progressed. It is therefore strongly recommended that the residents contact the City Council Noise Team with a new noise complaint along with contact details so that noise monitoring equipment can be set up from the resident's property to obtain a formal assessment of the noise.

Closed Investigations:

- **(City Council reference: 20/72862/H) - Breach of Condition 9 of 16/09313/FULL - Noise levels.**

Following receipt of the complaint regarding a breach of Condition 9, I too had made the mistaken assumption that Condition 9 applied to the service yard and sent warning letters to Waitrose and The Colonnades advising that Condition 9 would need to be complied with. It was only upon receipt of a response from Waitrose and The Colonnades, in which they raised immediate concerns that Condition 9 had never been intended to control noise from the service yard that I then queried the intentions of the condition with the Planning Officer that determined the application and applied the condition in question.

The Planning Officer confirmed that Condition 9 had not been intended to control noise emanating from the service yard and that the Servicing Management Plan (Condition 12) had been imposed to control all amenity concerns relating to the service yard. The reason that it had been concluded in the 2014 permission that the proposed service yard would be no worse than the pre-existing situation was that (i) there were no conditions requiring the partially covered servicing area to be used for the act of loading and unloading and (ii) this meant, along with a lack of manoeuvring space (which the applicant evidenced in their TS), that large articulated lorries Waitrose were already using to service the site by 2014 were lawfully being loaded and unloaded in the open part of the service yard area and carted into the store via the open ended covered part of the service yard. It is therefore the view of the Local Authority that in the 2014 permission, there was no development within the yard that would result in intensification of its use relative to the previously unrestricted use of the original yard.

Furthermore, disputed Condition 9 specifically refers to the 'design and structure' of the development and goes on to reference that it should '...protect residents in the same building...' clearly inferring that 'development' is to be read as a building or other enclosed structure permitted by the 2014 permission for the purpose of the condition.

The investigation identified that the wording of Condition 9, as imposed on the 2014 and 2016 permissions, does not reflect its intended purpose, which was to prevent noise transference between the enlarged supermarket use at first floor level and residential accommodation directly above at second floor level. In this context, whilst it is acknowledged that by plain reading of the wording of the condition it could be interpreted as being applicable to the noise generated by the scissor lift and noise emanating from the openings facing the service yard, given the intended reason for imposing the condition, which has been previously explained to both the residents and to Waitrose, it would be unlawful for the Council to now seek to pursue enforcement action pursuant to Condition 9, where this would clearly exceed the originally intended purpose of the condition.

Accordingly, the investigation into Condition 9 was closed and responses have been sent to Planning Aid in reference to their complaints regarding Condition 9 which I believe will have been passed on to the residents involved.

- **(City Council reference: 20/73407/K)** - *White pipe on the building omitting noxious gases*

A review of the approved plans in planning permission (City Council reference: 13/12442/FULL) - *Reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works* confirmed that the pipe in question is located in accordance with the approved plans and is annotated 'a new ventilation duct'. As shown on drawing no. D44 REV05. Due to the report of noxious gases, I referred the complaint to Environmental Health who sent an officer from the 24 hour team to site to check and they confirmed there are no concerns about gases in that area.

- **(City Council reference: 20/73262/H)** - *Alleged breach of Conditions 6 and 8 of planning permission 16/09313/FULL - noise caused by Waitrose plant.*

This noise was investigated, and noise monitoring of the plant equipment was undertaken by the City Council Noise Team. The noise monitoring established that there was no breach of Conditions 6 or 8 and the investigation was closed.

- **(City Council reference: 20/73237/H)** - *Breach of Condition 23 of 16/09313/FULL – Waitrose bins not being kept in the approved location.*

Following enforcement action, the bins were moved inside in accordance with the requirements of Condition 23 of 16/09313/FULL. We received photographic evidence to prove compliance. Accordingly, the investigation was closed.

- **(City Council reference: 20/73123/H)** - *Breach of Condition 15 of 16/09313/FULL - disabled toilet access.*

Following enforcement action, the disabled toilet was installed and opened in accordance with the approved plans and Condition 15. Accordingly, the investigation was closed.

Pending Investigations

- **(City Council reference: 20/73125/H)** - *Breach of Condition 12 of 16/09313/FULL (Service Management Plan approved under 14/12071/ADFULL).*

Condition 12 controls the management of the service yard in so far as it restricts the hours of use of the service yard (7am – 7pm) which means the scissor lift can only be used between these hours. When the initial complaint was received in relation to the noise from the scissor lift, this was due to the scissor lift having a broken part which was causing excessive noise. Part of the new proposal for the revised Servicing Management Plan includes measures to mitigate any future issues/breakdowns of the scissor lift to prevent this from re-occurring.

Condition 12 (the Servicing Management Plan – SMP) further states:

‘The objective of the servicing arrangements outlines in this SMP is to minimise traffic disruption and avoid potentially dangerous situations on the local highway network, as well as to minimise the noise impact for those who live in neighbouring properties’.

The SMP does contain a number of other measures to mitigate noise, such as:

- The disabling of reversing beepers
- The delivery team talking in hushed voices
- Engines being switched off once practicable
- Radios being switched off during deliveries

Whilst it is noted that some of these measures have been breached over the past year and a half, they are measures contained within Condition 12 to manage the noise impact from the service yard and further measures are being discussed as part of the proposed amendments to the SMP.

The joint visit made by Planning Enforcement and Environmental Health was on 21st September 2020. During this visit the scissor lift was operated in both directions. The scissor lift was not excessively noisy. The noise produced being typical of such plant equipment. Although no assessment was made at the time of the visit from an affected property, it is felt that noise from the operation of the scissor lift is unlikely to cause statutory nuisance as defined under Section 80 of the Environmental Protection Act 1990. Environmental Health has received several hundred anonymous complaints citing various noise issues including noise from the scissor lift. Environmental Health can only take further action where there is a known complainant. As all the complaints have been anonymous it has not been possible to make an assessment of noise produced by the scissor lift from an affected property.

The last complaint/evidence of a breach of Condition 12 (the SMP) was received by the Planning Enforcement Team over 4 months ago on 14th June 2021. A breach of condition notice for Condition 12 has been prepared and approved by the City Council Legal Team and is ready for service if required. At the time that the notice was about to be served, Waitrose and The Colonnades submitted an application: (City Council reference: 21/04074/FULL)

'Variation of condition 12 of planning permission dated 21 December 2016 (RN: 16/09313/FULL) which itself varied conditions 16 and 17 of planning permission dated 9 October 2014 (RN: 13/12442/FULL) for reconfiguration of the ground and first floors to provide a supermarket (Class A1) at part ground floor and first floor levels with three retail shop units (Class A1) and two restaurant/ cafe units (Class A3) at ground floor level, extension to Porchester Road and Bishop's Bridge Road elevations to infill existing colonnade and create entrance lobby to supermarket, infilling of basement vents to Bishop's Bridge Road, alterations to street facades, amendments to rear service yard, installation of mechanical plant and associated public realm works. Namely, amendments to wording of condition 12 to allow the review of the operation and management of the servicing area at the Colonnades and to reflect modern delivery and servicing arrangements.'

The application remains under consideration at the current time. Prior to making the application Waitrose and The Colonnades met with the Planning Enforcement Team to review all of the residents' concerns and breaches in detail and a proposal was put forward by The Colonnades to ensure compliance with the Servicing Management Plan whilst the application to vary Condition 12 is assessed and determined. Following this meeting in June 2021, the Planning Enforcement Team have not received any further complaints regarding the use of the service yard or breaches of the Servicing Management Plan. There is a constant dialogue between The Colonnades, Waitrose and the Planning Enforcement Team regarding any events/issues that arise beyond the control of the Colonnades that could raise cause for concern and the Council is maintaining a log of all these incidents. It is therefore reasonable and proportionate to hold further enforcement action (including the service of the breach of condition notice) in abeyance at the current time whilst the application is being determined.

The application to vary Condition 12 (the SMP) was submitted on 18th June 2021 (City Council reference: 21/04074/FULL). However, the application remains invalid whilst discussions regarding the SMP are taking place between the applicants and case officer.

- **(City Council reference: 20/73124/H) - Breach of Condition 25 of 16/09313/FULL – access to resident’s bins in the service yard.**

The Colonnades submitted an application to remove Condition 25 (City Council reference: 20/05767/FULL) and their application was refused by the City Council. Enforcement action has been held in abeyance pending the outcome of an appeal against that refusal. The appeal decision was received on 23rd December 2021 in which the appeal was dismissed. The Colonnades have since confirmed that letters are being sent to all residents to advise that they have access to the residential bins in the service yard. We have requested a copy of this letter and once we have received it, the investigation will be recommended for closure.