

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 14 June 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	17 Berkeley Street, London, W1		
<b>Proposal</b>	Approval of details pursuant to Condition 10 of planning permission dated 19 May 2015 (RN: 14/07972), namely the submission of a post-commissioning noise survey to demonstrate the plant noise levels will be compliant with		
<b>Agent</b>	Mr Jonathan Phillips		
<b>On behalf of</b>	Park Chinois Ltd		
<b>Registered Number</b>	15/10418/ADFULL	<b>Date amended/ completed</b>	26 January 2016
<b>Date Application Received</b>	9 November 2015		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Approval details.

## 2. SUMMARY

No. 17 Berkeley Street comprises basement ground and six upper floors. The basement and ground floors are a lawful restaurant with residential flats above. Permission was granted on 19 May 2105 for new plant for the restaurant comprising the following:

- kitchen extract equipment with associated screening at roof level;
- new refrigeration pipework and flue within lightwells; and
- extension of an approved duct from the northern lightwell across the roof.

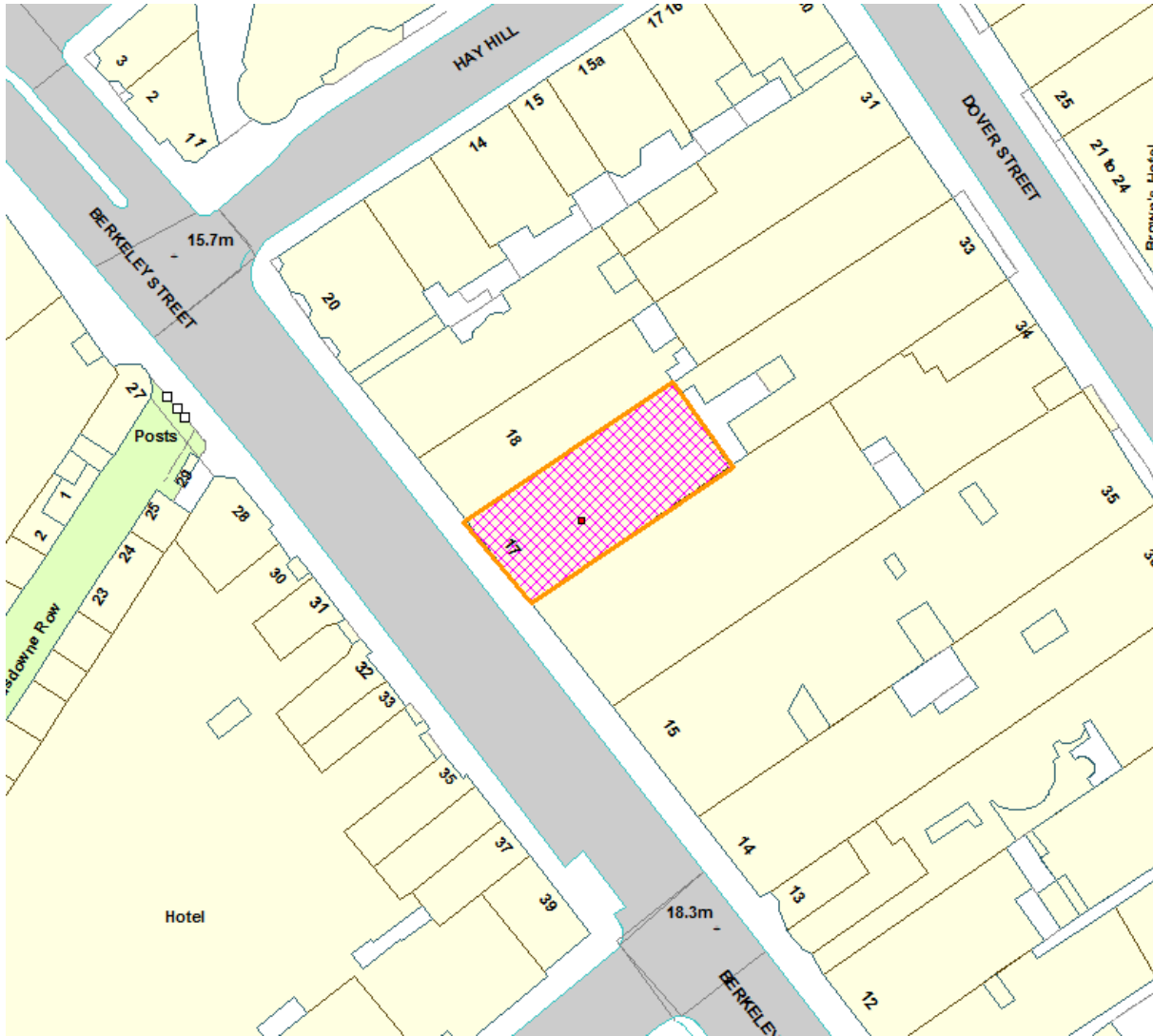
The permission was subject to a condition (No 10) which required a supplementary acoustic report to be approved to demonstrate that the operation of the plant would comply with the City Council's noise conditions. The acoustic report has now been submitted and an application made to discharge the condition.

The key issue in this case is:

\* The impact of the noise from plant upon the amenity of neighbouring sensitive occupiers.

Five objections have been received from neighbouring residents that the operation of plant results in noise nuisance. Due to these concerns in addition to assessing the supplementary acoustic report Environmental Health have visited the property to carry noise measurements. They advise that the plant is not audible within the residential flats and the plant operates at acceptable noise levels in accordance with the requirements of the noise condition on the original permission.

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationary Office (C) Crown Copyright and/or database rights 2013. All rights reserved License Number LA 100019597

4. PHOTOGRAPHS



## 5. CONSULTATIONS

### ENVIRONMENTAL HEALTH

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 63

Total No. of replies: 5

No. of objections: 5

No. in support: 0

Objections received on some or all of the following grounds:

Noise from the plant will detrimentally impact residential amenity for nearby occupiers.

The operation of the machinery should be 'locked' by WCC to prevent the applicant operating outside of the approved hours.

Noise measurements have been taken in the wrong locations.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

No. 17 Berkeley Street is an unlisted building located within the Mayfair Conservation Area and the Core Central Activities Zone as defined by the City Plan. The property currently has lawful use as a restaurant (Class A3) at basement and ground floors which is connected internally to the existing restaurant at ground, basement and sub-basement of 33 Dover Street to the rear of the application premises. The first to sixth floors of the property are in use as residential flats. The property has northern and southern lightwells.

### 6.2 Recent Relevant History

01/08268/CLOPUD – A Certificate of Lawfulness was granted on the 23 April 2002 for the 'use of basement and ground floors of Berkeley Street as a restaurant (Class A3). Installation of ductwork within internal lightwells and new shopfronts (Site includes 33 Dover Street.)'

14/07972/FULL - Permission was granted on the 19<sup>th</sup> May 2015 for the erection of new plant and kitchen extract equipment with associated screening at roof level, new refrigeration pipework within lightwells, new flue within southern lightwell and extension of an approved duct from the northern lightwell across the roof.

15/07466/ADFULL – On 4 November 2015 details of an acoustic report pursuant to Condition 10 of planning permission dated 19 May 2015 (RN: 14/07972), was refused. The application was refused as the acoustic report did not cover all operational plant, and did not therefore demonstrate compliance with the noise condition.

## **7. THE PROPOSAL**

The latest application again seeks to discharge Condition 10 on permission dated 19 May 2015. The condition stipulated the following:

‘You must not operate the plant/ machinery that we have allowed (other than to carry out the survey required by this condition) until you have carried out and sent us a post-commissioning noise survey and we have approved the details of the survey in writing. The post-commissioning noise survey must demonstrate that the plant/ machinery complies with the noise criteria set out in condition 3 of this permission.’

A supplementary acoustic report has been submitted for approval.

### **DETAILED CONSIDERATIONS**

#### **7.1 Land Use**

Not applicable.

#### **7.2 Townscape and Design**

Not applicable.

#### **7.3 Residential Amenity**

The nearest residential properties to the approved plant are on the upper floors of the building itself with the first to sixth floors being in use as twelve residential flats. Objections have been received from the occupants of five of the flats.

Residents are concerned that the plant is not operating in accordance with noise condition, which they attest is audible within the flats. Furthermore that noise levels have not been taken from within lightwell D of the site. Instead the applicant extrapolates the background noise levels recorded in lightwell C and suggests these must be similar to those in lightwell D. These concerns formed the basis for the City Council refusing the previous application to discharge the condition in November 2015.

The acoustic report submitted with the application measured the lowest background noise level over a 24 hour period as being 44dB. Further to the objections received from residential occupiers Environmental Health have undertaken a site visit and installed their own noise monitoring equipment. This was in place between 20:00 on Saturday 16<sup>th</sup> April 2016 to 08:00 on Sunday 17<sup>th</sup> April 2016. The measurements recorded by Environmental Health show that the background noise measurements included in the applicants acoustic report are accurate and consistent with the actual noise levels in the lightwell. The noise measurements carried out by Environmental Health include readings within lightwell D.

Environmental Health advise that with the acoustic mitigation measures in place as detailed and conditioned on the original planning permission the plant operation is compliant with the standard City Council requirements.

#### **7.4 Transportation/Parking**

Not applicable.

#### **7.5 Economic Considerations**

No economic considerations are applicable for a development of this size.

#### **7.6 Access**

Not applicable.

#### **7.7 Other UDP/Westminster Policy Considerations**

An objector has requested that the settings on the plant items are 'locked' so that they can not be altered without the knowledge of the City Council. This is not considered feasible or necessary; conditions were applied to the original consent restricting the hours of operation of the plant and the power output of the plant items over the day to ensure the noise levels are compliant with the City Council requirements. If the applicant operates the plant in a manner which does not accord with the relevant conditions then they will be liable to planning enforcement action.

#### **7.8 London Plan**

This application raises no strategic issues.

#### **7.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

#### **7.10 Planning Obligations**

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

### **8. BACKGROUND PAPERS**

1. Application form
2. Response from Environmental Health dated 18<sup>th</sup> May 2016
3. Letters from the occupier of Flat 9, 17 Berkeley Street, London dated 5 December 2015 and 27 December 2015
4. Letter from occupier of Flat 2, 17 Berkeley Street, London dated 27 December 2015
5. Letter from occupier of Flat 5, 17 Berkeley Street, London dated 23 December 2015
6. Letter from occupier of Flat 3, 17 Berkeley St, London, dated 28 December 2015
7. Letter from occupier of 17 Berkeley Street, London, dated 28 December 2015

#### **Selected relevant drawings**

Item No.
----------

<b>8</b>
----------

(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 MATTHEW GILES ON 020 7641 5942 OR BY EMAIL AT <a href="mailto:mgiles@westminster.gov.uk">mgiles@westminster.gov.uk</a>
---





**DRAFT DECISION LETTER**

**Address:** 17 Berkeley Street, London, W1J 8EA,

**Proposal:** Approval of details pursuant to Condition 10 of planning permission dated 19 May 2015 (RN: 14/07972), namely the submission of a post-commissioning noise survey to demonstrate the plant noise levels will be compliant with the standard City Council criteria.

**Reference:** 15/10418/ADFULL

**Plan Nos:** Acoustic Report dated 05/11/15, Addendum Acoustic Report undated.

**Case Officer:** Matthew Giles

**Direct Tel. No.** 020 7641 5942

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

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.