

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 17 December 2018	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b>	
<b>Subject of Report</b>	<b>Mercer Walk, London, WC2H 9FA</b>		
<b>Proposal</b>	Use of six areas of the Mercer Walk measuring (Unit 7) 3.70m x 6.70m, 8.00m x 1.20m, 5.00m x 1.80m; (Unit 5) - 11.47m x 3.40m; (Unit 4)- 11.50m x 1.20m; (Unit 2) 11.00M x 2.70m in association with the existing retail units.		
<b>Agent</b>	DP9		
<b>On behalf of</b>	The Mercers' Company		
<b>Registered Number</b>	18/08669/TCH	<b>Date amended/ completed</b>	10 October 2018
<b>Date Application Received</b>	10 October 2018		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	Covent Garden		

## 1. RECOMMENDATION

Grant conditional permission.

## 2. SUMMARY

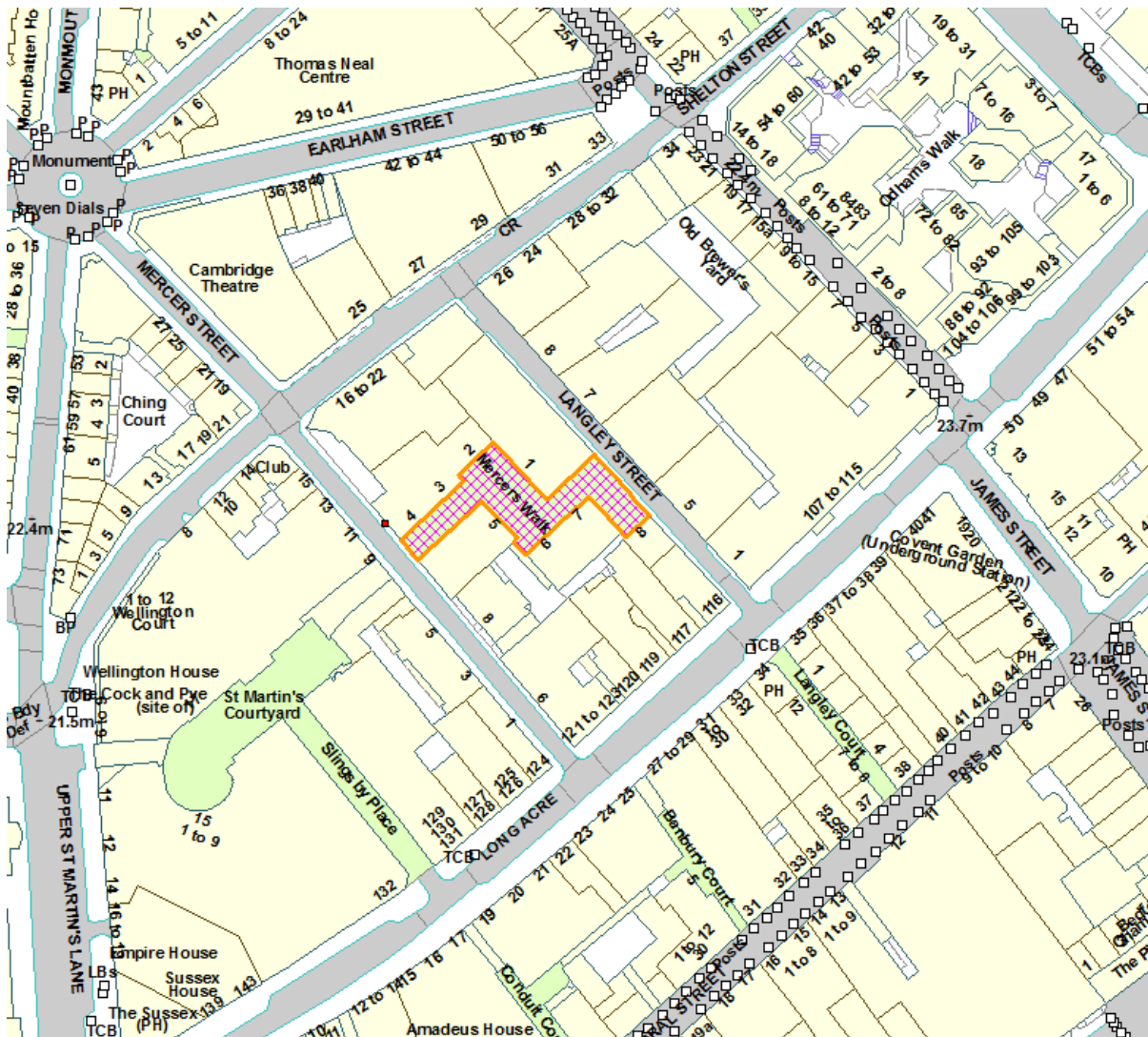
Mercer Walk is a pedestrian route through the newly redeveloped Block C of The Mercers' Company wider Covent Garden Estate. Mercer Street, Shelton Street, Langley Street and Long Acre bound the block, and Mercer Walk provides a route from Mercer Street to Langley Street. Planning permission is sought for the use of six areas on Mercer Walk for the placing of 39 tables, 122 chairs and 2 barriers in connection with four retail units.

The key issues in this case are:

- the impact of the proposals on residential amenity; and
- the impact of the proposals on pedestrian movement and servicing operations.

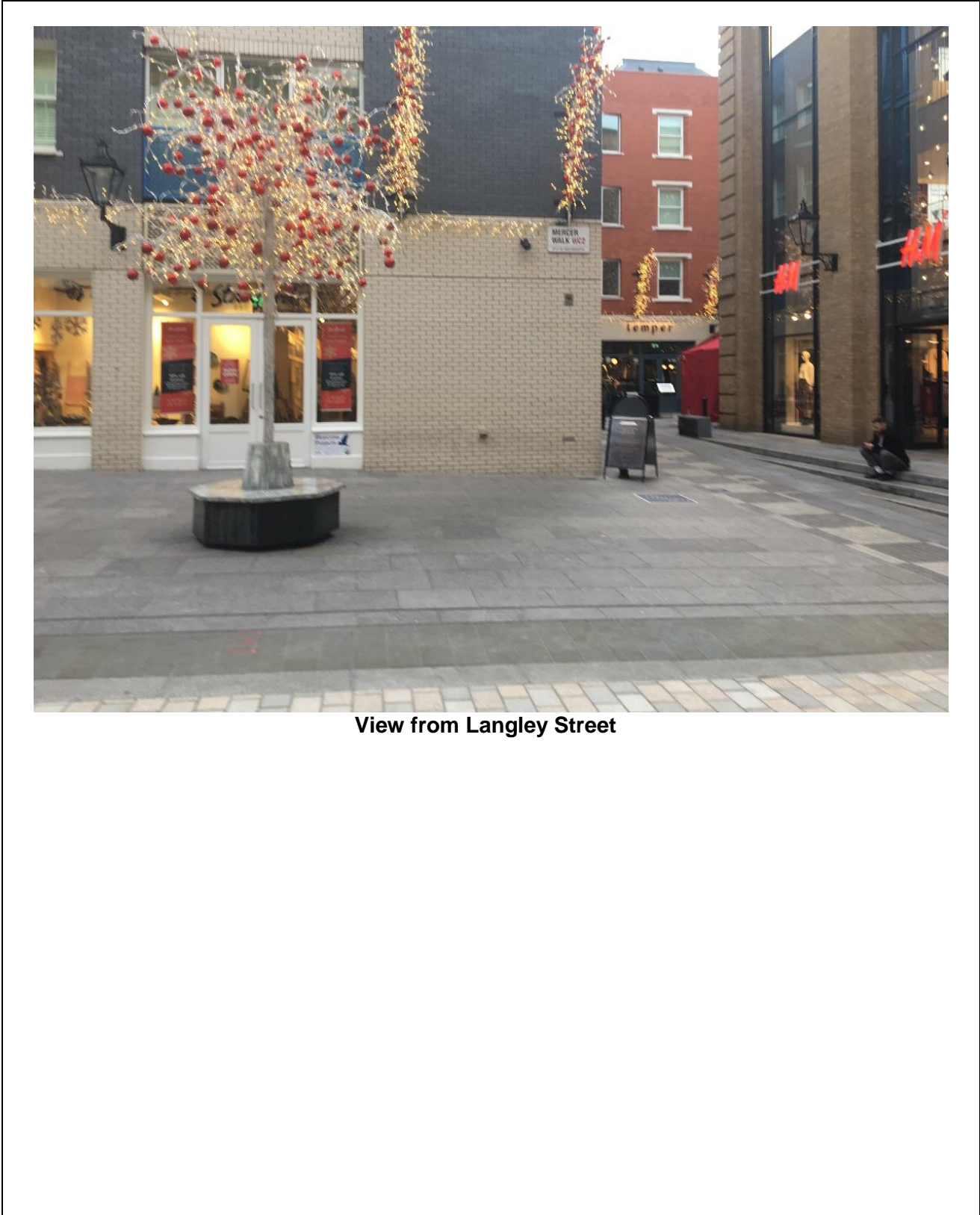
As set out in this report, the proposed development is considered to accord with the relevant policies in the Unitary Development Plan (UDP) and Westminster's City Plan (the City Plan) and is therefore acceptable in land use, design and amenity terms. As such, the application is recommended for approval subject to the conditions as set out in the draft decision letter.

### 3. LOCATION PLAN



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**4. PHOTOGRAPHS**



**View from Langley Street**



**View from Mercer Street**

## 5. CONSULTATIONS

### COVENT GARDEN COMMUNITY ASSOCIATION:

Objection. The hours of use proposed are not clear, but if the tables and chairs are to be out until the units close, this would cause noise, disturbance and nuisance harmful to residential amenity. The application could be acceptable if the use ceases at 10pm Monday to Saturday and 9pm on Sundays. The applicant manages deliveries to the site poorly, and these are causing nuisance on Mercer Street. The applicant refers to the tables and chairs as being associated with retail units, when some of the units are restaurants.

### HIGHWAY PLANNING MANAGER:

No objection, subject to conditions.

### WASTE PROJECT OFFICER:

No objection.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 76

Total No. of replies: 5

No. of objections: 5

Surrounding residents within Covent Garden area have objected on the following grounds:

#### Amenity:

- Mercer Walk is part of a residential community, and the numbers of tables and chairs is excessive and would exacerbate existing issues with noise, disturbance and nuisance in the area;
- The use should cease by 10pm on weekdays and 9pm on weekends.

#### Land use:

- The tables and chairs would unacceptably intensify the existing units they would be associated with.

#### Highway:

- The deliveries associated with the site are causing nuisance.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

Mercer Walk is a pedestrian route through the newly redeveloped Block C of Mercer's wider Covent Garden Estate. Mercer Street, Shelton Street, Langley Street and Long Acre bound the block, and Mercer Walk provides a route from Mercer Street to Langley Street, and includes a central piazza space.

There are six retail/restaurant units which line the Walk, comprising three retail units (class A1), two restaurants (class A3) and a café/ shop unit, with 24 residential units on the upper floors.

The site is within the Core Central Activities Zone (Core CAZ) and the West End Stress Area. The buildings are not listed, but lie within the Covent Garden Conservation Area.

## **6.2 Recent Relevant History**

On 28 March 2014, the City Council granted permission for the retention and refurbishment of 13-14 Langley Street for retail (Class A1) use. Demolition of 6, 10-14 Mercer Street, the one/two storey warehouse-type buildings and the later rear addition of 116 Long Acre and redevelopment to provide 24 residential flats (Class C3), retail (Class A1) and restaurant (Class A3) units with associated plant and ancillary space. Creation of new pedestrian and servicing piazza and street, works of hard landscaping, alterations to existing vehicular and pedestrian access together with associated enabling works.

There are two current applications to amend the site management plan that was secured by condition and a legal agreement pursuant to permission dated 28 March 2014, which is required in order to take account of the current application before you to increase the number of tables and chairs.

## **7. THE PROPOSAL**

The applicant created Mercer Walk as part of the development granted consent in 2014. This permission allowed the placing of tables and chairs in two areas in the central piazza to serve two units (numbers 2 and 5).

The current application proposes tables and chairs outside four units in six areas throughout Mercer Walk. In total 39 tables, 122 chairs and 2 barriers are proposed.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

Policies TACE 11 of the UDP and S41 of the City Plan relate to the use of the highway for tables and chairs in connection with eating and drinking establishments. These policies permit tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity occurs.

Policy TACE 11 recognises that al fresco eating and drinking is popular and can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. This area is mixed in terms of uses, including retail, cultural, leisure and office uses as well as residential buildings.

The proposed external seating areas would support the continued vitality and vibrancy of this development and the area more widely.

Some objectors state that the tables and chairs would result in an unacceptable intensification of the uses of the retail units. Whilst the overall the numbers of tables and

chairs is relatively high, given they serve multiple units, each would have a relatively typical level of external seating. Therefore, the seating is considered acceptable in land use terms.

## **8.2 Townscape and Design**

The tables and chairs are removable and are consequently acceptable in design and conservation terms.

## **8.3 Residential Amenity**

Policies S29 and S32 of the City Plan and ENV 6 and TACE 11 of the UDP seek to protect the amenities of the occupiers of neighbouring properties.

Objections have been received from neighbouring residents, and the Covent Garden Community Association, primarily on the grounds the proposal would harm residential amenity in terms of noise disturbance.

The applicant has amended the application to reduce the number of tables and chairs that would be placed on the Walk.

As part of the 2014 permission, the City Council secured a Site Management Plan (SMP) to ensure that the applicant manages the Walk appropriately. It sets out how the buildings and open spaces are maintained, including measures relating to the operation of the tables and chairs and how security will be managed. The applicant has updated their SMP to accommodate the increase in the tables and chairs proposed, and should the application be permitted the applicant will be required to adhere to it. This would ensure the effective management of the area and the retailers comply with its provisions, thereby reducing noise disturbance from patrons.

Some objectors state that their concerns would be mitigated if the terminal hour of use of the tables and chairs were reduced to 10pm Monday to Saturday, and 9pm on Sundays. The applicant has agreed to this and it is recommended that this be ensured by condition.

It is appreciated that the proposal represents an increase in tables and chairs within the development, and therefore there will be an increase in general noise as a result, particularly in the evening. It is therefore recommended that a temporary one year permission be granted so that the situation can be reviewed.

For the reasons stated above, and subject to the proposed conditions, officers consider the proposal is in accordance with policies S29 and S32 of the City Plan and ENV 6 and TACE 11 of the UDP.

## **8.4 Transportation/Parking**

Policies TRANS 3 and TACE 11 of the UDP, policy S41 of the City Plan and The Westminster Way relate to tables chairs and other objects placed on the footway.

Mercers Walk does not form part of the public highway, but its provision as a pedestrian route was a benefit of the 2014 permission. It is also used by servicing vehicles at certain

times of the day. Therefore, it is important safe pedestrian access is retained and the tables and chairs are not in situ at times that would prevent servicing.

In the revised form, with reduced table and chair numbers and hours of use from 10am to 10pm Monday to Saturday and 10am to 9pm on Sundays, the Highway Planning Manager raises no objection to the proposal. There will be sufficient space for pedestrians for safe and convenient movement, and the servicing as set out in the management plan would not be impacted.

Some objectors report that the existing servicing of the site is causing a nuisance. The SMP for the site permits deliveries within the hours of 7am and 10am only, and these should take place from three designated servicing bays within the central piazza. Reports from objectors indicate that deliveries take place throughout the day and evening and are taking place from Mercer Street, in contravention of the plan. An informative is recommended to remind the applicant that they must ensure that retailers within the development adhere to the management plan.

### **8.5 Economic Considerations**

No economic considerations are applicable for a development of this size

### **8.6 Access**

Access to the unit will remain as permitted.

### **8.7 Other UDP/Westminster Policy Considerations**

None.

### **8.8 Westminster City Plan**

The City Council is currently working on a complete review of its City Plan. Informal consultation on the first draft of Westminster's City Plan 2019-2040 started on Monday 12 November 2018 and will close on Friday 21 December 2018. Following this informal consultation, any representations received will be considered and the draft plan will be revised in advance of formal consultation under Regulation 19 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. Given the very early stage of the consultation process and having regard to the tests set out in para. 48 of the NPPF, the policies of the emerging draft City Plan are given little to no weight at the present time.

### **8.9 Neighbourhood Plans**

Not applicable to this site.

### **8.10 London Plan**

This application raises no strategic issues.

### **8.11 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.

### **8.12 Planning Obligations**

Planning obligations are not relevant in the determination of this application, and the development is not liable to pay CIL.

### **8.13 Environmental Impact Assessment**

The proposed development is of insufficient scale to require an EIA.

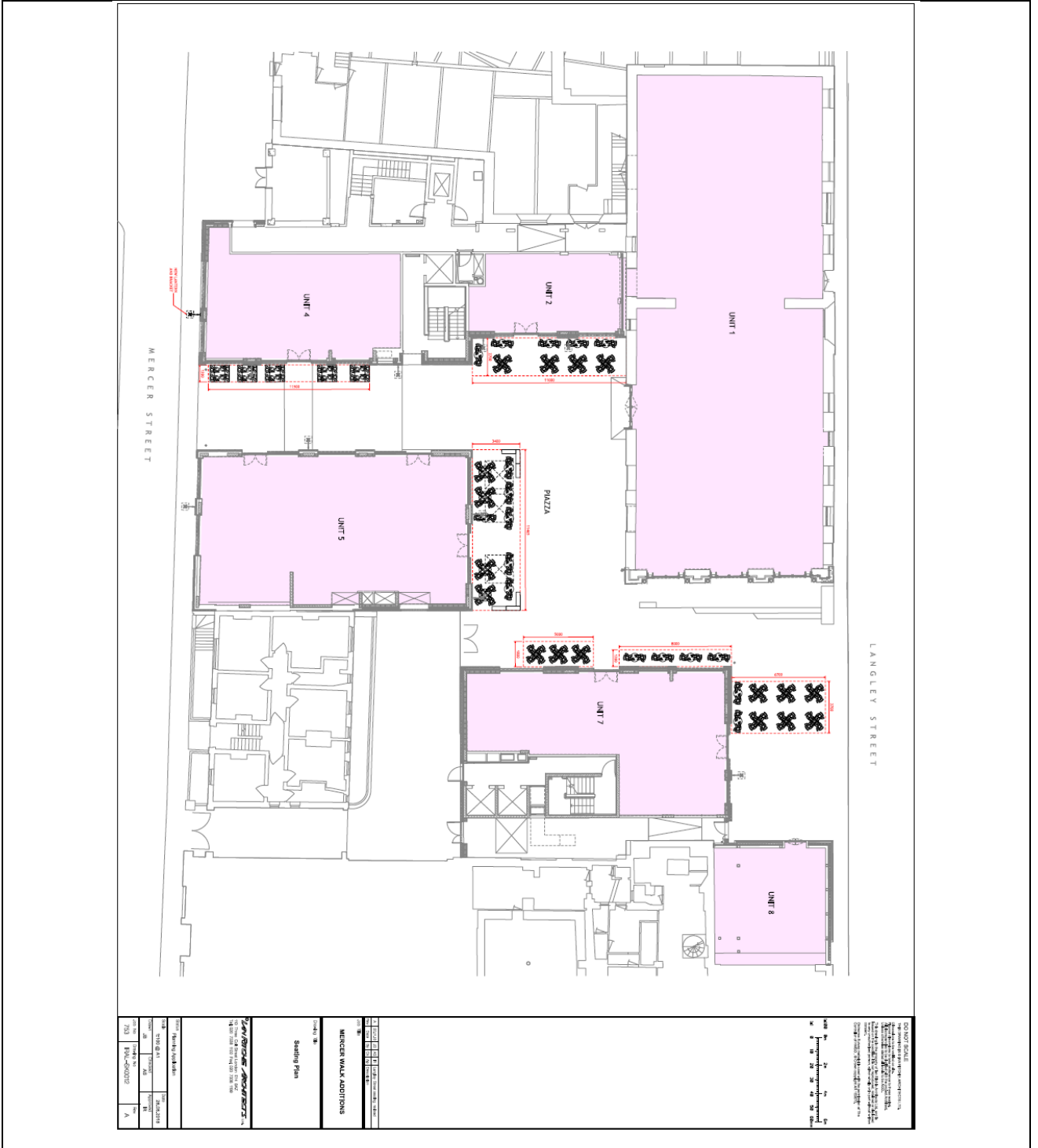
### **8.14 Other Issues**

An objector states that the applicant incorrectly refers to some units as retail units when they are in use as restaurants. Retail uses include non-A1 uses. The glossary of the City Council's UDP states non- A1 retail uses are any use falling within classes A2, A3, A4 and A5 of the Use Classes Order (as amended) or a sui generis use where the sale, display or service is to visiting members of the public. The confusion arises because the word retail is often used interchangeably with shop.

(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: JULIA ASGHAR BY EMAIL AT [jasghar@westminster.gov.uk](mailto:jasghar@westminster.gov.uk)

**9. KEY DRAWINGS**



**DRAFT DECISION LETTER**

**Address:** Mercer Walk, London, WC2H 9FA, ,

**Proposal:** Use of seven areas of the Mercer Walk measuring (Unit 7) 3.70m x 6.70m, 8.00m x 1.20m, 5.00m x 1.80m; (Unit 5) - 11.47m x 3.40m; (Unit 4)- 11.50m x 1.20m; (Unit 2) 11.00M x 2.70m in association with the existing retail units.

**Reference:** 18/08669/TCH

**Plan Nos:** Site Location Plan; IRAL-SK0012 rev A.

For Info Only:  
Design Note; Cover Letter.

**Case Officer:** Joshua Howitt

**Direct Tel. No.** 020 7641 2069

**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 not put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved in any other position than that shown on drawing IRAL-SK0012 rev A. (C25AA)

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 TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25AC)

- 3 You can only put the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved on the pavement between 10:00 and 22:00 hours Monday to Saturday, and 10:00 and 21:00 hours on Sundays and bank holidays.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 4 The tables and chairs must only be used by the customers of units 2, 4, 5 and 7 within the development.

Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007. (R25BD)

- 5 This use of the pavement may continue until 30 December 2019. You must then remove the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved. (C25DA)

Reason:

We cannot give you permanent permission as the area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". We also need to assess the effect of this activity regularly to make sure it meets S41 of Westminster's City Plan (November 2016) and TACE 11 of our Unitary Development Plan that we adopted in January 2007. For the above reasons, and not because this is seen a form of trial period, we can therefore only grant a temporary permission.

- 6 You can only put out on the pavement the tables and chairs and, where relevant, other furniture, equipment or screening hereby approved shown on drawing IRAL-SK0012 rev A000. No other furniture, equipment or screening shall be placed on the pavement in association with the tables and chairs hereby approved.

Reason:

To make sure that the type and appearance of the tables and chairs (and where appropriate other furniture or equipment) is suitable and that no additional furniture, equipment or screening is placed on the pavement to the detriment of the character and appearance of the area. This is as set out in TACE 11 and DES 7 of our Unitary Development Plan that we adopted in January 2007. (R25EA)

**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 You cannot put tables and chairs in the area unless you have a street trading licence., , If you want to know about the progress of your application for a licence, you can contact our Licensing Service on 020 7641 8549. If you apply for a licence and then decide to change the layout of the tables and chairs, you may have to apply again for planning permission. You can discuss this with the planning officer whose name appears at the top of this letter., , Please remember that once you have a licence you must keep the tables and chairs within the agreed area at all times. (I47AB)
- 3 You must keep the tables and chairs within the area shown at all times. We will monitor this closely and may withdraw your street trading licence if you put them outside this area. (I48AA)
- 4 If you want to know about the progress of your application for a street trading licence, you can contact our Licensing Service on 020 7641 8549. (I49AB)
- 5 You are reminded that you must ensure retailers and those servicing the site adhere to the Management Strategy Plan that governs the site.

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.