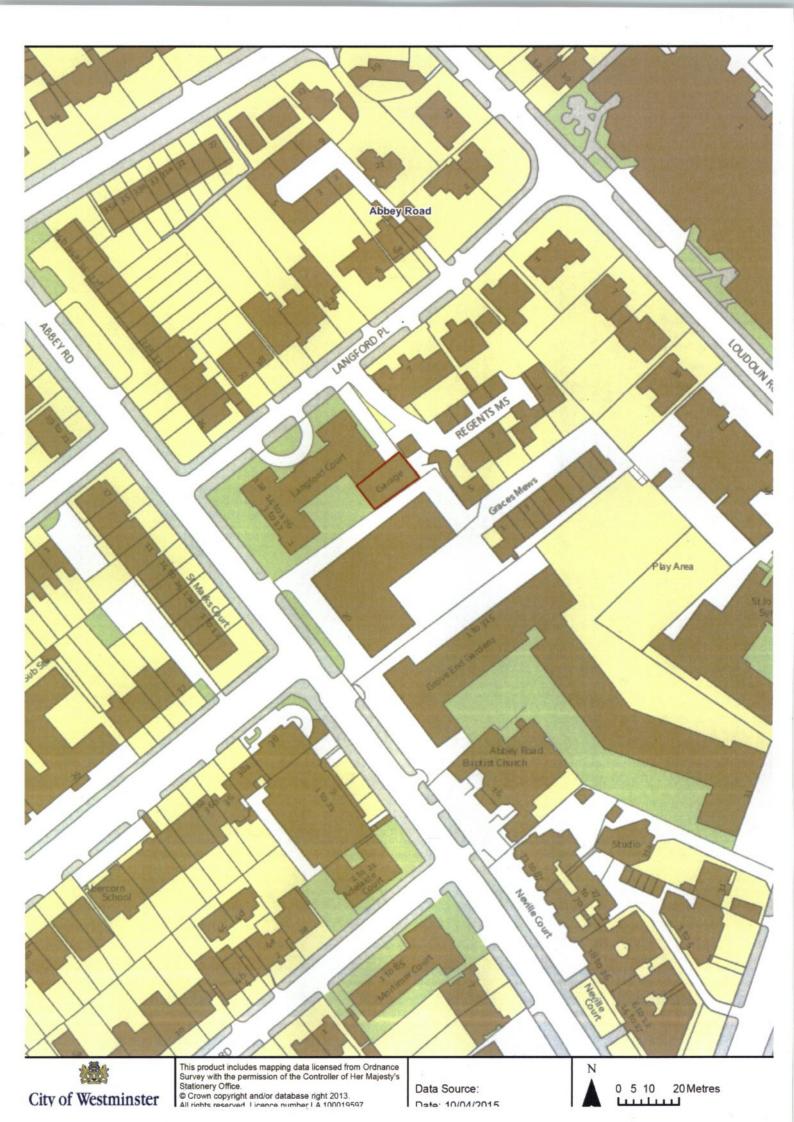
Item	No.
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PLANNING APPLICATIONS	Date	Classification		
COMMITTEE			Classification	
	21 April 2015	For General R	For General Release	
Report of		Wards involved		
Pirector of Planning		Abbey Road		
Subject of Report	Garage On Corner Of NW8 9DN	Langford Place And, A	Abbey Road, Londo	
Proposal	Use for the garaging of private cars and installation of replacement roller shutter.			
Agent	Nicholas Taylor + Associates			
On behalf of	Mr Ron Mitchell			
Registered Number	14/12540/FULL	TP / PP No	TP/25610	
Date of Application	19.12.2014	Date amended/ completed	06.01.2015	
Category of Application	Minor	1		
Historic Building Grade	Unlisted			
Conservation Area				
Development Plan Context	0.4:1.1.1.5:0			
- London Plan July 2011	Outside London Plan Central Activities Zone			
- Westminster's City Plan: Strategic Policies 2013	Outside Central Activities Zone			
- Unitary Development Plan (UDP) January 2007				
Stress Area	Outside Stress Area			
Current Licensing Position	Not Applicable			

# 1. RECOMMENDATION

Grant conditional planning permission.







Garage on corner of Langford Place and Abbey Road, NW8

#### 2. SUMMARY

The application seeks permission for the use of the commercial garage (Class B2) to the rear of Langford Court, which is accessed from Langford Place, as a private garage providing 6 car parking spaces. It is also proposed to install a replacement roller shutter. Objections have been received from 10 residents in Langford Court.

The key issues in this case are:

- The loss of the existing commercial garage use.
- The acceptability of the proposed use as a private garage in land use and transportation/ parking terms.
- The impact of the proposed use on the amenity of neighbouring residents.

For the reasons set out in detail later in this report, the proposed use and associated replacement roller shutter are considered to be acceptable in land use, design, amenity and transportation terms would accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies. Accordingly, the application is recommended for approval, subject to the conditions set out in the draft decision letter.

#### 3. CONSULTATIONS

CONSULTATION ON INITIALLY SUBMITTED SCHEME - JANUARY 2015

ST JOHN'S WOOD SOCIETY No objection.

### **ENVIRONMENTAL HEALTH**

No objection in principle subject to conditions restricting noise/vibration generated from the proposed private garage to be audible at the nearest noise sensitive locations, and requiring the proposed shutter to be designed so as not to result in any noise nuisance.

### HIGHWAYS PLANNING MANAGER

Unacceptable on transportation grounds but could be made acceptable providing the following condition is attached; 'All car parking hereby approved to be used solely by the applicant for storage of his privately owned motor vehicles and not to be leased, rented or sold to third parties.'

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 134; Total No. of Replies: 11.

Eleven emails/ letters raising objection on all or some of the following grounds:

# Land Use

 The garage is always busy and provides an essential service to the tenants of Langford Court and to drivers throughout St John's Wood and Maida Vale and also provides jobs locally.

### **Amenity**

- Current garage operates within business hours and any noise generated from the use is during working hours.
- The shutter is only operated at opening and closing so is not a constant disturbance.
- The proposal if passed would allow for car movement at any time of day or night seven days a week.

# Transportation

- The garage is not a cause of traffic congestion nor a cause of disruption to local amenity.
- There is no impediment to Westminster waste collection services as a result of the current use.

#### Other Matters

- The end user of the private garage is anonymous and it is not acceptable to allow the unit to be accessed by people with no connection to Langford Court.
- The use of the garage for more general storage purposes could result in the premises being used for commercial storage that will be a source of disturbance with regard to deliveries and collections.

ADVERTISEMENT/ SITE NOTICE: Yes.

RECONSULTATION ON AMENDED SCHEME - ADDITIONAL INFORMATION REGARDING THE SPECIFIC CHARACTERISTICS OF THE PROPOSED USE SUPPLIED - MARCH 2015

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS No. Consulted: 134; Total No. of Replies: 0.

# 4. BACKGROUND INFORMATION

# 4.1 The Application Site

The site is currently in use as an independent commercial car repair garage (Class B2), situated to the rear of Langford Court. The garage is accessed from Langford Place via a ramped access road. Langford Court is a mansion block containing a significant number of residential flats, many of which overlook the garage and associated ramped access.

The application site is not listed and is not located within a conservation area, albeit it is located adjacent to the boundary of the St. Johns Wood Conservation Area to the north east.

# 4.2 Relevant History

1934 - Permission granted for the erection of block of flats (Langford Court) with ancillary garage originally intended for ancillary use by residents of Langford Court. Over the years the garage has become an independent garage carrying out MOT's and other car repairs. There are no historic conditions that restrict hours of use or withdraw permitted development rights.

29 November 2007 – Permission granted for the erection of a mansard roof extension to provide four additional residential flats, together with use of ancillary garage for parking of cars and bicycles (07/07746/FULL). The 'ancillary garage' referred to comprised the use of the existing commercial garage space that is the subject of the current application. The permission has now lapsed without being implemented.

#### 5. THE PROPOSAL

The application seeks permission for the use of the existing commercial garage premises (Class B2) as a private lock up garage for the garaging of private cars and installation of a replacement roller shutter. The proposed lock up garage would contain six parking spaces to provide garaging of motor vehicles for a single individual who lives in the vicinity of the application site.

The applicant advises that the garage may also be used to provide some domestic storage (to store spare furniture etc) and to occasionally wash and repair vehicles. This activity is typical of a domestic garage and is considered to be ancillary to the private lock up garage use that is being applied for.

# 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

### 6.1.1 Loss of Commercial Garage

Policy COM10 in the UDP sets out that the loss of small scale industrial uses will be resisted where they meet the local service and employment needs of the residential community and has no adverse impacts upon residential amenity.

In this case occupiers of Langford Court have objected to the loss of the commercial garage on these grounds, specifically a loss of a local service and employment generating use. In their application, the applicants cite that there are 12 or more similar car repair premises within a two mile radius of the application site.

In term of the loss of an employment generating use, it is important to note that due to permitted development rights that allow conversions from Class B2 uses to Class B1 office use, it is difficult to resist the loss of car repair workshops of this size. This is because there is no policy protection in this location for Class B1 office uses.

In terms of the impact of the current use on the amenity of neighbouring residents, the applicant considers that it does have an adverse effect due to the means of access, limited parking, and the constrained nature of the commercial site in what is otherwise a residential area. This is reflected by a long history of noise complaints that the City Council have received from neighbouring residents, in respect of the commercial garage use. It is noted though that this is not a view shared by all neighbouring occupiers, some of whom consider the impact of the existing commercial garage, which operates normal business hours, will be less than the impact of the proposed lock up garage use.

In addition to the matters considered in the preceding paragraphs, the applicants have provided some evidence of marketing of the current commercial garage use, which do not appear to have resulted in a buyer. The applicants planning statement explains that the property has been marketed for its current use for the previous two years without success.

In conclusion in land use terms, it is considered that the loss of the existing commercial garage use is difficult to resist, for the reasons discussed in this section of the report. Furthermore, the loss of the existing commercial garage has previously been accepted as part of the residential development on this site granted permission in 2007, which proposed to utilise the commercial garage to provide car and cycle parking for the new residential units. In this context the loss of the commercial garage use is considered to be acceptable in land use terms and would be consistent with the requirements of Policy COM10 in the UDP.

### 6.1.2 Private Garage Use

The proposed use would be a garage for the garaging of private cars (a Sui Generis use). The applicant also indicates that the garage may be used for ancillary storage purposes and for minor vehicle maintenance purposes, much like a domestic garage typically would be. It is intended that the 6 parking spaces within the garage will be used by a single individual to park their collection of cars. Further details of the proposed use are as follows:

• The intended user of the site lives locally, within 1 mile of the application site.

- The unit will be used by the intended user's driver who will typically collect a car in the morning and return in the evening after dropping the owner at their residence.
- It will be in use only once or twice per day (typically the commercial garage currently generates 16-24 vehicle movements).
- It will sometimes be used to clean the cars or undertake basic car maintenance.
- The unit will often not be used for certain extended periods throughout the year given that the intended user is often abroad.

This description of the proposed use illustrates the low intensity of the use relative to the existing use as a commercial car repair garage, which operates with no planning restrictions on its hours of use, capacity or means of access. Therefore, relative to the existing use, the proposed use would be less intensive and would be likely to have a significantly less intrusive impact on the amenity of neighbouring residents.

Policy H3(D) in the UDP states that 'Outside the CAZ, the City Council will require land or buildings in commercial use to change only to housing'. However, in this case, due to the position and form of the application site, there is little prospect of it being capable of being converted in to a residential unit(s) that would provide an acceptable standard of accommodation. Accordingly, it is considered that exception to Policy H3(D) can reasonably made in this case given the particular material considerations raised by the physical characteristics of the site and its layout.

As such, in the absence of a land use policy in the UDP or City Plan precluding such a use in this location, the proposed private lock up garage use is considered to be acceptable given the improvements it would bring in terms of the amenity impact of this premises on neighbouring residents and the unsuitability of the site for residential use, which would otherwise be the policy presumption in this location.

# 6.2 Townscape/Design

As set out above, the only external alteration proposed is the replacement of the existing roller shutter with a new roller shutter. This is an acceptable in principle and a condition is recommended requiring the roller shutter to be finished in a white colour, rather than 'grey steel/ aluminium' colour as annotated on the submitted drawings. Subject to the recommended condition the proposals are acceptable and accord with Policy DES1, DES5 and DES9 in the UDP and S25 and S28 in the City Plan.

An informative is recommended encouraging the applicant to ensure that the existing commercial garage signage is removed prior to occupation of the premises as a private lock up garage.

# 6.3 Residential Amenity

The amenity impact of the proposed development is touched on in Section 6.1 of this report, given the relevance of amenity considerations to the acceptability of the proposed use. The impact on amenity of the existing and proposed uses is expanded upon and considered in detail in this section of the report.

As explained in Section 4.1, the existing commercial garage is located adjacent to the rear, north eastern elevation of Langford Court and is accessed via a ramped access road from Langford Place. The nearest residential windows serving a habitable rooms are located on the eastern elevation of Langford Court, directly overlooking the access to the garage premises.

As mentioned in Section 6.1 of this report, there is a long history of complaints received by the City Council from residents of Langford Court in relation to the existing commercial garage use. These relate to fumes from the garage, vehicles revving engines whilst inside and when

parked on the access ramp, parking congestion on Langford Place and damage to the public footway caused by cars double parking whilst waiting to be repaired. The historic records contain a number of site visits carried out by enforcement officers in connection with these issues. On the basis of these complaints received by the City Council over a number of years, it is reasonable to conclude that the existing Class B2 use does have an adverse impact on the amenity of a significant number of adjoining occupiers.

Representations received in this application acknowledge the current garage use does generate noise, although they emphasise that it is currently limited to 'business hours'. Objectors are concerned that the proposed private lock up garage could be used at any time, day or night, to the detriment of the amenity of neighbouring residents. However, there are no planning controls restricting the hours of use of the commercial garage and therefore the use could intensify in future and the impact on neighbours would be significantly increased. Furthermore, given the premises is in lawful Class B2 use, the premises could be converted to another Class B2 use that may cause greater noise and general disturbance to neighbours, without the need for planning permission.

In comparison to the proposed use, the following factors need to be taken into consideration when assessing the amenity impact of the proposed use:

- The owner is likely to use the premises only once or twice per day compared 16 to 24 vehicular trip that are generated by the current use.
- The only external alterations proposed comprise the replacement of the existing chain operated shutter with a less noisy ing more modern shutter, details of which would be secured through planning condition.
- The use will not involve the parking of vehicles on the access ramp, which will remove problems associated with cars generating noise and fumes when being serviced.

In this context, it is not considered that it would be reasonable to seek to control the hours of use of the proposed private garage, given that there are no planning controls on the hours of use of existing commercial garage use.

Environmental Health have recommended a condition to prevent noise from within the private garage being audible at nearest noise sensitive locations. Such a condition is recommended as there is otherwise the potential for occasional maintenance that may be carried out within the garage to cause noise disturbance to neighbouring residents.

In conclusion in amenity terms, the proposed development would deliver improvements upon the existing use of the application site and therefore subject to the recommended conditions, the proposed use would accord with Policies ENV6 and ENV13 in the UDP and Policies S29 and S32 in the City Plan.

# 6.4 Transportation

#### 6.4.1 Parking/Traffic

An objection has been received from the Highways Planning Manager on the grounds that the scheme results in an overprovision of car parking, which would encourage car ownership and use. As the development is question is not a residential development in itself, but is a self-contained private garage, it is not appropriate to assess the policy relative to Policy TRANS23 in the UDP. Rather the proposal should be considered in light of Policy TRANS21(C) which directs that parking provision proposed in connection with 'Other Non-Residential Uses' will be considered on the merits of each case.

In this context, it is considered that the proposed use would provide a number of significant benefits in transportation terms. These are:

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- A significantly reduced traffic flow relative to the existing commercial garage use, easing any localised congestion on the public highway.
- Cessation of parking by the commercial garage of vehicles in resident's bays, on the kerb on Langford Place and on the access ramp to the site. (Historic enforcement records verify that this has been an issue. Vehicles have also been parked on the access ramp in the past such that they impede access for refuse collection vehicles).

Further to these benefits, it is a matter of common sense that as the private garage is to be used by a single individual, there is a natural limit to how many cars would be taken out in any given day. Consequently, whilst the provision of car parking for six vehicles may appear to be over provision on initial inspection, it is not considered likely that the proposed level of car parking in this instance would lead to such a significant number of vehicular trips to and from the site, so as to be sufficient to cause harm and justify refusing permission. Accordingly, notwithstanding the Highways Planning Manager's concerns, the proposed use is considered to be acceptable in transportation and parking terms.

#### 6.5 Economic considerations

The proposal would result in the loss of an employment generating use; however, the use has adverse significant adverse impacts upon the amenity of adjoining residents and therefore the loss of commercial garage use is considered to be acceptable due to the particular circumstances of this case.

### 6.6 Equalities and Diversities

None relevant given the scope of this application.

# 6.7 Other Westminster policy Considerations

None relevant.

### 6.8 London Plan

The proposal does not raise any strategic issues.

# 6.9 National Policy/Guidance

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13th November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of these applications are considered to be consistent with the NPPF unless stated otherwise.

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### 6.10 Environmental Assessment, including Sustainability and Biodiversity

None relevant in the determination of this application.

#### 6.11 Other matters

The lease for the commercial garage has been provided to officers during the course of the application. It sets out that the access ramp may be used by the garage for the parking or four vehicles temporarily whilst repairs are being undertaken, and that rights to use the forecourt/ ramp for the washing of vehicles may only be exercised between the hours of 8.00 and 17.00 hours. It also sets out that there must at all times be adequate access maintained for emergency vehicles, and that all cars must be moved when necessary to provide adequate access for refuse collection vehicles.

Whilst these restrictions on the operation of the garage are noted, these are landlord/ tenant restrictions contained within the terms of a lease and are therefore potentially subject to change should the parties agree. These are therefore not significant material planning considerations in the termination of the current application; rather, it is more significant that there are no planning controls on the operation of the current commercial garage use.

Concerns have been expressed that the unit should not be accessible by people with no connection to Langford Court, and that the individual with an interest in the using the application site as a private garage is anonymous and not the applicant. The existing commercial garage however is established as an independent operation and therefore the operator of the existing commercial garage is under no obligation to have an association or be known to occupiers of Langford Court. Accordingly, it would be unsustainable to require the ownership/ use of the proposed private garage to be restricted in the way desired by some objectors.

Concerns have been expressed that the occasional use of some of the proposed private garage as ancillary storage use will alter the natural of the proposed use, resulting in a commercial storage use and increased congestion and disturbance to residents. However, the scale of storage proposed is typical of that found in a domestic garage and would not materially alter the use from that being applied for. Should a more intensive storage use commence in future, it would represent a material change of use from that currently being applied for and would require the benefit of further planning permission.

#### 7. Conclusion

In conclusion, for the reasons set out in this report the proposed use and associated replacement shutter are considered to be acceptable in land use, design, amenity and transportation terms would accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan: Strategic Policies. Accordingly, the application is recommended for approval, subject to the conditions set out in the draft decision letter.

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### **BACKGROUND PAPERS**

- 1. Application forms.
- 2. Email from the St. John's Wood Society dated 7 January 2015.
- 3. Memo from Environmental Health dated 22 January 2015.
- 4. Memo from the Highways Planning Manager dated 19 February 2015.
- 5. Email from the occupier of 37 Langford Court, Langford Place dated 17 January 2015.
- 6. Letter from the occupier of 50 Langford Court, 22 Abbey Road dated 18 January 2015.
- 7. Letters from the occupier of 63 Langford Court, Langford Place dated 19 January 2015 and 26 January 2015.
- 8. Email from the occupier of 34 Langford Court, 22 Abbey Road dated 19 January 2015.
- 9. Email from the occupier of 80 Langford Court, 22 Abbey Road dated 20 January 2015.
- 10. Letter from the occupier of Flat 99, Langford Court, Langford Place dated 21 January 2015.
- 11. Email from the occupier of 39 Langford Court dated 23 January 2015.
- 12. Letter from the occupier of Flat 58, Langford Court, 22 Abbey Road dated 25 January 2015.
- 13. Email from the occupier of Flat 40, Langford Court, 22 Abbey Road dated 28 January 2015.
- 14. Email from the occupier of 46 Langford Court, 22 Abbey Road dated 28 January 2015.
- 15. Letter from the occupier of 4 Regents Mews, Langford Place dated 6 March 2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT OLIVER GIBSON ON 020 7641 2680 OR BY E-MAIL -ogibson@westminster.gov.uk

#### DRAFT DECISION LETTER

Address: Garage On Corner Of Langford Place And, Abbey Road, London, NW8 9DN

**Proposal:** Use for the garaging of private cars and installation of replacement roller shutter.

Plan Nos: P\_000, P\_010, P\_101, P\_200, Planning Statement prepared by Nicholas Taylor

and Associates dated December 2014, letter and email from Nicholas Taylor &

Associates dated 9 March 2015 and 13 March 2015.

Case Officer: Samuel Gerstein Direct Tel. No. 020 7641 4273

### Recommended Condition(s) and Reason(s):

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 You must carry out any building work which can be heard at the boundary of the site only:
  - \* between 08 00 and 18 00 Monday to Friday;
  - \* between 08.00 and 13.00 on Saturday; and
  - \* not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

### Reason:

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in \$28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)
- Notwithstanding the annotations on the approved drawings, the external face roller shutter and associated box housing hereby approved shall be painted or otherwise finished in a white colour and following installation it shall permanently be retained in that colour.
- 4 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.

- (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the private garage use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 5 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.
  - (2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the private garage use hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.
  - (3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
  - (a) The location of most affected noise sensitive receptor location and the most affected window of it:
  - (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
  - (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted

in conformity to BS 7445 in respect of measurement methodology and procedures:

- (d) The lowest existing L A90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

### Reason:

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 nearby noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by

contributing to reducing excessive ambient noise levels. 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.

# Informative(s):

- 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: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- You should ensure that the advertisements relating to the existing commercial garage are removed from the site prior to the use as a private garage and that the walls to which these are attached are made good.

