

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 31 January 2017	<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>	<b>38-40 Stratton Street, London, W1J 8LT,</b>		
<b>Proposal</b>	Use of the basement and ground floor (part) for gym and sports rehabilitation (sui generis) and alterations to the existing Berkeley Street access [Site includes 40-42 Berkeley Street]		
<b>Agent</b>	Indigo Planning		
<b>On behalf of</b>	Sainsbury's Supermarkets Ltd		
<b>Registered Number</b>	16/10354/FULL	<b>Date amended/ completed</b>	28 October 2016
<b>Date Application Received</b>	28 October 2016		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Mayfair		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The application site comprises an eight-storey plus basement unlisted building located within the Mayfair Conservation Area. The basement and ground floors, to which the application relates, are in use as retail (Class A1) and are currently occupied by Sainsbury's. The upper floors are in office use.

The applicant seeks permission for the use of the basement and part of the ground floor fronting onto Berkeley Street for use as a sports rehabilitation and gym facility (Sui Generis) and alterations to an existing access on Berkeley Street. The proposed occupier for the new unit would be Pure Sports Medicine who offer a range of services including physiotherapy, osteopathy, podiatry and personal strength and conditioning training for its members.

The physical alterations to the building are not contentious in design terms and the key issue in this case is the loss of retail floorspace.

The existing A1 retail unit comprises 905 m<sup>2</sup> at basement level and 1,048 m<sup>2</sup> at ground (totalling 1,953 m<sup>2</sup>). The proposal involves the use of the entire basement floor and the creation of an entrance lobby at ground floor, involving an additional loss of retail of 91m<sup>2</sup> (996 m<sup>2</sup> in total). This would result in the loss of approximately 25% of the retail frontage on Berkeley Street. As a result of

the proposal, the existing ancillary accommodation at basement level would be consolidated and relocated to ground floor level which would further reduce the existing sales area by 320 m<sup>2</sup> (based on the indicative ground floor layout plan provided by the Applicant).

The property falls within the Core CAZ and therefore Policies S21 of the City Plan and the SS5 of the UDP apply. Policy SS5 seeks an appropriate balance of town centre uses and states that within the Core CAZ, retail uses at ground floor will be protected at basement ground and first floor level. The policy goes on to state that non-A1 uses will only be granted at ground floor level where they will not be detrimental to the character and function of the area. Policy S21 states that existing A1 retail will be protected except where the Council considers the unit is not viable, as demonstrated by long term vacancy despite reasonable attempts to let. No marketing material has however been submitted to demonstrate that the existing retail floor space is not viable. In support of their application the applicant argues that the basement has never operated as trading floorspace, is currently used as a store room and back of house area, and that due to increased efficiencies in the operation of the store, Sainsbury's is able to relocate and reduce its back-of-house area to the ground floor. On this basis, the applicant claims that with the imposition of Sainsbury's updated and more efficient method of operation, there will be no meaningful change in the retail offer. The reduced size of the unit would not jeopardise the long-term use of the store as sufficient trading and display areas and back of house facilities (including general office and storage areas) would still be provided.

The applicant argues that the provision of another commercial use in this location would increase the footfall on the street and could possibly lead to greater footfall within the store in accordance with paragraph 18 of the NPPF which aims to secure economic growth in order to create jobs and prosperity. The applicant makes reference to a recent appeal at 73 Piccadilly, where the Inspector concludes that "... the use offers the prospect of providing more jobs than an A1 use of the premises and increasing average spend in the area, and is therefore consistent with the objectives in the Framework in terms of supporting economic growth and competitive town centres that promote customer choice...."

The applicant states that the existing Sainsbury's store employs a total of 87 staff on-site, in full-time and part-time positions. The proposed store, although smaller, will employ the same number of staff. In addition, the proposed gym and sports rehabilitation use will employ 35-40 individuals in a mixture of full-time and contract positions. As such, the applicant contends that the proposal will provide significantly more jobs on-site than the existing situation, bring new business to the area and is, therefore, consistent with the objectives of the Framework in terms of supporting economic growth.

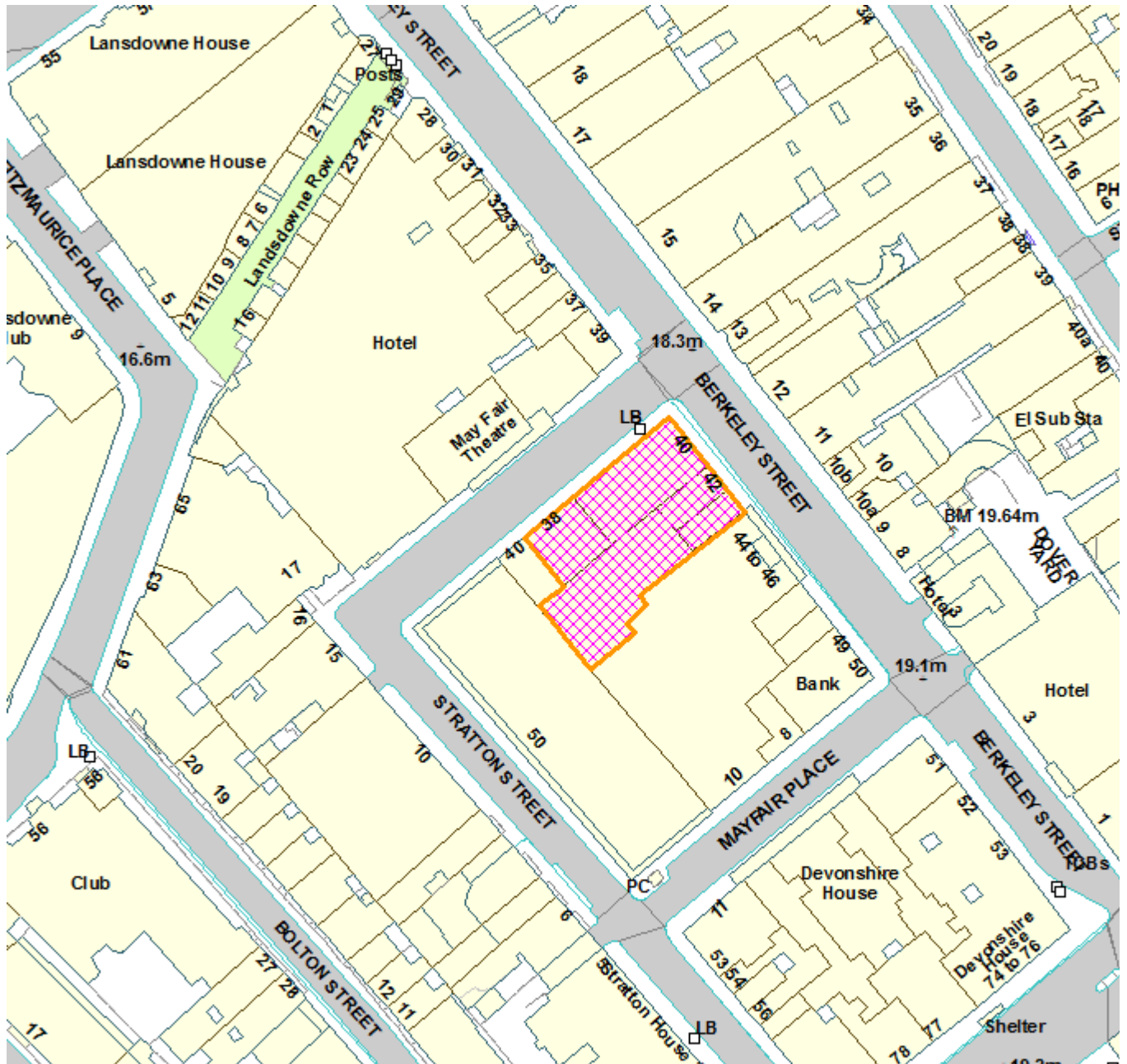
Although both policies S21 and SS5 of the UDP protect retail floorspace at ground and basement levels, the retail offer will remain and there will be little change to the appearance to the building, and as such it is not considered that the proposed loss in retail floorspace would be detrimental to the character and function of the area. Furthermore, the proposal creates the potential to provide significantly more jobs on-site and in this regard it is considered that there are exceptional circumstances to justify the loss of retail floorspace.

With regard to the proposed gym and sports rehabilitation use, Policy SOC 1 of the UDP and S34 of City Plan encourage the provision of community facilities in appropriate locations throughout Westminster provided they are accessible to residential area, will not harm the amenity of the surrounding area, including the effect of any traffic generated and be safe and easy to reach on foot, by cycle and by public transport.

It is considered that the proposed use is appropriate in terms of its location in terms of proximity to

residential occupants and accessibility and, with the imposition of appropriate condition, including limiting hours of use until 20:00, it would have no demonstrable harm to the amenity of the surrounding area (including the effect of any traffic generated). In light of the above, the proposal is considered acceptable and therefore is recommended for approval.

### 3. LOCATION PLAN



4. PHOTOGRAPHS



## 5. CONSULTATIONS

RESIDENTS SOCIETY OF MAYFAIR & ST. JAMES'S

To be reported verbally.

HIGHWAYS PLANNING MANAGER

No objections raised.

CLEANSING

No objections raised.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 34

Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

## 6. BACKGROUND PAPERS

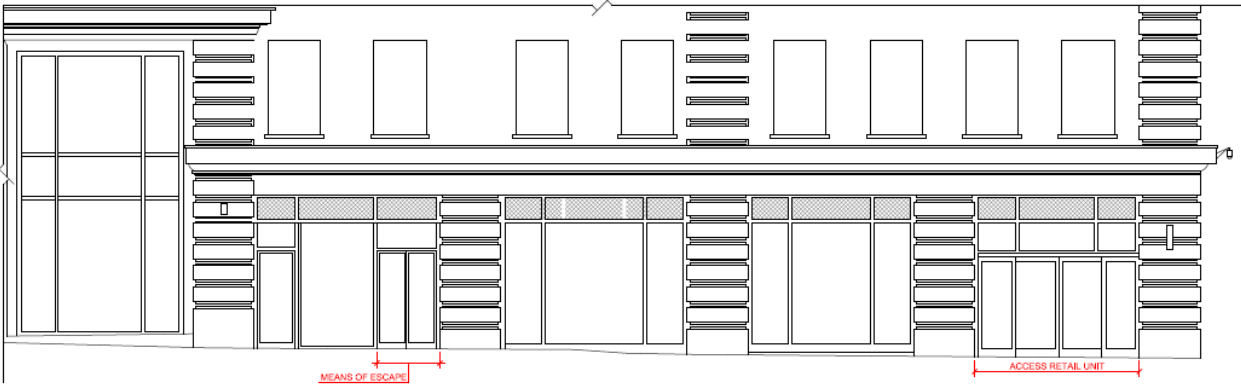
1. Application form
2. Memorandum from Cleansing dated 17 November 2016
3. Memorandum from Highways Planning Manager dated 03 January 2017

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

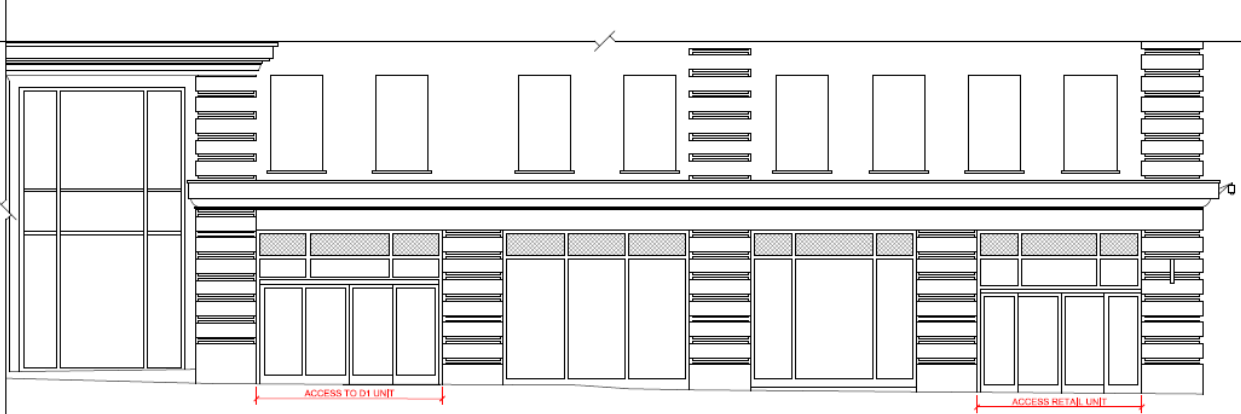
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT [JPALME@WESTMINSTER.GOV.UK](mailto:JPALME@WESTMINSTER.GOV.UK).

## 7. KEY DRAWINGS





01 EXISTING NORTH EAST ELEVATION - BERKELEY STREET -  
1:100



02 PROPOSED NORTH EAST ELEVATION - BERKELEY STREET -  
1:100

**DRAFT DECISION LETTER**

**Address:** 38-40 Stratton Street, London, W1J 8LT,

**Proposal:** Use of the basement and ground floor (part) for gym and sports rehabilitation (sui generis) and alterations to the existing Berkeley Street access [Site includes 40-42 Berkeley Street]

**Reference:** 16/10354/FULL

**Plan Nos:** Drawings P-129492-101, P-129492-102, P-129492-201

**Case Officer:** Damian Lavelle

**Direct Tel. No.** 020 7641 5974

**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:**

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.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
- o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and ,
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

**Reason**

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 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 retail unit and gym/sports rehabilitation facility. (C14EC)

**Reason:**

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 4 You must apply to us for approval of details for secure cycle storage for 9 cycles for the gym and sports rehabilitation use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

**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.

- 5 You must not start any work on this part of the development allowed by this permission until an Operational Management Plan, incorporating a Servicing Management Plan for both the retained retail unit and the sports rehabilitation and gym facility has been submitted to and approved by the City Council which includes details of schedule and hours of delivery, storage locations and deliver procedures. You must then carry out the measures included in the servicing management plan at all times that the retail unit and the sports rehabilitation and gym facility are in use

**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 (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 6 No doors should open onto the highway.

**Reason:**

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 7 Customers shall not be permitted within the gym and sports rehabilitation centre; before 07:00; or after 20:00 on Monday to Friday; before 08:00; or after 15:00 on Saturday and not at all Sundays or Bank Holidays.

**Reason:**

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13FB)

**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 (November 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 The term 'clearly mark' in condition 3 means marked by a permanent wall notice or floor markings, or both. (I88AA)

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.