CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date	Classification	
	14 February 2017	For General Release	
Report of		Ward(s) involved	
Director of Planning		St James's	
Subject of Report	12 St James's Street, London, SW1A 1EF,		
Proposal	Use of the basement, ground and mezzanine of 12 St James's Street as a fitness club (Class D2) personal to Equinox St James Limited together with the installation of plant at roof level and to the rear lightwell and associated alterations.		
Agent	Miss Hannah Murray, Gerald Eve		
On behalf of	Equinox St James Limited and Legal & General Assurance Society Ltd		
Registered Number	16/11515/FULL	Date amended/ completed	5 December 2016
Date Application Received	5 December 2016		
Historic Building Grade	Unlisted		
Conservation Area	St James's		

1. **RECOMMENDATION**

Grant conditional permission.

2. **SUMMARY**

The application site comprises the basement, ground and mezzanine floors of an imposing early 20C building within the St James's Conservation Area. The site was previously a restaurant/bar, but has been vacant for several years. The application seeks permission for a gym use (Class D2), personal to Equinox (a 'premium' gym operator) along with the installation of plant at roof level and to the rear basement lightwell.

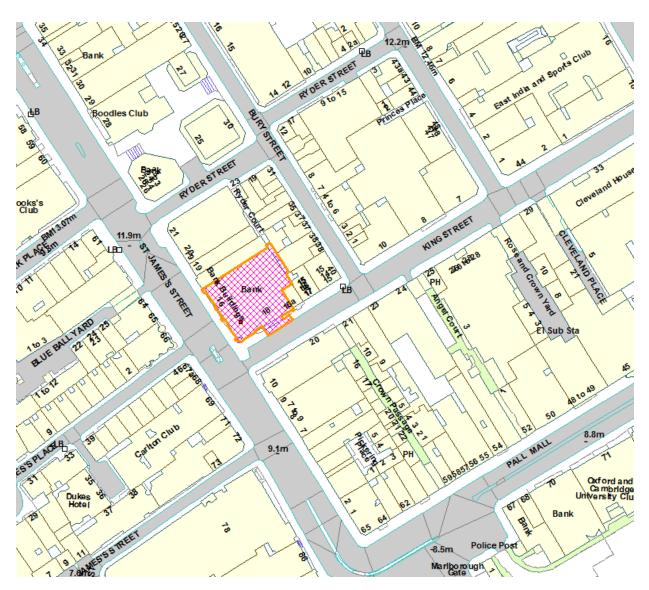
The main considerations are as follows:

- Impact of the use upon the amenity of nearby residents.
- The acceptability of the use in terms of our land use policies.

Given the nature of the surrounding area, the application is acceptable in land use terms. The impact of the proposed gym on nearby residents is considered acceptable subject to the conditions as set out in the draft decision letter.

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3. **LOCATION PLAN**



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4. PHOTOGRAPHS



12 St James's Street

5. **CONSULTATIONS**

WESTMINSTER SOCIETY No objection.

ST JAMES'S CONSERVATION TRUST Any response to be reported verbally.

CLEANSING

No objection subject to condition.

HIGHWAYS PLANNING MANAGER

No objection subject to a condition regarding cycle storage.

ENVIRONMENTAL HEALTH

No objection subject to conditions regarding plant, hours of plant operation and noise levels within the gym.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 72 Total No. of replies: 1 No. of objections: 0 No. in support: 1

PRESS ADVERTISEMENT / SITE NOTICE: Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

The site is within the St James's Conservation Area, Core CAZ and the St James's Special Policy Area. The building is a handsome early 20C bank building in a prominent corner position and is designated as an 'unlisted building of merit' by the St James's Conservation Area Audit.

The basement, ground and mezzanine floors have been vacant since 2010, but there has been a series of permissions allowing the basement to be used as a bar, with a restaurant at ground and mezzanine levels. The most recent, in 2012, allowed the operating hours of the bar and restaurant to extend until 0200 Thursday to Saturday, with an overall capacity of 570 customers, though this has never been implemented. There are offices at first to fifth floors, with residential units at sixth floor.

6.2 Recent Relevant History

Permission was originally granted on 21 April 1994 for the redevelopment behind retained facades (St James's Street and King Street elevations), incorporating retained ground floor banking hall, to provide offices on basement, ground and five upper floor, six self-contained flats on sixth floor level, and roof top plant. Permission was subsequently renewed on 9 March 1999.

An alternative scheme, which included a restaurant and wine bar at ground and basement level was refused on 26 June 1998. The application was then granted at appeal on 12 February 1999. This permission was implemented and included conditions relating to the operation of the restaurant.

24 February 2012 - permission granted for "variation of Conditions 4 and 5 of planning permission granted on appeal on 12 February 1999 (97/0B239/FULL) for redevelopment behind retained facades including restaurant at ground & mezzanine levels, wine bar in basement, offices to 5 upper floors and 6 self-contained flats at sixth floor level, plant & ductwork at 16 St James's Street; namely, to allow the ground floor and mezzanine to operate with no more than 320 covers and to amend the opening hours."

7. THE PROPOSAL

The application is for the use of the basement, ground and mezzanine floors as a gym (Class D2) with associated alterations including the installation of plant at roof level, within the rear basement lightwell and new ventilation louvres to some existing openings at basement level. In terms of the proposed layout, changing rooms, a small spa area and staff facilities are at basement, with the main gym, cafe and retail area at ground floor, with studio space at an extended mezzanine level. The proposed operating hours are 0530 to 2300 Monday to Friday and 0800 to 2100 Saturday, Sunday and bank holidays. It is anticipated that the club would have an approximate maximum capacity of 250 visitors with between 30-50 employees. The activity profile provided by the applicants states that the peak hours are 0700-0900, 12.30-13.30 and 1700 to 1900 during the week.

The applicant/proposed operator is Equinox Ltd, a 'premium' gym operator with one other premises in London (Kensington) and several other operations internationally.

8. **DETAILED CONSIDERATIONS**

8.1 Land Use

The most relevant land use policies are S18 which supports commercial development within Core CAZ, and S21 which seeks to protect existing non A1 retail units from changing to units that do not serve visiting members of the public and do not have active shopfronts.

Given that the existing building does not have an 'active' shop front, it is not in an identified retail frontage, and that policy S18 supports commercial development within Core CAZ, it is not considered that the loss of the restaurant in this case would be contentious. The proposed use would be providing a service for the local working and residential population and in principle is considered acceptable.

8.2 Townscape and Design

Few external alterations are proposed and the main design issue is therefore the impact of the proposed louvres and plant on visual amenity and the conservation area. The air conditioning units are concealed from public vantage points and are acceptable in design terms. The proposed louvres are discreetly located within existing openings at basement

level and are acceptable subject to a condition requiring them to be finished to match adjacent materials.

8.3 Residential Amenity

The main issue in policy terms is considered to be the impact upon the amenity of nearby residents in terms of comings and goings to the building early and late in the day. The hours and capacity allowed by the 2012 planning permission are a material consideration. The nearest residential properties are located on the 6th floor of the application site, with 5 floors of offices between the proposed gym and the flats.

The proposed gym will have a significantly lower capacity than that allowed for in the restaurant/bar permission, along with an earlier closing time (23.00 compared with potentially 0200). Whilst the gym intends to open at 0530 (to allow for classes starting at 0600), this will not be peak time and the comings and goings are likely to be fairly restricted. The peak hours of operation set out above are not considered to be times where residents would expect quiet time. In terms of comings and goings, the gym has a different profile to the existing lawful restaurant/bar use, and it is likely to be less intensively used in the evening, particularly after 21.00. On this basis, it is not considered that the comings and goings associated with the proposed gym would be harmful to the amenity of nearby residents.

In terms of limiting the noise transfer from the activities within the gym itself, the proposals include insulation and a 'floating box' construction to the exercise studio to reduce vibration and noise transference to the occupiers above. Following receipt of further acoustic information, Environmental Health officers are generally satisfied that the gym can operate within reasonable limits, subject to conditions regarding maximum noise levels and the use of a sound limiter for music/amplified sound.

Environmental Health officers are satisfied the proposed plant is capable of being operated in compliance with the standard noise condition, provided the plants hours of operation are also restricted by condition.

8.4 Transportation/Parking

Servicing will continue to take place on street. It is considered that the gym will require less intensive servicing than an entertainment use, particularly given that there is a laundry service on site. Deliveries will generally be associated with the cafe, office and maintenance supplies. It is unlikely that the servicing associated with the gym would have any detrimental impact upon the local highway network.

Refuse and cycle storage is provided at basement level and is acceptable in terms of layout and capacity. It will be secured by condition.

8.5 Economic Considerations

Any economic benefits generated by the proposed development are welcomed.

8.6 Other UDP/Westminster Policy Considerations

None relevant.

8.7 London Plan

This application raises no strategic issues.

8.8 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.

8.9 Planning Obligations

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

The estimated Westminster CIL payment is £17,570. The application is also subject to Mayoral CIL, which is estimated at £7,100.

8.10 Environmental Impact Assessment

A development of this scale does not prompt a requirement for an Environmental Impact Assessment under the EIA Regulations 2011.

8.11 Other Issues

Personal permission

Given the other uses falling within the D2 use class (for example cinemas/concert halls) and potential impact of those uses on the local area, any permission granted will be restricted by condition to a gym within Class D2. The applicants have, however, specifically applied for a personal permission for Equinox reverting to an A3/A4 restaurant and bar upon vacation of the site by Equinox. Planning permission runs with the land and National Planning Guidance (NPG) states that it is rarely appropriate for personal planning permissions to be granted but that there may be circumstances justified on planning grounds because of who could benefit from the permission. The Crown Estate is the freeholder of the building and will not agree to a permanent unrestricted D2 use in this location. They do, however, support this particular operator given the niche type of business proposed.

This area of St James's is characterised by niche retail, restaurants and supporting services. The unusual nature of the building with its cavernous interior is not suited to a wide range of potential occupiers and has been vacant for some time. The applicants argue that personal permission would be the only way of ensuring the building is bought back into beneficial use in the short to medium term and the personal nature of the permission would have regard to the fact that this company is currently the only operator acceptable to the Crown Estate. Whilst it is not the norm to entertain a personal use it is considered in this instance that a personal use is acceptable, especially since it is likely to secure the beneficial use of this unused part of the building in the medium term.

9. BACKGROUND PAPERS

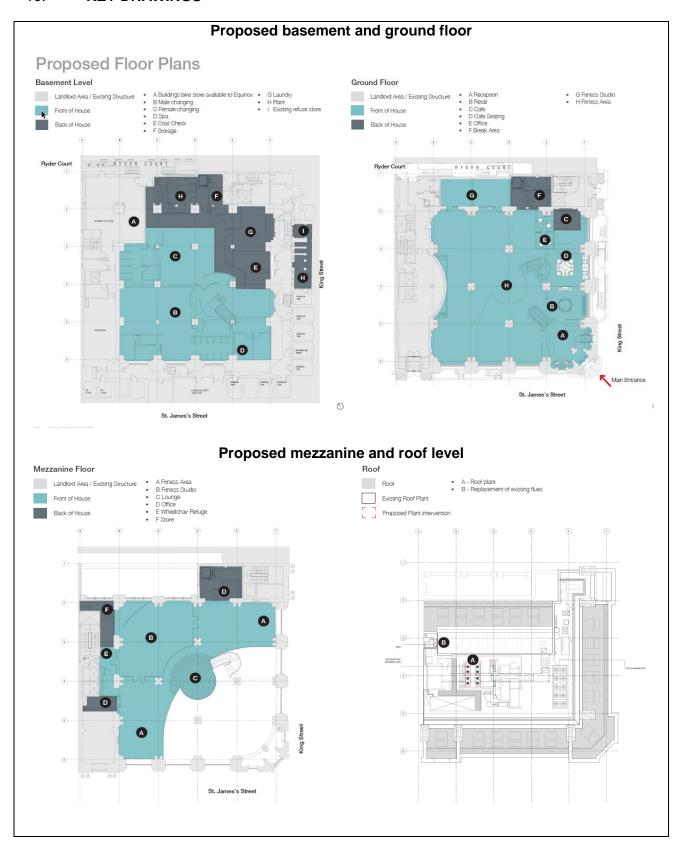
- 1. Application form
- 2. Response from Westminster Society, dated 13 December 2016
- 3. Response from Cleansing, dated 19 December 2016.
- 4. Letter from the occupier, 40-41 Pall Mall dated 27 January 2017.
- 5. Memorandum from Environmental Health dated 16 January 2017 and 6 February 2017.
- 6. Memorandum from the Highways Planning Manager dated 1 February 2017.

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

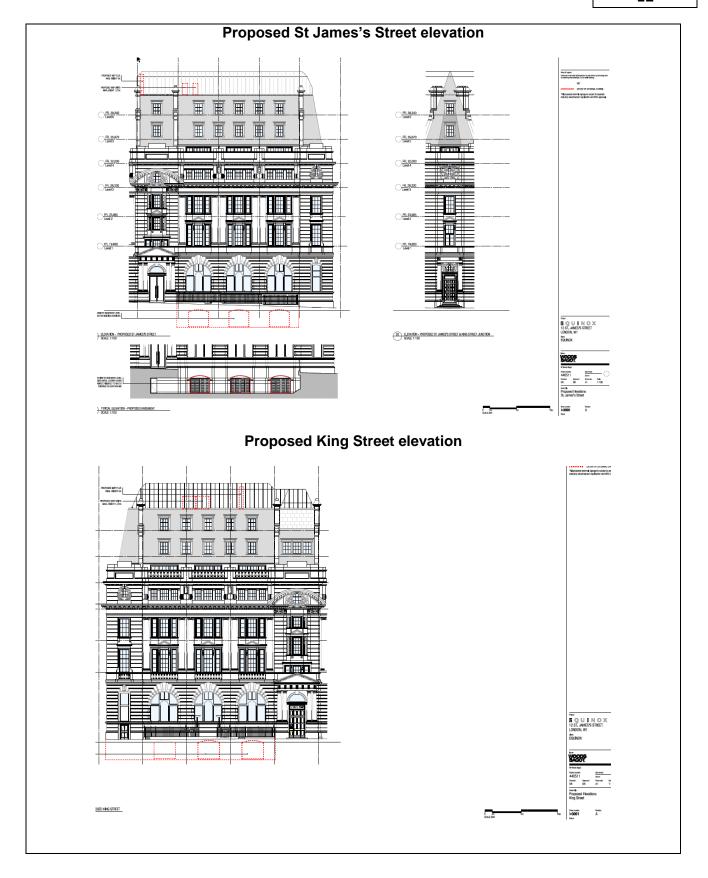
IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: LOUISE FRANCIS BY EMAIL AT Ifrancis@westminster.gov.uk

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10. **KEY DRAWINGS**



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DRAFT DECISION LETTER

Address: 12 St James's Street, London, SW1A 1EF,

Proposal: Use of the basement, ground and mezzanine of 12 St James's Street as a fitness club

(Class D2) personal to Equinox St James Limited, together with the installation of

plant at roof level and to the rear lightwell and associated alterations.

Reference: 16/11515/FULL

Plan Nos: L16963-M-B00-101; L16963-M-R00-101; I1001-C; I2000-C; I2001-C; I2002-C;

12200-C; I2201-C; I2202-C; I2203-C; I3000-A; I3000-C; I3001-A; I3001-C; I3002-A;

I3003-C; I3002-A; I3002-C., , Design and Access Statement (Woods Bagot

Architects); Statement of Community Involvement (Four Communications); Transport Assessment (Equinox); Operational Management Plan (Equinox); Ventilation/

Extraction Statement (Medland Metropolis); Noise/ Vibration Impact Assessment (Sandy/Brown) and additional assessment dated 24 January (ref M001-D); Planning

Statement (Gerald Eve).

Case Officer: Louise Francis Direct Tel. No. 020 7641 2488

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 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:
 - 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.

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

- between 08.00 and 18.00 Monday to Friday; and
- 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)

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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)

All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

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 St James's Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 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)

4 (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

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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 (November 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.

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:

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 (November 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.

The plant/machinery hereby permitted shall not be operated except between 0530 hours and 2300 hours daily.

Reason:

To safeguard the amenity of occupiers of noise sensitive properties and the area generally by ensuring that the plant/machinery hereby permitted is not operated at hours when external background noise levels are quietest thereby preventing noise and vibration nuisance as set out in 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.

You must provide the waste store shown on drawing I2200rev C before anyone moves into the property. You must clearly mark it and make it available at all times to everyone using the gym. You must store waste inside the property and only put it outside just before it is going to be collected. You must not use the waste store for any other purpose. (C14DC)

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)

8 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.

9 Customers shall not be permitted within the gym premises before 0530 or after 2300 on Monday to Saturday (not including bank holidays and public holidays) and before 0800 or after 2100 on Sundays, bank holidays and public holidays. (C12BD)

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)

- 10 i) Only Equinox St James Ltd can carry out the Class D2 Gymnasium use. No one else may benefit from this permission.
 - ii) In the event that Equinox St James Ltd no longer operates the use hereby approved and permanently vacates the site then the site shall not be used except as a restaurant/bar (Class A3/A4) as allowed by the planning permission granted 12 February 1999 (97/0B239/FULL).

Reason:

As requested by the applicant and in order to secure a beneficial use of this vacant site.

11 (i) Ambient Noise Levels

Noise generated by the proposed new development (including noise from general operations, gym equipment, amplified sound, music etc.) in terms of LAeq,5mins shall be a minimum of 10 dB below the existing background noise level measured in terms of LA90,5mins inside the existing residential dwellings. The background noise level used in the assessment should be representative of the most sensitive times (quietest) at which the new development is in operation (and generating noise).

(ii) Maximum noise levels

Maximum noise levels generated by the proposed new development in terms of LAFmax shall not exceed the NR 15 curve inside the existing residential dwellings. This includes noise from all sources (including amplified sound, music, impact noise from gym activities).

(iii) Music noise

For music noise, the design of the separating structures shall be such that the received music noise level in the residential habitable spaces, with music playing, is a minimum of 10 dB below the existing ambient and maximum noise levels in the residential habitable spaces when music is not playing, at the quietest time of day and night, measured over a period of 5 minutes and in the indices of Leq and LFmax in the octave bands 63 Hz and 125 Hz. The overall music noise level in terms of LAeq,5mins should be at least 10 dB below the existing background noise level in terms of dB LA90,5mins.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

A Sound Limiter shall be installed and set by a competent acoustic engineer so that it maintains compliance with the criteria set out in Condition 11. All amplification equipment within the development including music generating equipment and fitness instructor's announcement equipment shall be routed and controlled through the sound limiter. The operational panel of the noise limiter shall be secured by key or password so that only persons with management responsibility have access. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

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 (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.
- You are encouraged to join the nationally recognised Considerate Constructors Scheme. This commits those sites registered with the Scheme to be considerate and good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible and accountable. For more information please contact the Considerate Constructors Scheme directly on 0800 783 1423, siteenquiries@ccscheme.org.uk or visit www.ccscheme.org.uk.

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.