

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 12 July 2016	Classification For General Release	
Report of Director of Planning		Ward(s) involved St James's	
Subject of Report	12 Maiden Lane, London, WC2E 7NA		
Proposal	Details of a post commissioning noise survey pursuant to Condition 6, 7 and 8 of planning permission dated 22 January 2016 (RN: 15/09562/FULL) which granted the installation of external plant and equipment within existing enclosure at main roof level and retention of extract ducts from second floor level to roof level terminating within the enclosure.		
Agent	Mr Mike Hughes		
On behalf of	Maiden London Ltd		
Registered Number	16/03861/ADFULL	Date amended/ completed	27 April 2016
Date Application Received	27 April 2016		
Historic Building Grade	Unlisted		
Conservation Area	Covent Garden		

1. RECOMMENDATION

Approve details.

2. SUMMARY

This application relates to approval of a post commissioning survey to demonstrate compliance with noise conditions attached to permission 15/09562/FULL, as approved in January 2016 for the 'installation of plant and machinery at first floor level and fifth floor (roof level)'. The plant services The Big Easy restaurant on the ground and lower ground floors of 12 Maiden Lane.

12 Maiden Lane is a five storey unlisted building located in the Covent Garden Conservation Area. The Maiden Lane frontage provides access at ground floor level through to a restaurant arranged over the ground, lower ground and basement levels of a development at 12 Maiden Lane and 13 Bull Inn Court. There is an office on the upper floors of 11 and 12 Maiden Lane which is accessed from no.11. The upper floors of the rear part of the building (referred to as 14 Bull Inn Court) are in use as 14 residential flats.

There has been previous history relating to the installation of plant and machinery for the restaurant and the noise impacts associated with this, notably to the residents directly beneath the rooftop plant at Flat 14, 14 Bull Inn Court. Objections to the current proposals have been received from these

residents on the grounds that the post commissioning noise survey and testing carried out are insufficient to demonstrate compliance with conditions 6, 7 and 8 of permission 15/09562/FULL.

Further to the testing carried out by the applicant, as assessed and witnessed by the City Council's Environmental Sciences and Noise Team in March and April 2016, it is recommended, for the reasons set out within the report, that requirements of the condition have been met and as such the conditions can be discharged an approval granted.

4. PHOTOGRAPHS



Photos to show installed extract ducts rising up the internal lightwell from 1st floor level, adjacent bedroom windows of flats in 14 Bull Inn Court (metal clad part of the building).





Rooftop Plant as installed



5. CONSULTATIONS

Environmental Sciences:
No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 7
No. of objections: 2

Two letters of objection have been received on behalf of the occupiers of Flat 14, 14 Bull Inn Court on the grounds that the post commissioning survey does not demonstrate compliance with Conditions 6, 7 and 8; and that the testing carried out is flawed.

6. BACKGROUND INFORMATION

6.1 The Application Site

12 Maiden Lane is a five storey unlisted building located in the Covent Garden Conservation Area. The Maiden Lane frontage provides access at ground floor level through to a restaurant arranged over the ground, lower ground and basement levels of a development at 12 Maiden Lane and 13 Bull Inn Court. There is an office on the upper floors of 11 and 12 Maiden Lane which is accessed from No.11. The upper floors of Bull Inn Court (referred to as 14 Bull Inn Court) are in use as 14 residential flats.

6.2 Recent Relevant History

15/09562/FULL

Installation of external plant and equipment within existing enclosure at main roof level and retention of extract ducts from second floor level to roof level terminating within the enclosure.

Application Permitted 22 January 2016

16/04050/NMA

Amendments to planning permission dated 22 January 2016 (RN: 15/09562) for installation of external plant and equipment within existing enclosure at main roof level and retention of extract ducts from second floor level to roof level terminating within the enclosure. Namely, amendments to enable VRF plant to sit 50 mm above the height of the fifth floor roof acoustic enclosure in order to accommodate vibration absorbing measures.

Application Permitted 18 May 2016

15/10460/FULL

Retention of external plant and equipment at first floor level with additional attenuators, new visual/ acoustic barrier screen and removal of existing condensers.

Application Permitted 22 January 2016

7. THE PROPOSAL

Details of a post commissioning noise survey pursuant to Condition 6, 7 and 8 of planning permission dated 22 January 2016 (RN: 15/09562/FULL) have been submitted to the Council. The survey has been compiled following noise testing carried out in March and April 2016 by the applicant, which was witnessed and monitored by officers from Environmental Sciences and representatives of the objectors.

8. DETAILED CONSIDERATIONS

Unauthorised mechanical plant was installed at 12 Maiden Lane to serve The Big Easy restaurant at ground and lower ground floors. As well as not having the benefit of planning permission, the plant also resulted in a statutory noise nuisance under the Environmental Protection Act 1990 and affected the amenity of residents in Flat 14, 14 Bull Inn Court.

Further to a number of refused planning applications, planning permission was granted on 22 January 2016 by the Planning Applications Committee for the 'Installation of external plant and equipment within existing enclosure at main roof level and retention of extract ducts from second floor level to roof level terminating within the enclosure', under application 15/09562/FULL. The plant within the enclosure comprises two VRF (variable refrigerant flow) units and seven condenser and re Fridgeration units. Attached to the internal elevation of the lightwell are two extract ducts which rise from the first floor roof (from the restaurant) to the fifth floor enclosure.

It should also be noted that permission was granted on the same date for the 'retention of external plant and equipment at first floor level with additional attenuators, new visual/ acoustic barrier screen and removal of existing condensers', under application 15/10460/FULL. This plant can run independently of the approved fifth floor plant.

For reference, the committee report and decision notices for these applications are contained within the background papers.

Permission for the fifth floor plant was granted as the installation was considered to comply with planning policies ENV6 and ENV7. Permission was subject to the standard City Council noise compliance conditions regarding noise and vibration (Conditions 4 and 5 of the decision notice dated 22 January 2016). However, it was also considered necessary, given the history and objections from neighbours, to impose conditions (Conditions 6, 7 and 8) requiring the applicant to submit a post-commissioning noise survey to demonstrate that the plant as installed would in fact comply with Conditions 4 and 5 when operated in the future..

Condition 6 relates to the fifth floor plant; condition 7 relates to the full height extract ducts and Condition 8 relates to the internal ground floor mezzanine level plant.

In addition to demonstrating that each item of plant complied with Conditions 4 and 5, Condition 6 (relating to the fifth floor plant specifically) also required the applicants to

ensure that the internal background noise levels and NR (noise rating) curves at Flats 13 and 14, 14 Bull Inn Court would not be increased beyond the baseline.

The testing carried out in order to produce the noise survey was undertaken on a number of nights in March and April 2016 and attended by an acoustic consultant and an M&E specialist on behalf of the applicant, an acoustic consultant acting on behalf of the owners of Flat 14, 14 Bull Inn Court and officers within the Environmental Sciences Team and during the April survey also included 2 members of the Noise Team.

Objections to the application have been received on behalf of the owners of Flat 14, 14 Bull Inn Court. Whilst the objector refers to all three conditions; 6, 7 and 8, it is apparent from the details within the objection that the concerns are essentially in relation to condition 6, relating to the fifth floor plant. It is therefore important to note here, that Environmental Sciences officers do not have concerns with regards to conditions 7 and 8 and are satisfied that the post commissioning noise survey satisfies these two conditions. The remainder of this report therefore focuses on Condition 6.

Condition 6 states:

You must not operate the external plant / machinery at fifth floor level 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 all plant / machinery complies with the noise criteria set out in conditions 4 and 5 (C46AB and C48AA); of this permission. It must also demonstrate that internal background noise levels and NR curves (using L90 values) at the quietest times of day and week within Apartments 13 and 14, 14 Bull Inn Court are not increased (the baseline measurement comparison should be in terms of a LA90T Broadband and NR curves without any of the permitted plant and machinery operating using a spatial average measurement method).

The main part of Condition 6 requires the post-commissioning survey to show compliance with Condition 4 and 5 i.e. the Council's standard noise and vibration conditions. The Environmental Sciences officer has confirmed that the submitted survey does demonstrate this. The objections received on behalf of the Flat 14, 14 Bull Inn Court focus primarily on the final sentence of Condition 6.

A specialist representative from Environmental Sciences will attend committee in order to provide specialist advice to members concerning the technical matters raised in this report, if required.

The main objection raised, is that the post commissioning noise survey raises a number of technical queries and calculation errors, which does not demonstrate that this second part of condition 6 has been met. This includes matters concerning 'standard deviation' and NR curves. For reference, definitions are below:

Standard deviation is a number used to tell how measurements for a group are spread out from the average (mean), or expected value. A low standard deviation means that most of the numbers are very close to the average. A high standard deviation means that the numbers are spread out. Standard deviation can be used to measure how close

a reported number is to being exactly right. For example, the standard deviation is used to find 'margin of error' in opinion poll numbers.

Noise Rating Curves (NR) is a method for rating the acceptability of indoor environments for the purposes of hearing preservation, speech communication and annoyance, based on curves developed by Kosten and van Os (1962). Sound Pressure Levels measured in octave bands are compared with these curves from which a noise rating (NR) is obtained. Higher frequencies (where the ear is more sensitive) are given heavier noise ratings than lower ones.

As submitted, it would appear that the post commissioning noise survey demonstrates that Condition 6 has been met, however the objector's acoustic consultant has noted an error within the findings and calculations. In summary, the applicant's noise survey (measured on 11 April 2016 at 00.45) shows a baseline background noise level of 25 dB LA90 and a 'corrected' calculated level of roof top plant is 27 dB LA90. This is above the stated 1.3 dB standard deviation applied by the applicant's acoustic consultant and agreed with by the Environmental Sciences officers and because the applicant's noise survey does not provide a standard deviation for the roof top plant calculation, the applicant's post-commissioning report does not show compliance with the second part of the condition when taking into consideration this calculation error.

The applicant has been asked to rectify this error. However, in further consideration of the applicant's noise survey and taking account of measurements obtained by themselves (in conjunction with the applicant's calculations) Environmental Sciences officers consider that the noise survey does show compliance with the condition, as a tolerance for a standard deviation must be allowed for. When taking into consideration measurement accuracy and standard deviation officers are content that the tests show as close as reasonably and practicably possible compliance with condition 6..

In relation to the NR curves; the acoustic consultant for the objectors has effectively broken up the consideration of NR curves into low and high frequency content. The planning condition does not however require such a consideration. The NR curves for the Living Room of Flat 14 remain at NR20 with plant on and plant off (Baseline). NR 20 is a very low design criteria for residential dwellings (including bedrooms). WHO (World Health Organisation) states that LAeq 35dB (Living Rooms) and 30 dB (Bedrooms) are a good standard of internal ambient noise. NR 20 corresponds to approximate levels of 25 dB LAeq. The background noise levels within the objectors living room (directly below the plant) are likely to be about 5 - 10 dB below WHO guidance levels with the plant operating. The measurements show that with all plant operating the 'ambient' levels were 5 dB below WHO guidance for Living rooms and 1 dB below the guidance levels for bedrooms which is acceptable and policy compliant. The objector argues that WHO guidance levels are not relevant in the assessment of the noise survey as it is not referred to within the reason for the condition. However, City Council policy is based upon WHO guidance and is clearly referred to within the policy text.

The low frequency octave band of NR curves are also so low that according to 'A' Weighting correction (which is a correction applied for the average human hearing); the low frequency content, with all plant operating combined with the existing baseline will be in the region of only 10 to 20 dBA above 0 dBA (i.e. the threshold of audible hearing).

The existing baseline low frequency content (i.e. without the plant operating) will be contributing to these very low levels.

It also has to be considered that all internal residential plant and machinery in Flat 14, 14 Bull Inn Court, was switched off for the test conditions (although it should be noted that the fridge was running when the 'all plant on' condition was tested to begin with). When the baseline measurement was taken all internal residential plant was off, this included the resident's internal heating system, kitchen wine cooler and refrigerator and freezer. This means that the testing was conducted under the strictest conditions possible and yet the increases which have been observed are within expected measurement tolerances.

It is argued by the acoustic consultant acting on behalf of the objector, that they are unable to fully verify the testing carried out and in particular, they are not clear as to what plant or equipment was turned on or off at any given moment of testing. Officers from the Environmental Sciences Team were in attendance within the restaurant prior and during the testing being conducted. Instructions between the various parties were carried out using hand-held short wave radios which was within earshot of everyone in attendance. Officers attended the premises prior to the tests being carried out and witnessed the cold storage room doors within the restaurant all being opened, thus requiring the refrigeration plant to operate to continue to cool the cold storage areas. During the tests officers witnessed air flow rate measurements being taken on behalf of the M&E specialist for the applicant. The plant was all witnessed as operational by officers and these were at full load according to the applicant's M&E specialist.

Finally, the objectors state that the plant in the fifth floor roof enclosure was changed or modified between the March and April testing and this has not been referred to within the post commissioning noise survey. The objector considers this to be a serious omission and should have been explained in the report.

As detailed in the planning history section of the report, the City Council has recently approved a non-material amendment application which sought to raise the height of the two VRF units by 50mm above the rim of the acoustic enclosure in order to accommodate vibration absorbing measures to improve the noise attenuation. It is not considered that this minor alteration necessarily be referred to within the applicants post commissioning survey as Environmental Sciences were satisfied that the amendment did not alter the noise implications of the plant.

Conclusion

The intention of the post-commissioning conditions (Conditions 6, 7 and 8) was that the acoustic quality within the properties of 14 Bull Inn Court would be retained when all the plant was operational and it is considered that this objective has been met.

It is considered that whilst the objector raises a valid concern regarding the calculated errors, as shown in the applicant initial survey; on the basis of further data and in conjunction with the assessment and data collected by officers within the Environmental Sciences it is considered that the noise testing has been carried out satisfactorily and that the submitted survey demonstrates that conditions 6, 7 and 8 have been met, in that the standard noise conditions (conditions 4 and 5) have been achieved when the plant is

fully operational and the internal noise levels within the neighbouring residential properties will not be harmful to amenity. It should here be noted that the standard noise conditions (conditions 4 and 5) will be applicable for the lifetime of the plant and should the objector consider that a breach is occurring, then a complaint can be made to the Noise Team and/or Planning Enforcement Team to be investigated.

It is therefore recommended that the post commissioning noise survey be approved.

9. BACKGROUND PAPERS

1. Application form.
2. Committee report and decision notices from 22 January 2016.
3. Responses from Environmental Sciences dated 12 May, 6 June and 29 June 2016.
4. Letters on behalf of occupiers of Flat 14, 14 Bull Inn Court dated 24 and 25 May and 9 June 2016.

(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: KIMBERLEY DAVIES BY EMAIL AT kdavies1@westminster.gov.uk

DRAFT DECISION LETTER

Address: 12 Maiden Lane, London, WC2E 7NA

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Reference: 16/03861/ADFULL

Plan Nos: Noise Assessment by Vanguardia Rev 01 dated 21 April 2016, Covering Letter dated 27 April 2016, Plant schedule and Ventilation Commissioning Data received 13 May 2016, Photos 1-16 received 13 May 2016

Case Officer: Kimberley Davies

Direct Tel. No. 020 7641 5939

Recommended Condition(s) and Reason(s):

- 1 This approval satisfies conditions 6, 7 and 8 of the planning permission dated 22 January 2016. (I11AA)

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.