

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> <b>13 December 2016</b>	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>74 Seymour Place, London, W1H 2DF</b>		
<b>Proposal</b>	Variation of condition 8 of planning permission dated 23 June 2016 (RN: 16/00727/FULL) for the Use of ground floor and basement as medical use (Class D1), installation of plant within basement, replacement of basement window with louvres and excavation to part of basement. NAMELY, to vary the opening hours to Monday to Friday 08.00 - 21.00, Saturday 09.00 - 18.00 and Sunday 09.00 - 16.00.		
<b>Agent</b>	Mrs Diana Bayliss		
<b>On behalf of</b>	Ms R. Myklalus		
<b>Registered Number</b>	16/09359/FULL	<b>Date amended/ completed</b>	29 September 2016
<b>Date Application Received</b>	29 September 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Portman Estate		

## 1. RECOMMENDATION

Grant conditional permission for a temporary period of 1 year

## 2. SUMMARY

On 23<sup>rd</sup> June 2016 permission was granted for use of a basement and ground floor commercial unit for medical purposes (Class D1). The premises is currently vacant but has been used as either offices (Class B1) or as a clinic (Class D1) pursuant to a dual alternative use (as either offices Class B1 or medical Class D1 granted in 2003. The permission for the medical use granted in June 2016 was subject to a number of conditions including a condition (No 8) which restricted the opening to between the following hours :

Monday to Friday 08:00 and 18.00;  
Saturday 09:00 and 13.00;  
and not at all on Sunday.

Since permission was granted an alternative medical user has been identified. A pediatric dental practice wish to occupy the premises, but require extended opening hours to enable parents/carers to take children to the dentist outside of normal working/school hours. This application seeks to extend the opening hours to the following :

Monday to Friday 08.00 and 21.00 (an additional 3 hours);  
Saturday 09.00 and 18.00 (an additional 5 hours);  
and Sunday 09.00 and 16.00 (an additional 7 Hours).

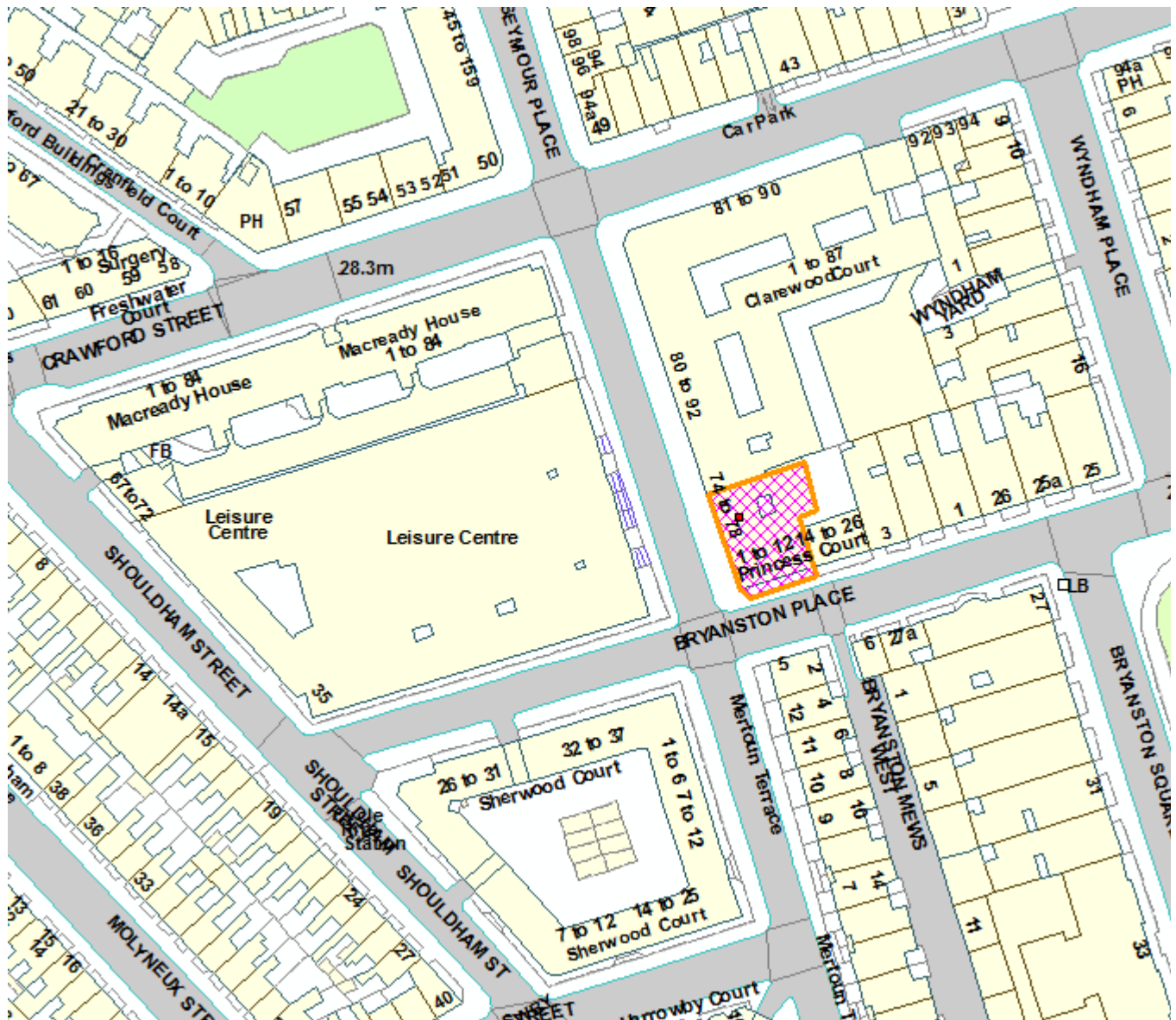
The site is located on the lower floors of Princess Court a residential mansion block comprising 7 upper floors. The site is located outside the core Central Activities Zone (CAZ) but within the wider CAZ and outside the Harley Street Special Policy Area.

An objection has been received from the managing agents of Princess Court who represent 25 long leaseholder residents in the block and from an individual resident that the proposed opening hours at the weekend and opening beyond 6pm during weekdays would result in additional noise and disturbance that would be harmful to residential amenity.

The applicant highlights that the site is directly opposite the Seymour Leisure Centre which is open on Monday to Friday 06.30 to 22.00, Saturday 07.00 to 20.00 and Sunday 08.00 to 20.00.

The applicants' argument that Seymour Place is not a wholly residential street and there is currently activity in the evenings and at weekends associated with the leisure centre is acknowledged. However the application premises is directly under a number of residential flats. In the light of this it is recommended that the proposed extended hours are permitted for a temporary period of 1 year in the first instance. This will allow the position to be monitored to ensure that the later operating hours do not result in a loss of amenity to residents.

### 3. LOCATION PLAN



This production includes mapping data licensed from Ordnance Survey with the permission of the controller of Her Majesty's Stationery Office (© Crown Copyright).

## 4. PHOTOGRAPHS

12 May 2016, 11:05:45



## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION

Objection - No Sunday opening should be allowed.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 114

Total No. of replies: 2

No. of objections: 2 raising the following:

#### Amenity

Additional noise nuisance to residents

#### Other

The conditions controlling the operation of internal plant and requiring details of louvres are necessary and should not be removed (the application initially sought to remove these conditions but was subsequently amended and conditions 3 and 12 remain unaltered).

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 Recent Relevant History

On 23 June 2016 permission was granted for: Use of ground floor and basement as medical use (Class D1), installation of plant within basement, replacement of basement window with louvres and excavation to part of basement. (16/00727/FULL)

On 5 August 2003 permission was granted for: Use of ground floor and basement areas as either offices (Class B1) and/or as a hair academy (Class D1) for a temporary period until 31 December 2022 (03/03843/FULL).

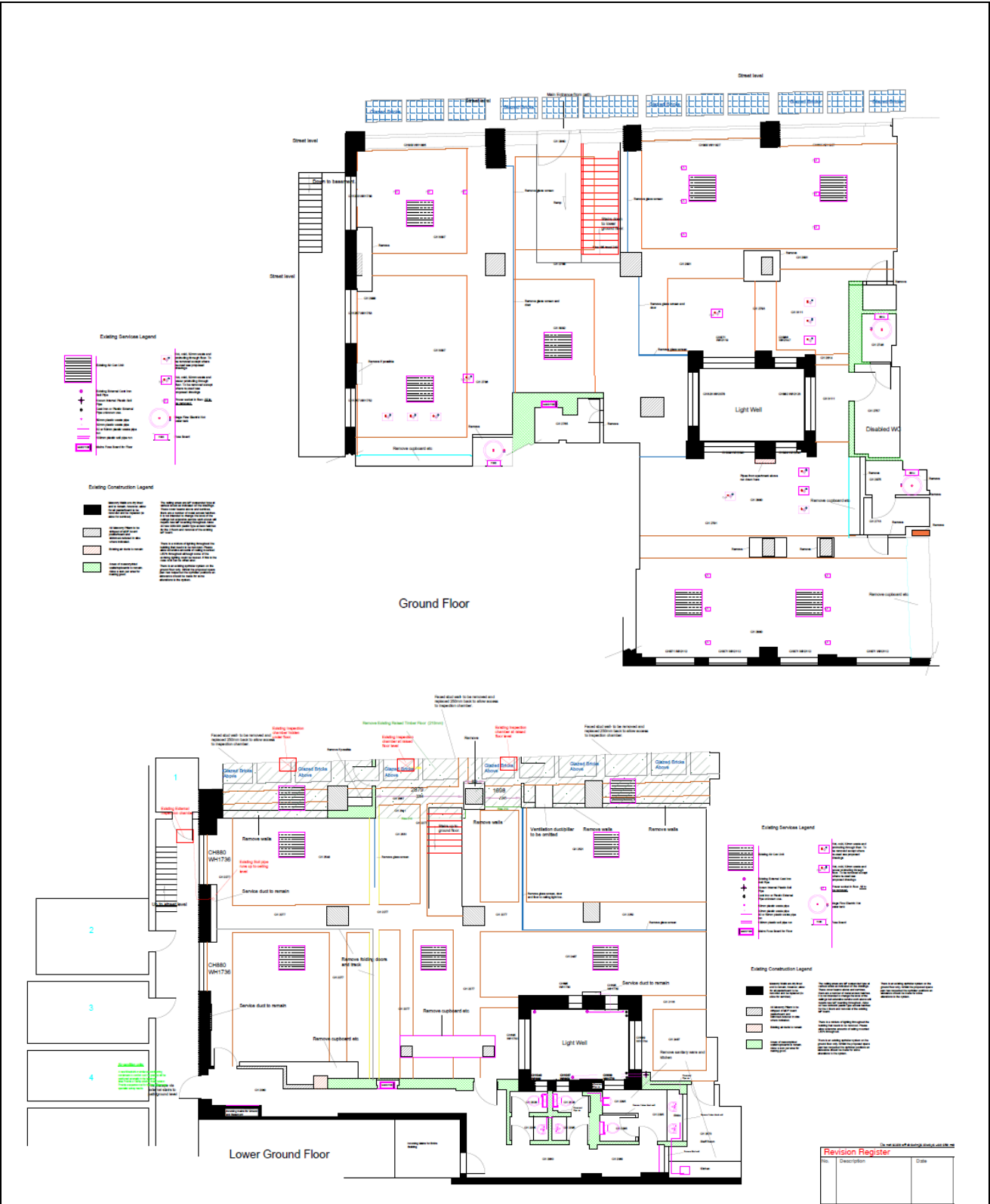
## 7. BACKGROUND PAPERS

1. Application form
2. Response from Marylebone Association, dated 8 October 2016
3. Letter from occupier of Flat 26, Princess Court, Bryanston Place, dated 16 October 2016
4. Letter from occupier of Strettons Chartered Surveyors, 189-203 Hoe Street, dated 26 October 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: MIKE WALTON BY EMAIL AT [mwalton@westminster.gov.uk](mailto:mwalton@westminster.gov.uk)

KEY DRAWINGS



**DRAFT DECISION LETTER**

**Address:** 74 Seymour Place, London, W1H 2DF

**Proposal:** Variation of condition 8 of planning permission dated 23 June 2016 (RN: 16/00727/FULL) for the Use of ground floor and basement as medical use (Class D1), installation of plant within basement, replacement of basement window with louvres and excavation to part of basement. NAMELY, to vary the opening hours to Monday to Friday 08.00 - 21.00, Saturday 09.00 - 18.00 and Sunday 09.00 - 16.00.

**Reference:** 16/09359/FULL

**Plan Nos:** 15/125/SK PROP 1 REV B, 15/125/SK PROP 2 REV B, Planning Compliance Report AS8757.160311.PCR.docx prepared: 11 March 2016

**Case Officer:** Shaun Retzback

**Direct Tel. No.** 020 7641 6027

**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 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 occupiers. This is as set out in S29 and S32 of Westminster's City Plan (July 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 (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 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 (July 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.

- 4 You must apply to us for approval of details of how waste is going to be stored on the site and how materials for recycling will be stored separately. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the property. (C14EC)

**Reason:**

To protect the environment and provide suitable storage for waste and materials for recycling as set out in S44 of Westminster's City Plan (July 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14CC)

- 5 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

**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 2015.

- 6 You must apply to us for approval of a servicing management plan to show how servicing will occur on a day to day basis to identify scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. You must not occupy the building until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the property is in use.

Reason:

To ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction or a danger to highway users.

- 7 No goods delivered or collected by vehicles arriving at or departing from the building shall be left on the public highway during service deliveries.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 8 Customers shall not be permitted within the business premises before 08:00 or after 21:00 Monday to Friday, before 09:00 or after 18:00 on Saturday and before 09:00 or after 16:00 on Sunday for a temporary period of 1 year from the date of this decision. After which time customers shall not be permitted within the premises before 08.00 or after 18.00 Monday to Friday, before 09.00 or after 13.00 on Saturday, and not at all on Sunday.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan (July 2016) and ENV 6, ENV 7 and ENV 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 9 All servicing must take place between 07:00 - 18:00 on Monday to Saturday and not at all on Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (July 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 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.

- 11 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

**Reason:**

As set out in ENV6 (4) of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at sections 9.84 to 9.87, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the development from the intrusion of external noise.

- 12 You must apply to us for approval of detailed drawings at 1:10 of the following parts of the development - new louvre at basement level. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these approved drawings. (C26DB)

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Portman Estate Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (July 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 13 You must use the property only for medical uses. You must not use it for any other purpose, including any within Class D1 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). (C05AB)

**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 (July 2016), 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.

- 2 When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work., , Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974. 24 Hour Noise Team, Environmental Health Service, Westminster City Hall, 64 Victoria Street, London, SW1E 6QP. Phone: 020 7641 2000  
Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)
  
- 3 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following: , , \* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible; , , \* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant. Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm). , , It is now possible for local authorities to prosecute any of the relevant parties with respect to non compliance with the CDM Regulations after the completion of a building project, particularly if such non compliance has resulted in a death or major injury.
  
- 4 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained. Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following: , \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings; , \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase; , \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained; , \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the

centre of particularly wide staircases where necessary; , \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.

- 5 Every year in the UK, about 70 people are killed and around 4,000 are seriously injured as a result of falling from height. You should carefully consider the following;
- \* Window cleaning - where possible, install windows that can be cleaned safely from within the building,
  - \* Internal atria - design these spaces so that glazing can be safely cleaned and maintained,
  - \* Lighting - ensure luminaires can be safely accessed for replacement,
  - \* Roof plant - provide safe access including walkways and roof edge protection where necessary (but these may need further planning permission).

More guidance can be found on the Health and Safety Executive website at [www.hse.gov.uk/falls/index.htm](http://www.hse.gov.uk/falls/index.htm). Note: Window cleaning cradles and tracking should blend in as much as possible with the appearance of the building when not in use. If you decide to use equipment not shown in your drawings which will affect the appearance of the building, you will need to apply separately for planning permission. (I80CB)

- 6 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 7 Please contact our District Surveyors' Services to discuss how you can design for the inclusion of disabled people. Email: [districtsurveyors@westminster.gov.uk](mailto:districtsurveyors@westminster.gov.uk). Phone 020 7641 7240 or 020 7641 7230. If you make a further planning application or a building regulations application which relates solely to providing access or facilities for people with disabilities, our normal planning and building control fees do not apply., , The Equality and Human Rights Commission has a range of publications to assist you, see [www.equalityhumanrights.com](http://www.equalityhumanrights.com). The Centre for Accessible Environment's 'Designing for Accessibility', 2004, price £22.50 is a useful guide, visit [www.cae.org.uk](http://www.cae.org.uk). , , If you are building new homes you must provide features which make them suitable for people with disabilities. For advice see [www.habinteg.org.uk](http://www.habinteg.org.uk) , It is your responsibility under the law to provide good access to your buildings. An appropriate and complete Access Statement as one of the documents on hand-over, will provide you and the end user with the basis of a defence should an access issue be raised under the Disability Discrimination Acts.
- 8 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)
- 9 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point., , If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and

the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

- 10 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)
- 11 The term 'clearly mark' in condition 4 means marked by a permanent wall notice or floor markings, or both. (I88AA)
- 12 You need to speak to our Highways section about any work which will affect public roads. This includes new pavement crossovers, removal of redundant crossovers, changes in threshold levels, changes to on-street parking arrangements, and work which will affect pavement vaults. You will have to pay all administration, design, supervision and other costs of the work. We will carry out any work which affects the highway. When considering the desired timing of highway works in relation to your own development programme please bear in mind that, under the Traffic Management Act 2004, all works on the highway require a permit, and (depending on the length of the highway works) up to three months advance notice may need to be given. For more advice, please phone 020 7641 2642. However, please note that if any part of your proposals would require the removal or relocation of an on-street parking bay, this is unlikely to be approved by the City Council (as highway authority). (I09AC)

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.