

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 19 <sup>th</sup> December 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Marylebone High Street	
<b>Subject of Report</b>	66 Chiltern Street, London, W1U 4JT,		
<b>Proposal</b>	Use of ground floor unit as a dual/alternative use for retail and/or leisure (Class A1) or (Class D2).		
<b>Agent</b>	DP9 Ltd		
<b>On behalf of</b>	RCP Chiltern Street Unit Trust		
<b>Registered Number</b>	17/09535/FULL	<b>Date amended/ completed</b>	26 October 2017
<b>Date Application Received</b>	26 October 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	N/A		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

The site is located on a prominent corner within Marylebone on the south east corner of the junction of Paddington Street and Chiltern Street. Planning permission was initially granted on 5 August 2013 for the erection of a new tall building comprising two basements, ground and 15 upper floors and roof level plant for use as 55 flats (Class C3) and a restaurant (Class A3) on part ground and part first floor, with outside seating; basement car parking and cycle parking and a townhouse on Chiltern Street comprising basement, ground and three upper storeys. This permission is now complete.

The application seeks the use of the ground floor level as either retail (Class A1) or gym/health and fitness studio (Class D2) use. A specific occupier is not known at this stage.

The ground and first floors were initially proposed to be used for restaurant purposes and in May 2016 permission was granted for the use of the ground floor for retail use. There is no objection to the retention of this retail use. The Marylebone Association object to the introduction of the alternative gym/fitness use and consider that the ground floor should be retained for retail purposes. Although the City Council generally places a high priority on retaining retail uses, the building is not yet occupied, and the application does not therefore result in the loss of any existing Class A1 retail floorspace.

UDP policy SOC 1 deals with the provision of new social and community facilities (both public and private) in general and requires new facilities to be located as near as possible to the residential areas they serve, to have no adverse impact on the amenity of the surrounding area, including the effect of any traffic generated by the use, and to be safe and easy to reach on foot, by cycle and by and by public transport. City Plan policy S34 encourages new social and community uses, including health and leisure facilities.

Given this policy context, the provision of a new gym/health facility is considered acceptable in land use terms. The applicant has requested operating hours of 06:30 to 22:30 daily. The entrance to the proposed D2 facility is within close proximity to existing residential flats in St Andrews Mansions to the immediate south of the site. There are also residential flats on the upper floors of the application site and on Paddington Street and Chiltern Street opposite the site. The impact of the D2 use on residential amenity therefore needs careful assessment and one objection from an adjoining residential occupier has been received on the grounds of noise disruption, particularly from the early morning opening hours. The proposed hours however are in keeping with the operating hours of the boxing gym 'BXR' located at 24 Paddington Street directly opposite this site.

The applicant also advises that the future occupier will sign up to an Operational Management Plan which will set out how the premises will operate, including how people arriving at and leaving the premises would be managed. Despite the early hours that the applicant requests, it is recognised that gym users are unlikely to arrive or leave in large numbers and subject to conditions requiring the main entrance door to be provided with an internal lobby area, to prevent any music played from being audible outside the premises, and to restrict the use for gym/leisure purposes only it is not considered that the use would be likely to have a material impact on neighbouring residential amenity.

The applicant has also confirmed that no additional air conditioning plant is required to service the proposed D2 use.

An objection has been received on the grounds that the proposed gym use would result in pressure on local parking, however, the Highways Planning Manager is of the view that as the area is well served by public transport that the proposal would have no adverse impact on parking levels. In terms of cycle parking, the Highways Planning Manager confirms that sufficient spaces were provided for the authorised restaurant and retail uses. A condition has also been included to ensure that any future occupier has access to the approved waste stores.

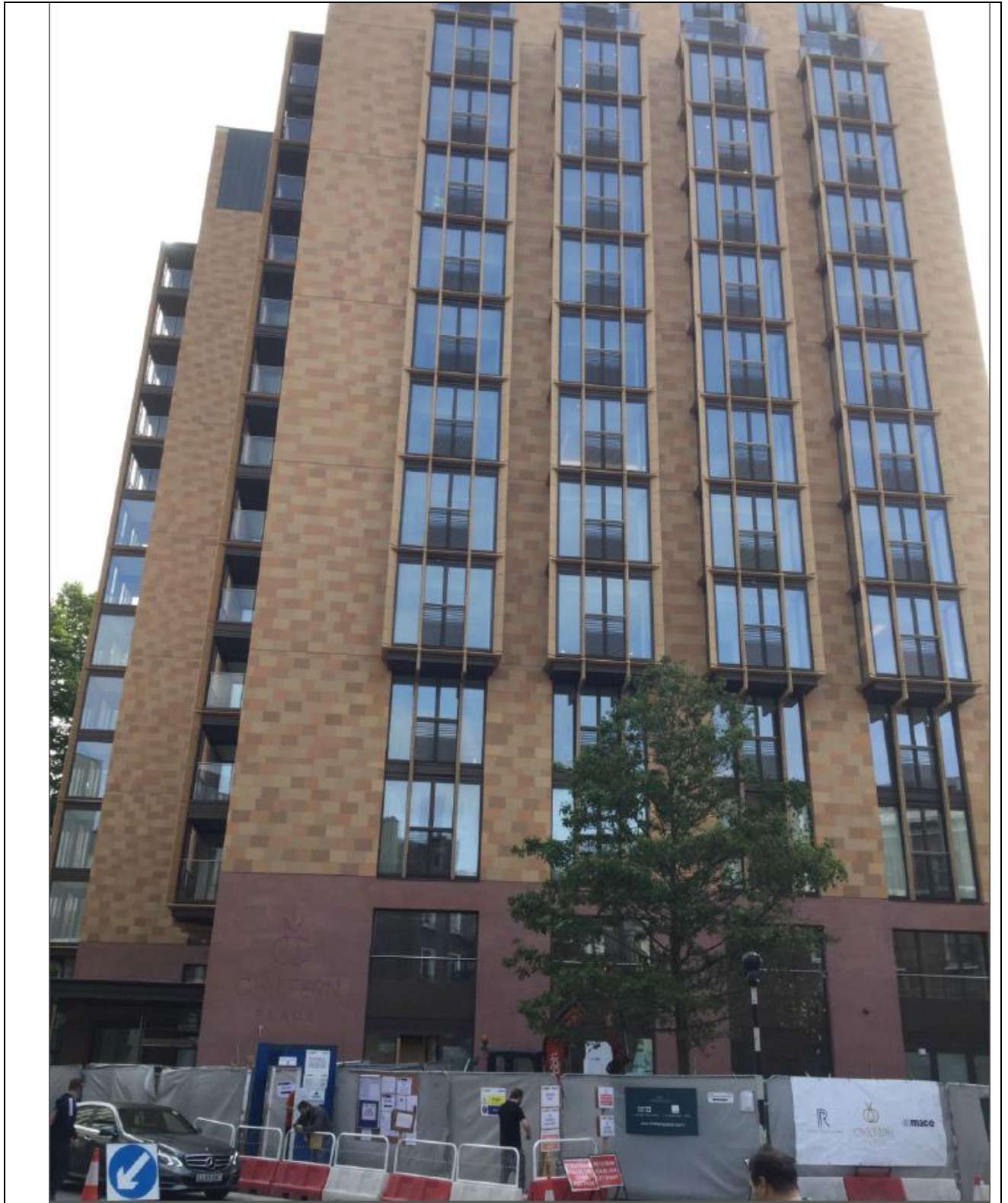
An objection has been received on the grounds that there is unlikely to be any demand for a gym on this site given that there are similar facilities in the area and that the gym would not provide any community benefit. However, the application could not be refused for these reasons.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### MARYLEBONE ASSOCIATION

Objects on the grounds that retail use should be retained at street level and that an exclusive membership only leisure/gym would bring little life to the street.

### HIGHWAYS PLANNING

No objections raised.

### CLEANSING

No objections raised.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 105; No. of replies: 2

Two letters of objection on the following grounds:

- \*Noise from internal music and early morning/late evening opening
- \*There are sufficient gyms within the vicinity
- \*There is no local community benefit
- \*There is already severe pressure on local parking, particularly on Sundays when congestion/parking fees are suspended
- \*Any approval should not include concert halls, bingo halls or casinos

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 Relevant History

Planning permission granted 5 August 2013 for demolition of existing building and erection of a new tall building comprising two basements, ground and 15 upper floors and roof level plant for use as 55 flats (Class C3) and a restaurant (Class A3) on part ground and part first floor, with outside seating; basement car parking and cycle parking and soft and hard landscaping around the site. Erection of new townhouse on Chiltern Street comprising basement, ground and three upper storeys.

Planning permission granted 31 May 2016 for use of part ground floor as retail (Class A1) and use of part first floor as ancillary residential accommodation.

## 7. BACKGROUND PAPERS

1. Application form
2. Response from Marylebone Association, dated 23 November 2017
3. Memo from Highways Planning Manager dated 23 November 2017
4. Memo from Cleansing dated 29 November 2017
5. Letter from occupier of 16 Saint Andrew's Mansions, Dorset street, dated 10 November 2017
6. Letter from occupier of 14 St Andrew's Mansions, Dorset St, dated 21 November 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 <a href="mailto:jpalme@westminster.gov.uk">jpalme@westminster.gov.uk</a>
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### Proposed plan



Do not scale dimensions. Dimensions govern. All dimensions are in millimetres unless stated otherwise. PLP Architecture shall be notified in writing of any discrepancies.

Scale: 1:100

Revision: 01

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1088.01 66 Chiltern Street

PLANNING

Plan Level 0 - Proposed

1088.01-A-P-100-C

Scale: 1:100 A1 October 2017



**DRAFT DECISION LETTER**

**Address:** 66 Chiltern Street, London, W1U 4JT,  
**Proposal:** Use of ground floor unit as flexible use for retail/ leisure (Class A1) or (Class D2).  
**Reference:** 17/09535/FULL  
**Plan Nos:** 1088.01-A-P-100-C

**Case Officer:** Jo Palmer

**Direct Tel. No.** 020 7641 2723

**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 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the D2 use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.  
  
(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the internal activity within the D2 use 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 permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.  
  
(3) Following completion of the development, 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 including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:
  - (a) The location of most affected noise sensitive receptor location and the most affected window of it;
  - (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
  - (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity.

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 (UDP), 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.

- 3 Customers shall not be permitted within the D2 premises before 06.30 or after 22.30

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and SOC1 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 4 No music played within the D2 premises shall be audible outside the building.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and SOC1 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 5 You must apply to us for approval of a management plan to show how you will prevent customers who are arriving and leaving the D2 premises from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the D2 use 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 D2 premises is in use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and SOC1 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 6 The Class D2 use allowed by this permission must not begin until you have fitted self-closing doors within an enclosed lobby at the entrance. You must not leave these entrance doors, or any of the other entrance doors to the premises, open except in an emergency or to carry out maintenance. (C13MA)

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and SOC1 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R05GB)

- 7 Before anyone occupies the property, you must provide the separate stores for waste and materials for recycling shown on drawing number 1088.01-A-P-100-C. You must clearly mark them and make them

available at all times to everyone using the building. (C14FB)

**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 In the event that the ground floor is used for retail purposes for two individual occupiers, you must apply to us for approval of a revised plan indicating proposals for the storage of waste and recyclable materials for the retail units. You must not occupy the building for two single retailers until we have approved what you have sent us. You must then provide the waste storage in line with the approved details and make them available at all time to everyone using the retail units.

**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)

- 9 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise 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 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.

- 10 In the event that you use the property for D2 use, you must use only use the property for gym, fitness or health club use. You must not use it for any other purpose, including any within Class D2 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)

**Reason:**

We cannot grant planning permission for unrestricted use in this case because it would not meet SOC1 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

**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 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and

collecting waste. (I08AA)

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.