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| <b>CITY OF WESTMINSTER</b>                                       |  |  |
| <b>PLANNING (MAJOR APPLICATIONS) SUB COMMITTEE</b>               | <b>Date</b><br>21 March 2023   | <b>Classification</b><br>For General Release |
| <b>Report of</b><br>Director of Town Planning & Building Control |  | <b>Ward(s) involved</b><br>St James's        |
| <b>Subject of Report</b>   | <b>28 - 32 SHELTON STREET, LONDON, WC2H 9JE</b>  |  |
| <b>Proposal</b>  | <p><u>Application 1</u>: Mixed-use development at Old Brewer's Yard including: at 28-32 Shelton Street, the erection of a single storey roof extension, a rooftop plant enclosure and other external alterations (including shopfront alterations, new rear access to the Yard, and plant) in connection with the use of the building as a restaurant (Class E(b)); at 1 Mercer Walk, the installation of ancillary plant &amp; servicing equipment, external alterations including opening up of blind windows on east elevation and the installation of PV panels at main roof level, all in connection with the use of the building as a microbrewery and visitor attraction with ancillary retail, bar and training space (Sui Generis); at 15A Neal Street (ground floor only), external alterations including installation of full-height glazed rear wall and installation of a new shopfront; at 5 Langley Street (basement, part-ground floor and part-roof only) alterations to north and west facade and installation of new plant, all in connection with the flexible mixed-use of the basement and part-ground floor as entertainment/events/community space with ancillary storage areas (Sui Generis); at the rear of 7 Langley Street, installation of plant at roof level and the use of the former bin store as a bar area servicing the Yard (Sui Generis); at Old Brewer's Yard, the erection of a new high-level glazed canopy structure and semi-permanent external seating, installation of new entrance gates fronting Shelton Street, placement of planters and associated street furniture, for use of the Yard as a flexible entertainment/dining/events/ community outdoor space (Sui Generis). (Site includes Old Brewer's Yard, 28-32 Shelton Street, 15A Neal Street, 5, 6 and 7 Langley Street, 1 and 3 Mercers Walk and 107-115 Long Acre).</p> <p><u>Application 2</u>: Works to rear-part of 7 Langley Street comprising the part-demolition of external walls and construction of new walls, openings, and associated fixtures including canopy fixtures pertaining to the yard, the complete demolition of internal structures and installation of new internal structures including replacement staircase and new mezzanine level for use as a bar and ancillary storage, and installation of plant at roof level; together with works at 28-32 Shelton Street comprising the installation of entrance gates fronting the undercroft shared with listed building 34 Shelton Street. [Site includes 6, 7-8 Langley Street and 34 Shelton Street]</p> |  |

|                                  |   |                                    |                 |
|----------------------------------|---|------------------------------------|-----------------|
| <b>Agent</b>                     | JLL   |                                    |                 |
| <b>On behalf of</b>              | Diageo Great Britain Limited  |                                    |                 |
| <b>Registered Number</b>         | 22/02009/FULL<br>22/02163/LBC   | <b>Date amended/<br/>completed</b> | 18 January 2023 |
| <b>Date Application Received</b> | 21 March 2022   |                                    |                 |
| <b>Historic Building Grade</b>   | Grade II (6 and 7 Langley Street)   |                                    |                 |
| <b>Conservation Area</b>         | Within Covent Garden<br>Adjacent to Seven Dials (within London Borough of Camden) |                                    |                 |
| <b>Neighbourhood Plan</b>        | Not applicable  |                                    |                 |

## 1. RECOMMENDATION

### Application 1

Grant conditional permission subject to a S106 legal agreement to secure the following:

- i. The relocation of the residential use at second and third floor level at 23 Neal Street and third floor level at 17-19 Neal Street as part of a separate land use swap. The applicant not to occupy the development until the land use swap has been physically completed in all material respects to a standard ready for residential occupation and evidence has been submitted to the City Council to confirm completion of such works.
- ii. Details of a community strategy for use of the Event Space at 5 Langley Street.
- iii. To secure a Community Liaison Group during construction and during the operation life of the development.
- iv. Walkways Agreement to secure access to Langley Passage and Old Brewer's Yard.
- v. Monitoring costs.

If the S106 legal agreement has not been completed within six weeks of the Committee resolution then:

- a) The Director of Town Planning and Building Control shall consider whether the permission can be issued with additional condition to secure the benefits listed above. If this is possible and appropriate, the Director of Town Planning and Building Control is authorised to determine and issue such a decision under Delegated Powers, however, if not
- b) The Director of Town Planning and Building Control shall consider whether permission be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and the proposal is unacceptable in the absence of the benefits that would have been secured; if so, the Director of Town Planning and Building Control is authorised to determine the application and agree appropriate reason for refusal under Delegated Powers.

### Application 2

1. Grant conditional listed building consent.
2. Agree the reasons for granting conditional listed building consent as set out in Informative 1.

## 2. SUMMARY & KEY CONSIDERATIONS

The application site comprises 28-32 Shelton Street, 1 Mercer Walk, 15A Neal Street (ground floor only), 5 Langley Street (basement only), the passageway underneath 6 Langley Street, the rear of 7 Langley Street and Old Brewer's Yard (an open cobbled yard) in Covent Garden. The site is located within the Covent Garden Conservation Area and adjacent to the Seven Dials Conservation Area which is within the London Borough of Camden. All the buildings on the site are unlisted except 6 and 7 Langley Street which are listed grade II. There are grade II listed buildings that adjoin the site and that are opposite the site within the LB Camden.

The site is within the Central Activities Zone, the West End Retail and Leisure Special Policy Area (WERLSPA) and partly within the Covent Garden CAZ retail cluster. The borough boundary with the London Borough of Camden runs along Shelton Street to the north. The buildings are mostly vacant and were previously in commercial (Class E) or night club (sui generis) use.

The proposal seeks to create a new leisure and entertainment destination centred around the Guinness brand for the buildings positioned around Old Brewer's Yard, with the yard at the centre of the scheme providing an outdoor food and drink area. A microbrewery and visitor experience is proposed at 1 Mercer Walk and connected to the wider development by the existing passageway underneath 6 Langley Street.

These applications were presented to Planning (Major Applications) Sub-Committee on 9 August 2022 where it was resolved to grant permission subject to the completion of a S106 legal agreement and amendments to conditions and to grant conditional listed building consent. The planning and listed building decision notices have not been issued.

A Judicial Review Pre-Action Protocol Letter for was received by the council on 21 October 2022 on behalf of the Covent Garden Area Trust (CGAT) setting out grounds for a possible legal challenge. These are set out in detail in the main report. Legal advice has recommended that these applications are returned to committee for reconsideration with a revised report which seeks to address in detail the complaints made by CGAT in its Judicial Review Pre-Action Protocol Letter.

The planning application has also been amended, namely a redesign of the extension at 28-32 Shelton Street with a reduction to a single storey extension with plant enclosure above.

The council carried out a full re-consultation on the revised scheme on 18 January 2023 including with Historic England. They welcome the revisions but consider the extension would still be relatively prominent and would distract from, and result in harm to, significance. They consider this harm could be avoided through the development of a more contextual design which better assimilates with the character which makes the conservation areas special. were consulted and they

The revised application principally comprises:

### 28-32 Shelton Street

Erection of a single storey roof extension (plus external plant room on top) with external terrace at fifth floor level. Use of the entire building as a restaurant within Class E(b).

1 Mercer Walk

Use as a microbrewery with ancillary retail space and bar. (sui generis).

15A Neal Street

Continued use as Class E with new entirely glazed shopfront to the rear to allow access to Old Brewer's Yard and a new shopfront to Neal Street.

5 Langley Street (basement only)

Use for events and cultural uses together with community activities (sui generis).

Rear of 7 Langley Street and Old Brewer's Yard

Use of the former bin store as a bar and servery and use of the yard for outdoor seating / standing area for 150 customers (sui generis). The installation of a new canopy across part of the yard. In addition to the proposed access from 15A Neal Street, public access to the yard will be from Shelton Street (an existing opening) and from an existing passageway underneath 6 Langley Street. A proposed food truck is proposed to be sited within the yard for use by customers of the proposed bar.

The key considerations in this case are:

- The acceptability of the proposed entertainment uses and new visitor attraction in land use terms.
- The opening hours, capacity and dispersal strategy for visitor attraction and the various entertainment uses proposed.
- The impact on the amenity of neighbouring residential properties.
- The relocation of existing residential uses close to the application site as part of a land use swap.
- The impact of the proposed roof extension at 28-32 Shelton Street and the other proposed works upon the appearance of the building and the character and appearance of the Covent Garden Conservation Area and the adjacent Seven Dials Conservation Area and upon other nearby designated and non-designated heritage assets, such as the grade II listed buildings adjoining and opposite the site.
- The servicing requirements of the development.

The Covent Garden Community Association, the Covent Garden Area Trust and the Seven Dials Trust have raised concerns and objections to the scheme on land use, amenity, design and heritage grounds. The associations also continue to object to the revised design of the Shelton Street roof extension on grounds that the proposed roof structure still represents an oversized and over-dominant addition to this important group of buildings within the Covent Garden Conservation Area, and facing directly onto the Seven Dials Conservation Area from where it is most visible.

The London Borough of Camden has raised concerns about the proposal particularly in relation to the design of the roof extension and the effects on the setting of the adjacent listed buildings and Seven Dials Conservation Area. Camden consider the architecture needs to be revisited demonstrating a thorough understanding of the area and the ability to design a structure that benefits the high quality architectural context of this international destination.

The council has received 32 letters of objection to the proposal from local residents and from South Bloomsbury TRA, Bloomsbury Residents Action Group and the Bloomsbury Association who raise similar concerns and objections to the three amenity societies.

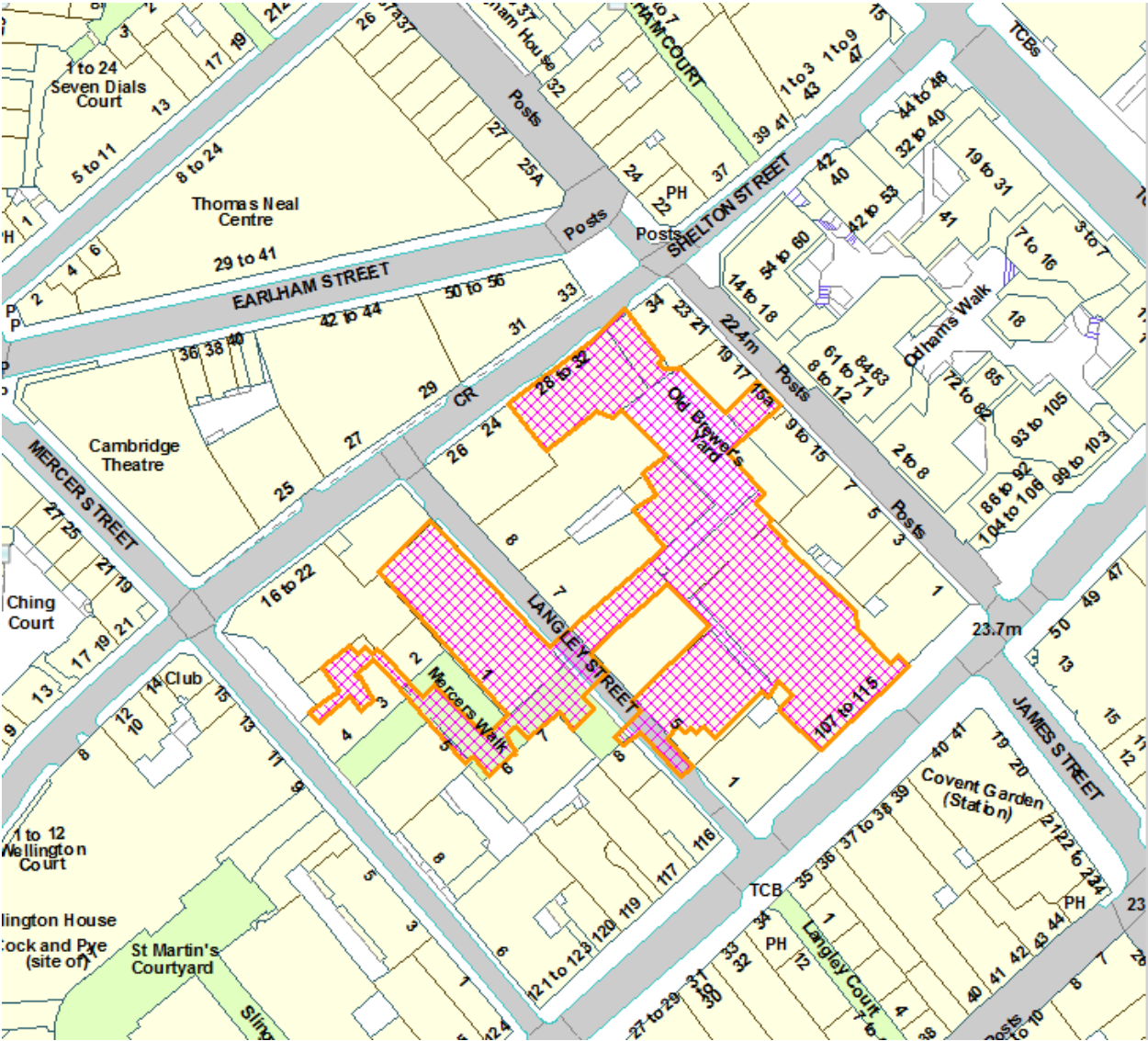
The council has received letters of support from Capco, Long Acre Business Alliance, Stanfords, Hawksmoor, Shaftesbury and The Mercers Company.

The increase in food, entertainment and leisure floorspace in this location is supported by Westminster's spatial strategy (Policy 1), spatial development priorities for the West End Retail and Leisure Special Policy Area (Policy 2) and by policies 14 (Town centres, high streets and the CAZ) and policy 15 (Visitor Economy) of the City Plan. It is considered that with appropriate conditions to secure an Operational Management Plan and to restrict the capacity and opening hours of the venues proposed, the scheme would comply with policy 16 in the City Plan that control food, drink and entertainment uses and would comply with our environmental policies that seek to protect residential amenity and local environmental quality. With measures to mitigate and manage noise impacts for neighbouring residents and to protect local environmental quality, the application proposal would promote good growth by diversifying the entertainment and food and beverage offer for residents, workers and visitors and by supporting the visitor and night-time economy.

The roof extension proposed to 28-32 Shelton Street is considered to cause a low level of less than substantial harm to the character and appearance of both the Covent Garden and Seven Dials Conservation Areas, and to the setting of nearby listed buildings and other non-designated heritage assets. This is largely due to the contemporary design of the roof extension and that it will be visible in key views of the building from within the conservation areas. However, this low level of less than substantial harm is outweighed by the public benefits of the scheme which are detailed in the main report.

The proposed development accords with the relevant policies in the Westminster's City Plan 2019 – 2040 (the City Plan). The planning application is therefore considered acceptable in land use, design, heritage, and amenity terms, and is recommended for approval subject to the completion of a S106 legal agreement and the conditions set out in the draft decision letter. The listed building consent is also recommended for conditional approval.

3. LOCATION PLAN



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## 4. PHOTOGRAPHS



Photo showing proposed entrance to Old Brewer's Yard and 28-32 Shelton Street (to the right) which is to be extended at roof level.





Old Brewer's Yard and entrance from with yard (looking towards Shelton Street)



Rear of 7 Langley Street showing location of proposed bar facing the yard





1 Mercer Walk, Langley Street



Entrance to Old Brewer's Yard from Langley Street using passageway underneath 6 Langley Street



15a Neal Street (the 'Tea House') which will provide a new through route to Old Brewer's Yard.

## 5. CONSULTATIONS

### 5.1 Application Consultations

#### **Fourth consultation: 18 January 2023**

The council re-consulted on the following amendments to the scheme:

- Reduction in height and bulk from a two-storey extension to a single-storey extension with plant enclosure above.
- Amendments to the detailed design of the extension.

#### Cllr Hyams

When the application came to committee last year I had a number of reservations about certain aspects of the application. I asked for the item to be deferred so these issues could be addressed by the applicant. These issues have been addressed and I know that the applicant has widely consulted the residents, businesses and other stakeholders including myself and my ward colleagues. Our main concerns had been around the design of the Shelton Street roof extension, the capacity of the venue and the terminal hours.

I am pleased to hear that the applicant has now agreed to discuss the details of the OMP with the local residents' groups in early March. However, there should be an ongoing dialogue with stakeholders during the construction period and onwards in the format of a formally constituted Community Liaison Group. This should meet regularly and consist of representatives from all the various stakeholders groups and at least one of the ward councillors.

I know that there are still reservations from the local community about the application and understand their concerns but with the amended plans, the reduced hours and capacity that have been agreed by the licensing committee, my ward colleagues and I feel that we can now support the application and hope that the committee will agree and grant it permission.

#### Historic England

The roof extension has been revised and is now much reduced in scale. This is a positive change which results in it being less prominent in important conservation area views. The level of harm that we had previously identified would therefore be partly reduced and we welcome the efforts to address our concerns. However, the extension would still be relatively prominent and in our view the revised design is not compelling in its context. The extension seeks a deliberate contrast with its surroundings. Given the particular qualities of the area - notably a consistency in form and materials - it would distract from, and result in harm to, significance.

This harm could be avoided through the development of a more contextual design which better assimilates with the character which makes the conservation areas special, in accordance with relevant policy and guidance. The harm would be regrettable, and for the purposes of the NPPF, low in the range of less than substantial harm.

#### Joint Response from Covent Garden Community Association; Covent Garden Area Trust and Seven Dials Area Trust

Concerns expressed over the consultation process. The very short timeframe between

consultation and intended submission suggested that there would be little if any time for the groups' concerns to be properly addressed and resolved. The groups had hoped to work with the architects and applicants to ensure an appropriate design solution could be identified, but despite their best efforts this did not take place.

The following points, which were made within the groups joint response to the revised proposals prior to their submission, still stand:

1. The revised proposals still represent a substantial addition to the building which will be clearly visible in views of the historic brewery complex from street level and nearby buildings. We strongly believe that the revised proposals do not do enough to mitigate the potential harms set out by Historic England. The proposed roof structure still represents an oversized and over-dominant addition to this important group of buildings within the Covent Garden Conservation Area, and facing directly onto the Seven Dials Conservation Area from where it is most visible.
2. The revised design is still unsympathetic to its important context. There are no other examples of glazed box roof extensions in the area that are so clearly visible from ground level. The glazed-box roof extension on top of 27-33 Shelton Street is far less visible in the streetscape than the current proposal. The proposal would fail to respond to the prevailing character and appearance of the area. An almost entirely glazed, box-like roof-extension and an oversized plant enclosure in this location is inappropriate.
3. Essential information about the proposed glazed roofs above Old Brewers Yard should be included as part of this submission. (e.g. including how they were to be supported structurally; how they were to be drained; and how they were to be lit.
4. We look forward to seeing details of the height and construction of the Shelton Street gate so as to minimise noise breakout and maximise security.

#### Covent Garden Community Association (Licensing Sub Committee)

- There have been no substantive discussions on the OMP despite the period of almost 6 months that have passed since the last Planning Committee. The only substantive document is one produced by the Amenity Societies themselves containing comments on the original OMP (provided as a Background Paper).
- At the previous Planning Committee on 09/08/22 it was agreed that the grant of permission would be subject to: The operational management plan being developed in consultation with the Covent Garden Community Association, the Covent Garden Area Trust and The Seven Dials Trust before returning to the Sub-Committee for approval. Draft condition 10 needs to reflect this.
- We believe that it remains appropriate that the grant of permission remains subject to the agreement of an OMP, rather than the weaker option that it would have to be agreed before use.

#### Seven Dials Trust

Reference needs to be made to the Agent of Change principle: The Agent of Change concept is adopted in the London Plan policy D13 and is a key principle in Westminster's City Plan and "Where a proposed development which requires planning permission may impact on noise sensitive land uses, a detailed Acoustic Report prepared by a competent Acoustic Consultant is required."

London Borough of Camden

- Concern remains in relation to the design of the extension and the effects on the setting of the adjacent listed buildings and Seven Dials Conservation Area.
- The architecture needs to be revisited demonstrating a thorough understanding of the area and the ability to design a structure that benefits the high quality architectural context of this international destination.
- The design of the extension does not mitigate the harm caused but exacerbates it. The large amount of glazing and the horizontal proportions created by the glazing bars do not respect the established character of the street and the wider conservation area, and demonstrate a lack of understanding of the architecture and history of the site. In conclusion, the proposed roof extension to 28-32 Shelton Street due to the unsympathetic design, would cause less than substantial harm to the setting of the Seven Dials Warehouse at 27-33 Shelton Street and the Seven Dials Conservation Area.
- Other concerns relate to noise and disturbance from proposed uses and associated activities; noise and disturbance during construction and risks to security of people and property.

## ADJOINING OWNERS/OCCUPIERS

No. Consulted: 397

No. Responses: 5

1 letter of objection on the following grounds:

- Objection to the proposed additional floor. The surrounding streets are narrow and already have disproportionately high buildings.
- Allowing to build higher would create 'canyons' with little daylight at street level.
- The council should impose acoustic screens and silencers on any additional plant and exhausts.
- There should be no work to take place before 9 am and after 5 pm on weekdays; and no work to take place on weekends.
- There should be no additional bar because of the noise implications. If the council were to grant it, please impose a no deliveries rule from before 8 am and after 6 pm on weekdays, and no deliveries on weekends. Please impose a no refrigeration vehicles rule due to noise.
- There should be no additional plant within thirty yards of the building line between the premises and Neil Street as this would substantially impede daylight for Odhams Walk residential flats.

4 letters of support have been received from Shaftesbury, Stanfords, CAPCO and The Mercers Company on the following grounds:

- The proposed microbrewery and visitor experience will complement the existing uses in the area well, support the commercial and leisure industries locally and would further diversify the entertainment and food and beverage offer Shaftesbury would ask the Council to secure a detailed management and servicing strategy to complement the activity in and around the site.
- The design to a single storey extension provides an appropriate contemporary response to the site addressing previous local concerns and respecting the

character of the Conservation Area. The lightweight structure of the extension, ensures that the original character of the building is retained and adds a complementary addition to the building.

- Visitor footfall will increase, and this will help Stanfords and other neighbouring business who have seen a significant decline in footfall and revenues since the Covid pandemic began in March 2020. As a local retailer Stanfords does have concerns about noise and ensuring that patrons can disperse quietly.
- Stanfords are pleased that the team creating the new experience understand and are sensitive to our concerns and are working actively with us to design proper solutions to any potential problems.
- Stanfords are happy to see the creation of a community collaboration space at 5 Langley Street
- Creating a new microbrewery in the area is an appropriate link to the history of Old Brewers Yard.
- CAPCO has reviewed the revisions to the roofscape which are welcomed and represent a further improvement to the application and so wish to restate our continued support.
- The Mercers' Company is the Freeholder owner and landlord of the Development.
- The Mercers' has actively encouraged discussions with Diageo since early 2019, with the object of delivering a major visitor destination and accelerator of economic growth in Covent Garden. We have consistently supported the project, we are delighted with the proposals they have come up with and the way they intend to execute them, as part of a £73m investment. The new 50,000 sq ft venue will create up to 150 jobs and provide a community space within Covent Garden. We further understand Diageo intend that the site will become the Southern UK hub of their award-winning Learning for Life Bartending and Hospitality Programme, with an ambition for over 100 London based students annually to graduate from the "Guinness at Old Brewer's Yard" programme.
- Through the planning process, there has been an extensive and comprehensive stakeholder engagement programme and much has been learnt from this. Diageo's team has invested massively in time, energy and finances to ensure the designs and solutions for the buildings are consistent with the historical nature of surrounding buildings and reflect resident concerns. This includes the updated approach to the roof extension at 28/32 Shelton Street.

Site and Press Notice

Yes

### **Third consultation: 16 November 2022**

Historic England consulted. No amendments were made to the scheme.

#### Historic England

The site is not well suited for a roof extension given the views across an open area of it, and the existing consistent scale. The proposed design is not contextual and consequently results in clear harm to the conservation areas. The Art Deco aesthetic is tenuous; it is too over-scaled to be recognised as such and reflects nothing of the qualities of the existing building, or the area, in any case. In its context it is therefore poor quality and in our view falls short of the high standard which policy seeks,



particularly in relation to the historic environment.

Such an important and characterful part of London deserves a more thoughtful design which respects local history and character. Particularly given the strong history of good quality, modern design in the locality which has successfully achieved that. The Covent Garden Area Action Plan provided for a pioneering heritage-led regeneration of the area for its time, including the Odhams Walk housing development. A large roof extension was also added to Nos.27-33 Shelton Street opposite the site and this was clearly designed to have minimal visibility from street level, to preserve the historic roofscape. The Comyn Ching Triangle development at Seven Dials is another celebrated example close by.

Given the consistency in scale and character, and historic efforts to maintain it, the application proposals would represent a notable departure. Harm would be caused to multiple designated heritage assets, and every effort should be made to avoid or minimise such harm in order to comply with the NPPF and the Development Plan (noting Westminster Policies 39 and 40, in particular). We therefore recommend that the design should be reconsidered.

### **Second Consultation: 6 July 2022**

The council consulted all contributors who sent in comments on the first round of consultation on the following amendments to the scheme:

- The public art at 1 Mercer Walk to be retained instead of being replaced by living wall.
- Relocation of main entrance of proposed restaurant 28-32 Shelton Street from Shelton Street to Old Brewer's Yard (the courtyard).
- Opening hours of 15A Neal Street to be reduced to 10:00 to 22:30. (every day)
- Use of previously identified back of house space at 5 Langley Street as events space with a capacity of 350 persons.
- Table plan provided for Old Brewer's Yard (the courtyard).

### Covent Garden Area Trust

- The Trust wishes to reinforce our earlier objection. Concerns regarding the noise and management of the site as a whole have still not been adequately addressed, and the Trust is in agreement with the additional detailed comment submitted by CGCA on 12th July. A thorough dispersal plan detailing how the responsibility for the dispersal of customers will be fulfilled has not been provided so far, and the Trust asks that a condition be imposed as part of any Planning Permission for the requirement of an amended Operational Management Plan.
- The Trust also wishes to affirm its earlier objection to the bulk and height of the proposed roof extension to 28-32 Shelton Street. The amendments made to this element of the proposals do not address the Trust's primary concerns.
- The proposed renders submitted with the revised scheme make the heavy visual impact of this overly dominant feature clear. There are no roof additions of a comparable scale anywhere else in the area.
- The sheer, cliff-face effect created by the proposed excessively tall roof extension will be visible in views into and around this important pedestrian crossroads, and will adversely impact the setting of listed buildings and the

character and appearance of the conservation area.

- Please refer back to our earlier objection for our detailed analysis, which still stands.

Two additional letters were received objecting on the following grounds:

- With the exception of the slight reduction in hours of access from Neal St., these modifications do nothing to alleviate the very real issues with this application as set out in the consultations section above.
- The very limited road space for access and egress will cause problems both for deliveries (bar deliveries are not quiet) and for people being collected by cars/taxis and vastly increased presence of pedicabs in the surrounding streets
- The potential for noise nuisance with late opening for events must be more carefully balanced with the residents rights to peacefully occupy their homes.
- The developers also need to propose how they will work to deliver
- community benefit to the residents in the surrounding areas rather than expecting residents to accept any proposals in the name of business growth
- The planning application should only be permitted once amended in line with Soho Housing Association and Covent Garden Community Association

### **First consultation: 30 May 2022**

#### London Borough Of Camden

Camden has the following concerns in relation to the impact on the borough and its occupiers:

- Loss of outlook for occupiers (particularly to 31 - 33 Shelton Street)
- Loss of light to 31 - 33 Shelton Street
- Noise and disturbance from proposed uses and associated activities
- Noise and disturbance during construction
- Risks to security of people and property
- Harm to setting of neighbouring Listed Buildings and character and appearance of Conservation Area
- Control of hours of use of Old Brewers' Yard by vehicles, as stated in the Transport Statement, by the Operations Management Plan (OMP) / Delivery and Servicing Plan (DSP).
- A Construction Traffic Management Plan.
- A commitment to remedy any construction damage to Shelton Street, with a highways contribution to LB Camden secured by way of a S.106 agreement

#### Designing Out Crime

No objection to the overall application but serious concerns raised about dispersal which must be limited to the main entry point on Shelton Street. Langley Street is a narrow lane which, out of office hours, has little to no natural surveillance. The gates linking the Yard to Langley Street, via a covered passage way, need to remain closed at all times. The Yard itself has a dogleg which is concealed and may cause issues. .

#### Covent Garden Area Trust

The Trust is not opposed to the broad principle of the development but there are elements of the proposals which will be clearly and strikingly detrimental to the character

and appearance of the Covent Garden Conservation Area and adjacent and nearby listed buildings, namely the roof extension at 28-32 Shelton Street, glazing over courtyard, branding and commercial dominance and effects on residential amenity (on this issue the Trust supports the comments of the CGCA). The Trust considers any roof extension should have a more moderate scale, the canopy should be a simple, lightweight and transparent structure and questions the suitability of a single brand commercial development of this size.

#### Covent Garden Community Association

- The proposal is not in accordance with City Plan policies 7 [Managing development for Westminster's people] and 16. [Food, drink and entertainment]
- 1 Mercer Walk opening hours should be reduced (maximum suggested opening hours 8am to 9pm Monday to Thursday; 8am to 10pm on Fridays; 9am to 10pm on Saturdays, and 10am to 9pm on Sundays.) and other conditions attached. Some other elements of this part of the development are positive.
- 5 Langley Street could be reasonably consented with some changes/planning conditions (maximum suggested opening hours 10am to 11.30pm Monday to Thursday; 10am to Midnight on Fridays & Saturdays and 10am to 10.30pm on Sundays)
- Old Brewer's Yard and rear of 7 Langley Street is the most concerning from an amenity perspective, namely noise impact from 200 customers in the Yard. It should be refused outright. If allowed conditions should include maximum suggested hours of 10am to 11pm on any day, max 50 capacity and dispersal via Langley Street after 10pm.
- 15a Neal Street exit from Old Brewer's Yard should be closed at 8pm
- Extension at 28-32 Shelton Street fails to enhance either Covent Garden Conservation Area or setting of the Seven Dials Conservation Area.
- Roof terrace at 28-32 Shelton Street should be refused or heavily conditioned in terms of hours. (max hours 10am to 7pm) The Class E restaurant use should be conditioned including maximum hours of 10am to 11.30pm Monday to Thursday, 10am to Midnight on Fridays & Saturdays and 10am to 10.30pm on Sundays. Other conditions suggested.
- Tables and chairs on Mercer Walk not supported.
- Conditions should be imposed to limit noise outbreak from uses within the buildings and from mechanical plant.
- Delivery hours for the entire development should be restricted.
- Branding and signage should be considered at an early stage.
- The community benefit offered by the applicant should be more specific. The CGCA give examples of community benefits in their letter.
- There is a need for a clear and enforceable dispersal policy as part of the Management Plan. This should be secured by condition and should include points 1 to 7 in the CGCA's letter dated 6 July 2022.

#### Seven Dials Area Trust

This application sits within a highly residential area with narrow streets and footways and tall buildings where sound is liable to reverberate. Our concerns are:

1. The proposed roof extension at 28-32 Shelton Street to which we object; the proposal is considered to be wholly unacceptable in terms of its impact on heritage assets, because of a. Its height and bulk and b. Its design and use of materials.

2. The potential numbers leaving the premises after core hours. We feel any consent should be based on the licensed areas being seated service only, except possibly the events space at 5 Langley Street as long as this is limited to core hours;
3. Noise breakout from Old Brewers Yard where the applicant's Noise Impact Assessment is based on 50 people, but this could apparently be up to 250;
4. There is no assessment of the noise impact in the streets either in the day or more concerning post-midnight.

The comments made by the CGCA and CGAT are supported. The proposed roof extension would cause substantial harm to the settings of the adjacent listed buildings, especially 34 Shelton Street. It would cause a high degree of less than substantial harm to the Covent Garden Conservation Area and to the setting of the Seven Dials Conservation Area.

#### Highways Planning Team

Welcomes the opening up of the pedestrian links into the yard. Cycle storage provision is acceptable. Ideally the whole development should be serviced from within the yard. No objection to the capacities requested but queuing on the highway should be avoided. This can be controlled through a management plan. Concern raised about flexibility of Class E and implications for servicing.

#### Environmental Health

No objection to the application on environmental noise or nuisance grounds provided the recommended conditions and informatives are included on the planning permission.

#### Waste Project Officer

No objection subject to a condition.

#### Thames Water

No objection subject to conditions and informatives.

#### ADJOINING OWNERS/OCCUPIERS

No. Consulted: 360

Total No. of replies: 39

No. of objections: 35 (from 33 addresses)

No. in support: 4

31 letters of objection from local residents and other groups including from South Bloomsbury TRA, Bloomsbury Residents Action Group, Bloomsbury Association and Soho Housing Association on some of all of the following grounds:

#### LAND USE

- Over-intensification / too large. Bringing large numbers of people each week into a small residential enclave for drink led activities.
- Concerned about the number of drinking venues in Covent Garden
- It is not appropriate to have an outdoor space with events with occasional live music in the middle of a residential area.
- Any hospitality element should be significantly smaller than what is currently proposed.
- The proposal would fundamentally alter the character of the area- bustling during

the day when the shops are open but quieter at night once they close.

- There are already more pubs, restaurants, bars and people than this area can accommodate.

#### AMENITY

- The proposal will bring more people into the area with a resulting increase in noise and disruption to local residents.
- Noise breakout from Old Brewer's Yard and from use of Neal Street as an exit.
- Increase in number of late night revellers and in anti-social behaviour will impact on residents in Shelton Street (a narrow canyon) and Earlham Street (a quiet residential street).
- Roof terrace on Shelton Street building will cause noise over a wide area as well as loss of privacy and overlooking. The roof terrace should be only for daytime hours only.
- The ambient noise in the local area is already above WHO guidelines.
- More thought needs to be given to the opening/closing hours of the eating and drinking establishments. The CGCA's comments on this are endorsed. Old Brewer's Yard should be seated only.
- Consideration needs to be given to the dispersal of the customers. The CGCA's comments on this are endorsed.
- The proposed opening hours and 200 persons capacity of the Yard need to be reduced. The CGCA's comments on this are endorsed.
- The small numbers of people who gather outside the local pubs and bars already cause a lot of disturbance into the night.
- Noise from servicing in the Yard.
- Potential for fumes from the brewery.

#### CONSERVATION AND DESIGN

- Unsympathetic 2 storey extension to 28-32 Shelton Street.
- The roof extension is unacceptable because of its height and bulk, its design and use of materials. (e.g. highly glazed facades). It is contrary to policies 39 and 40 within the City Plan.
- The roof extension will impact negatively on the surrounding street and roof-scape.
- The metal and glass design is unsympathetic to the host building.
- Roof extension would cause harm to the setting of nearby listed buildings.
- The height of the roof extension should be reduced by one storey. The restaurant plant and terrace should be incorporated into the existing building.

#### HIGHWAYS

- Impact on traffic congestion.
- The Shelton Street pavement is too narrow to accommodate a restaurant of this size.

#### OTHER

- Impact of roof extension on sunlight to the open area the junction of Neal Street and Earlham Street.
- There is a large residential population in Covent Garden. Residents and their local communities matter.

- The comments made by the Covent Garden Community Association are endorsed.
- Both the fire strategy and noise assessment need to be looked at again.

4 letters of support have been received:

- Improvements to footfall and street activation which will help businesses in the area.
- Welcome the 'Learning for Life' and 'Raising the Bar' programmes and the community collaboration space at 5 Langley Street.
- Welcome return of brewing to Covent Garden.
- Improved retail mix, buildings and local streetscape.
- There will be improved servicing and management arrangements in Old Brewer's Yard.
- Through this development, the community will benefit from improved investment in the public realm, as well as providing community benefits and employment opportunities for residents.
- The proposal will assist in driving footfall to the area and encourage dwell times into the evening supported through the additional security which is applied in the planning application.
- The planning application identifies the ability to link with Guinness to promote community activities and cohesion whilst improving the livelihoods through the increase in employment opportunities.
- Capco is supportive of improving the skills of locals and is in partnership with Westminster to improve the employment levels within the area.

Site and Press Notice

Yes

## 5.2 Applicant's Pre-Application Community Engagement

Engagement was carried out by the applicant with the local community and key stakeholders in the area prior to the submission of the planning application between 4 February and 8 March 2022. The applicant's community engagement was planned ahead of the Council's published Early Community Engagement strategy (February 2022). The engagement activities undertaken by the applicant (as listed in the submitted Statement of Community Involvement) are summarised in the table below:

| Engagement Method/Event/Activity                            | Date                                  | Attendance         | Summary of Discussions  |
|---|---------------------------------------|--------------------|---|
| Consultation letter sent to 940 residents and businesses.   | 4/2/22                                | N/A                | Directed consultees to consultation website and invited them to two public consultation events.   |
| Public consultation event including with amenity societies. | 7/2/22 (in-person) and 14/2/22 (zoom) | 26 and 25 persons. | Sentiment was both positive as well as negative with the concerns reiterated around deliveries, people management, noise, security, waste |



|         |         |                               |   |
|---------|---------|-------------------------------|---|
|         |         |                               | management and a need to understand how the project will collaborate with the community. As well as answering the questions in person and via an e-mail documentation, a commitment was made to share updates on the consultation website as well as to have additional in-person meetings  |
| Meeting | 15/2/22 | WCC councillors               | Welcoming and positive towards the project but highlighted overspill and management of the site.  |
| Meeting | 16/2/22 | Odhams Walk residents         | Deliveries, noise, footfall (particularly on Neal Street and overlooking.   |
| Meeting | 22/2/22 | Universal Consolidated Group. | Footfall, noise, cumulative effect of noise from courtyard, deliveries and management of people.  |
| Meeting | 24/2/22 | Pineapple Dance Studios       | Noise pollution from courtyard and bar at rear of 7 Langley Street on the upper dance studios and construction work. Diageo committed to putting in sound attenuation into the ceiling of the bar at 7 Langley Street and offered secondary glazing to rooms above courtyard if noise was not solved by infrastructure built into the scheme. |

The applicant's Statement of Community Involvement advises that 'there were several positive comments about the prospect of a scheme like this which will reinvigorate the space, bringing back the brewing heritage of the area while providing great opportunities to collaborate with other local business and community groups within the area and support community initiatives'. Several respondents highlighted 'traffic, egress of people from the site and servicing as a concern.'

The applicant's Statement of Community Involvement and other application documents identify that the scheme has been revised in the following ways in response to views and representations expressed during pre-application community engagement:

- Removal of a substantial outside terrace at 7th floor level on the Shelton Street building and its replacement with a small outside terrace at the rear;
- Screening introduced to the terrace to protect privacy of Odhams Walk residents;
- Changes to design of Shelton Street extension [reduction in size of outside terrace; and
- A detailed draft operation management plan has been created which considers

all comments raised in the consultation process and which the applicant advises will ensure proper management and mitigation measures for the site.

Following the resolution of the Planning (Major Applications) Committee on 9th August 2022, the scheme has been revised and further engagement has been carried out by the applicant. The submitted Statement of Community Involvement addendum sets out the following:

| <b>Engagement Method/Event/Activity</b> | <b>Date</b> | <b>Attendance</b>                     | <b>Summary of Discussions</b>   |
|---|-------------|---------------------------------------|---|
| Telephone call                          | 23/12/22    | CGAT on behalf of CGCA, CGAT and SDAT | To discuss the re-design proposals.   |
| Meeting                                 | 05/01/23    | CGAT on behalf of CGCA, CGAT and SDAT | RKD presentation and discussion for feedback of presentation shared via Trust. To discuss working redesign proposals.     |
| Meeting                                 | 06/01/23    | Historic England and WCC officer.     | To discuss redesigned proposal.   |
| Meeting                                 | 11/01/22    | CGAT on behalf of CGCA, CGAT and SDAT | Feedback from all local amenity groups was shared with the project team.  |
| Email                                   | November 22 | CHCA, CGAT and SDAT.                  | Contributions and inputs received by email on the initial draft OMP framework that formed part of the original framework. |

The applicant advises that they have since engaged with the CGCA, CGAT and SDAT on the preparation and detail of the Operational Management Plan that will serve the proposed development. However this is disputed by the CGCA who advise that there have, as yet, been no substantive discussions on the OMP, despite the period of almost 6 months that have passed since the last Planning Committee. The only substantive document is one produced by the Amenity Societies themselves containing comments on the original OMP (which is provided as a Background Paper). The applicant advises that as a planning decision has not yet been formally issued by WCC, an operations director has yet to be hired. On this basis, existing operations teams from other Diageo sites will assist and give general support and guidance on the OMP drafting in the interim until a designated operations director is hired formally, pursuant to a planning approval.

The Covent Garden Community Association; Covent Garden Area Trust and Seven Dials Area Trust have expressed a concern over the short amount of consultation time given by the applicant on the revised proposal which was subsequently submitted on 17 January 2023.

## **6. WESTMINSTER'S DEVELOPMENT PLAN**

### **6.1 City Plan 2019-2040 & London Plan**

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

### **6.2 Neighbourhood Planning**

The application site is not located within an area covered by a Neighbourhood Plan.

### **6.3 National Policy & Guidance**

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

## **7. BACKGROUND INFORMATION**

### **7.1 The Application Site**

The application site comprises a number of properties that back onto Old Brewer's Yard in Covent Garden, namely 28-32 Shelton Street, 15a Neal Street, 5 Langley Street, the passageway underneath 6 Langley Street, the rear of 7 Langley Street and Old Brewer's Yard itself. The site also includes 1 Mercer Walk which sits to the west on Langley Street.

The site lies within the northern corner of the Covent Garden Conservation Area and forms part of the complex of former brewery buildings and warehouses which were established in the area from the mid-eighteenth century. Many of the former warehouses survive which architecturally distinguishes this area from the rest of Covent Garden and are fundamental the character and appearance of this part of the conservation area. The northern part of the site on Shelton Street is adjacent to the Seven Dials Conservation

Area which lies within the London Borough of Camden.

All the buildings on the site are unlisted except 6 and 7 Langley Street which are listed grade II. The site is also surrounded by a number of grade II listed buildings including 24-26 Shelton Street, 8 Langley Street, 34 Shelton Street/21-23 Neal Street, 17-19 Neal Street, the Seven Dials Warehouse, 27-33 Shelton Street / 42-54 Earlham Street, 23 Shelton Street (Cambridge Theatre) and 25-37 (odds) Neal Street.

In terms of other designations the site is within the Central Activities Zone (CAZ), the West End Retail and Leisure Special Policy Area (WERLSPA) and partly within the Covent Garden CAZ retail cluster. The borough boundary with the London Borough of Camden runs along Shelton Street. Odhams Walk is a large residential development (105 residential flats) to the north east of the application site and some of the flats face onto Neal Street.

The individual buildings that make up the application site comprise:

#### 28-32 Shelton Street

A five storey building plus basement on the south side of Shelton Street within Class E use comprising two retail units at ground floor level with offices on the upper floors. The building dates from the 1930s and backs onto Old Brewer's Yard at the rear.

#### 1 Mercer Walk

A four-storey plus basement building on the west side of Langley Street. The building forms part of a wider mixed-use redevelopment scheme that was granted planning permission in March 2014 and included the provision of a new pedestrian and servicing piazza 'Mercer Walk' connecting Langley Street to Mercer Street. The building is vacant having previously been occupied for Class E retail purposes as an H&M store. Langley Street is a pedestrianised street but which is open to deliveries Monday to Saturday from 07.00 to 11.00 hours.

#### 15A Neal Street (ground floor only)

A four-storey building within Class E use located on the west side of Neal Street. The rear of the building faces onto Old Brewer's Yard. The building comprises a retail unit at ground floor level ('The Tea House') with offices on the upper floor levels.

#### 5 Langley Street (basement only)

A four-storey building plus basement located on the east side of Langley Street. The basement entrance is on Langley Street. It is in use as a restaurant at ground floor level (currently occupied by 'Café Pacifico'), with a vacant nightclub in the basement (formerly known as 'Bar Langley') and offices on the upper levels). The rear of the building backs onto Old Brewer's Yard.

#### Ground floor passageway underneath 6 Langley Street

The application site includes an existing passageway that extends underneath this Grade II listed building running from Langley Street to Old Brewer's Yard.

#### Rear of 7 Langley Street

A five-storey grade II listed building plus basement occupied by Pineapple Dance Studios and offices. The site relates to a single-storey bin store at the rear of this

building, fronting Old Brewer's Yard at ground floor level.

#### Old Brewer's Yard

The yard is approximately 500sqm in size and is bordered at all sides by Neal Street to the east, Langley Street to the west, Long Acre to the south and Shelton Street to the north. The yard is accessible on-foot and by vehicle from Shelton Street, although it is not accessible to the public. The yard is used as a servicing space for buildings surrounding the Yard, including commercial properties on Neal Street and Long Acre.

## 7.2 Recent Relevant History

### Judicial Review Pre-Action Protocol Letter

The council received a Judicial Review Pre-Action Protocol letter dated 21 October 2022. This sets out the claimants (the Covent Garden Community Trust's) grounds of challenge to the City Council's decision which are:

Ground 1: the voting process by which the resolution to grant planning permission was purportedly passed was improper.

Ground 2: the Council failed to assess the potential impacts of the proposed development on the significance of the following designated heritage assets: 23-33 Shelton Street, 28-32 Shelton Street, 6 Langley Street and the Seven Dials Conservation Area.

Ground 3: the Council failed to assess the impact of the proposed canopy on adjacent designated and non-designated heritage assets.

Ground 4: the Council failed to assess the extent of less than substantial harm.

Ground 5: the Council failed to consult with Historic England, failed to give weight to Historic England views or failed to await Historic England consultation response.

Legal advice has recommended that this application is returned to committee for re-consideration with a revised report which seeks to address in detail the complaints made by CGAT in its Judicial Review Pre-Action Protocol Letter.

The matters that form the basis of the legal challenge relating to Ground 2, Ground 3, and Ground 4 are dealt with (principally) in Section 9.4 (Townscape, Design & Heritage Impact) of this report.

In terms of Ground 5, the council acknowledges that Historic England are a statutory consultee for this application. The council consulted with Historic England on 16 November 2023 after it received the Judicial Review Pre-Protocol letter and the relevant consultation legislation was checked. Historic England was then consulted on the revised scheme on 18 January 2023. The observations of Historic England are provided as Background Papers and their comments have been fully addressed in Section 9.4 (Townscape, Design & Heritage Impact).

The application has also been amended, namely a redesign of the extension at 28-32

Shelton Street with a reduction to a single storey extension with plant enclosure above. The council carried out a full re-consultation on the revised scheme on 18 January 2023.

### **Planning (Major Applications) Sub-Committee**

The applications the subject of this report were presented to Planning (Major Applications) Sub-Committee on 9th August 2022. The committee resolved:

1) That conditional permission, as amended, be granted subject to:

a) A S106 legal agreement to secure the following:

- i. The residential use at second and third floor level at 23 Neal Street and third floor level at 17-19 Neal Street to have been relocated as part of a land use swap with the City Council. The applicant not to commence development until planning applications had been submitted for the land use swap and not to occupy the development until the land use swap has been physically completed in all material respects to a standard ready for residential occupation and evidence has been submitted to the City Council to confirm completion of such works.
- ii. Details of a community strategy.
- iii. Walkways Agreement to secure access to Langley Passage and Old Brewer's Yard.
- iv. Monitoring costs.

b) The operational management plan being developed in consultation with the Covent Garden Community Association, the Covent Garden Area Trust and The Seven Dials Trust before returning to the Sub-Committee for approval.

c) The opening hours of the external terrace located on Shelton Street be reduced to between 10:00 to 21:00 hours.

d) The opening hours for Old Brewers Yard be reduced to between 10:00 to 23:00 hours Monday to Saturday and 10:00 to 22:30 hours on Sundays.

e) The opening hours for 1 Mercer Walk be reduced to between 10:00 and 22:30 hours Monday to Sunday.

f) Egress from Old Brewers Yard via Shelton Street be restricted after 22:30 hours.

g) The capacity for the Old Brewers Yard be reduced to a maximum of 100 customers seated and 50 standing.

In addition the committee resolved that listed building consent be granted.

A copy of the previous committee report and minutes are provided as background papers.

The planning and listed building decision notices have not been issued.

There is no other significant planning history for the buildings that make up the site.



## Other relevant history

### 17-19 Neal Street

Permission granted with a legal agreement on 23 December 2022 for 'Use of the third floor as office (Class E) (Part of Land Use Swap with 40 Drury Lane, 23 Neal Street, 79 Long Acre and 116 Long Acre) with replacement of existing rooflight with double-glazing and plant at roof level.' (22/05323/FULL) Listed building consent for works granted under 22/05324/LBC.

### 21-23 Neal Street / 34 Shelton Street

Permission granted with a legal agreement on 23 December 2022 for 'Use of second and third floor levels as office (Class E) (Part of Land Use Swap with 17-19 Neal Street, 40 Drury Lane, 79 Long Acre and 116 Long Acre) with new heat pumps at roof level.' (22/03950/FULL). Listed building consent for works granted under 22/03951/LBC.

### Mercers Development

Part Of Block C , Mercer's Covent Garden Estate, Mercer Street, London, WC2.  
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. (13/06028/FULL) Condition 4 allows customers to use the roof terrace between the hours of 08.00 and 22.00 hours Monday to Saturday and between the hours of 10:00 and 20:00 hours on Sundays, bank holidays and public holidays. Condition 5 restricts the number of customers on the roof terrace to 100.

### 6- 7 Langley Street

Permission granted 10.03.2022 for 'Alterations to the roof of no.7 Langley Street including the installation of decking, pergolas, timber banquette seating, planters, and screening for use of the roof as a roof terrace; associated works including alterations to no.6 Langley Street, in connection with the Class E use of no.6 Langley Street.' (21/08184/FULL). Condition 4 restricts the use of the terrace to between the hours of 08.00 and 22.00 hours Monday to Saturday and between the hours of 10:00 and 20:00 hours on Sundays, bank holidays and public holidays. Condition 6 restricts the capacity of the terrace to 100 customers at any one time.

## 8. THE PROPOSAL

The proposal seeks to create a new leisure and entertainment destination centred around the Guinness brand for the buildings positioned around Old Brewer's Yard, with the yard at the centre of the scheme providing an outdoor food and drink area. The applicant advises that the repurposing of Old Brewer's Yard is to contribute to the Mercers' Company's overarching strategy to improve the permeability of Covent Garden by creating a new pedestrian link and open space forming part of the public realm. The scheme also includes a micro-brewery visitor attraction at 1 Mercer Walk connected to the wider scheme by the existing passage underneath 6 Langley Street.

The scheme as revised in January 2023 can be broken down as follows:

### **28-32 Shelton Street**

Erection of a new single storey extension (with external plant room on top) with external terrace at fifth floor level for use of the building as a restaurant within Class E(b). The terrace at sixth floor level to have 16 covers. The entrance to the restaurant to be from the rear at Old Brewer's Yard. The proposals will result in a six-storey building (plus basement). A new shopfront to Shelton Street and new rear opening to the yard are proposed. Photovoltaics are proposed at main roof level.

### **1 Mercer Walk**

Use of the building as a microbrewery visitor attraction with ancillary retail space and bar. (sui generis) with guided tours. At second floor level, there will be a teaching and learning space to facilitate the applicant's outreach programme 'Learning for Life'. External alterations are largely restricted to the opening up of some blind windows facing Langley Street, alterations to roof plant vents and the installation of roof top photovoltaics. As originally submitted, the application included a proposal for 6 tables and 24 chairs outside the premises at 7 Mercers Walk (Stanfords) to be used by visitors of the microbrewery. However these tables and chairs have been removed from the proposed scheme by the applicant.

### **15A Neal Street (Ground floor only)**

Continued use of premises as retail within Class E(a), new shopfront and demolition of the rear wall and replacement with an entirely glazed openable shopfront (to allow access to Old Brewer's Yard from Neal Street).

### **5 Langley Street (Basement and part ground floor only)**

Use of the basement for events and cultural uses together with community activities (sui generis). Alterations include provision of a new entrance within Old Brewer's Yard, with access to the basement achieved via a new lift and staircase. This will be the main access into the basement and will be used to access storage space to store courtyard furniture and to provide toilet facilities for the outdoor bar in the yard.

### **Rear of 7 Langley Street (Part of ground floor only)**

Alterations and conversion of former bin store to a bar and servery (sui generis)

### **Old Brewer's Yard**

Use of the open yard to provide an area of semi-permanent tables and chairs, a standing area and food truck in connection with the bar at the rear of 7 Langley Street (sui generis). The capacity of the yard is to be 150 (excluding staff) with seating provided for at least 100 patrons and no more than 50 standing at any time. The furniture will be removed after operating hours and taken down to the designated storage space in the basement of 5 Langley overnight and whilst delivery and servicing takes place in the morning.

The part of the proposal includes a high-level glazed canopy (covering approximately 60% of the yard and rising approximately 7m in height) and new gates facing Shelton Street (these are to be a set of black vertically sheeted timber gates that correspond to the historic black 'Guinness Gates' synonymous with the origins of the Guinness brewery at St James's Gate in Dublin.). Access to the yard from the existing entrance on

Shelton Street, via the pedestrian passageway from Langley Street and via the shop unit at 15a Neal Street.

**Table: Existing and proposed land uses. (Information provided by applicant.)**

| Building   | Existing use            | Proposed use | Existing GIA (sqm) | Proposed GIA (sqm) | +/- GIA (sqm) |
|--|-------------------------|--------------|--------------------|--------------------|---------------|
| <b>28-32 Shelton Street</b>                            | Class E                 | Class E(b)   | 1525               | 1667               | +142          |
| <b>1 Mercer Walk</b>                                   | Class E                 | Sui Generis  | 2318               | 2318               | 0             |
| <b>15A Neal Street</b>                                 | Class E                 | Class E(a)   | 50                 | 50                 | 0             |
| <b>5 Langley Street</b>                                | Sui Generis             | Sui Generis  | 907                | 907                | 0             |
| <b>Rear of 7 Langley Street and Old Brewer's Yard.</b> | Servicing/Back of House | Sui Generis  | 136                | 136                | 0             |
| <b>TOTAL</b>   |                         |              | 4936               | 5078               | +142          |

## 9. DETAILED CONSIDERATIONS

### 9.1 Land Use

#### Land Use Overview

The site lies within the Central Activities Zone and the West End Retail and Leisure Special Policy Area.

City Plan policy 1.A (*Westminster's spatial strategy*) seeks to ensure that Westminster will continue to 'grow, thrive and inspire at the heart of London as a World City'. Policy 1 acknowledges the need to balance the competing functions of the Central Activities Zone (CAZ) as a retail and leisure destination, visitor attraction, global office centre and home to residential neighbourhoods; and seeks to support the evolution of town centres, including the WERLSPA, as multifunctional commercial areas to shop, work, and socialise.

City Plan policy 2 (*Spatial Development Priorities: West End Retail and Leisure Special (WERLSPA)*) states that the intensification of the WERLSPA (the West End location providing a range of commercial activity including internationally renowned shopping destinations and retail and leisure destinations, including Covent Garden, and numerous tourist attractions), over the Plan period will deliver a number of priorities including: (A) Significant jobs growth through a range of commercial-led development including retail, leisure, offices and hotel use; (B) An improved retail and leisure experience that responds to innovation and change in the sector; (C) A diverse evening and night-time economy and enhanced cultural offer and (F) Protection of the unique character of central London's distinct and iconic places and heritage assets.

The supporting text ,paragraph 2.7, anticipates that the WERLPA will absorb much of Westminster's future commercial growth through investment in a range of commercial development including retail, food and drink uses and entertainment uses will protect and support the arts, culture and entertainment offer for residents, workers, and visitors and diversify the food and beverage offer, to complement the retail environment whilst,

at the same time, minimising negative impacts on residential neighbourhoods.

Policy 14 (*Town centres, high streets and the CAZ*) supports the intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses in principle, subject to impact on townscape and heritage.” Paragraphs 14.16 and 14.17, recognise that within the WERLSPA, away from the main shopping streets, “ the land use is highly diverse, containing a mix of commercial activity, including retail, pubs, bars, restaurants, theatres, cinemas and other entertainment venues. Together, these provide a wealth of attractions that draw in visitors and make a major contribution to London’s world city status..... Alongside retail growth, a balanced mix of complementary leisure, entertainment, food and drink and cultural and employment offers are welcomed to help the West End to grow, not only as a global shopping destination, but also as an enhanced leisure and employment destination”.

Policy 15 (*Visitor economy*) states that the Council will maintain and enhance the attractiveness of Westminster as a visitor destination, balancing the needs of visitors, businesses and local communities

Policy 16 (*Food and drink*) requires proposals for food and drink and entertainment uses to be of a type and size appropriate to their location. The over-concentration of those uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate.

### **Related residential amenity policies**

City Plan Policy 7(B) (*Managing development for Westminster’s people*) requires new development to be neighbourly by protecting, and where appropriate enhancing local environmental quality.

City Plan Policy 33 (C ) (*Local environmental impacts*) relates to noise and states development should prevent adverse effects of noise, with particular attention to:

- i. minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses;
- ii. minimising noise from plant machinery and internal activities;
- iii. minimising noise from servicing and deliveries; and
- i. protecting the relative tranquillity in and around open spaces.

City Plan Policy 33 City Plan Policy 33 (D) (*Local environmental impacts*) relates to odour, and states development will effectively address the adverse impact of odour through the incorporation of appropriate mitigation measures using a precautionary approach.

### **Environmental Supplementary Planning Document (Adopted 2022)**

This Supplementary Planning Document (SPD) provides guidance for developers on how they can meet the environmental policies within Westminster’s City Plan 2019 – 2040. The ESPD covers seven environmental topics of which local environmental impacts (e.g. noise and vibration and odour), energy and waste management are the most relevant to this application.

## Legislation

Class E (Commercial, Business and Service) of the Use Classes Order 1987 (as amended) was introduced on 1st September 2020. It amalgamates a number of uses that previously fell within Classes A1, A2, A3, B1, D1 and D2; shops, restaurants, financial and professional services, indoor sport, recreation or fitness, health, or medical services, creche, nursery or day centre principally to visiting members of the public, an office, research and development, or any industrial process that can be carried out in any residential area without detriment to amenity. The consequence of this is that planning permission is not needed for changes of use within Class E, subject to the provisions of the Use Classes Order.

### **Proposed Restaurant (Class E), Bar (Sui Generis) , Microbrewery (Sui Generis) and Event Space (Sui Generis)**

The designation of Covent Garden within the West End Retail and Leisure Special Policy Area reflects the highly diverse land uses within the area in what is predominantly a commercial neighbourhood. The application site itself has a commercial character, however, there are multiple residential uses nearby including to the west in Mercer's Walk, to the east as part of the Odhams Estate (105 residential flats) and to the north along Neal Street.

Covent Garden provides a wealth of attractions that draw in visitors and make a major contribution to London's world city status. With appropriate safeguards to protect residential amenity, the application proposal would promote good growth by diversifying the entertainment and food and beverage offer for residents, workers and visitors and by supporting the visitor and night-time economy. The use of the application site to provide entertainment, retail and visitor attraction uses is considered to support the aims of City Plan spatial policies 1 and 2.

The application comprises a mix of uses in the form of a restaurant, bar, microbrewery visitor attraction and event space. These uses offer a balanced mix of complementary leisure, entertainment, food and drink and visitor attraction offerings that will not only help the West End to grow as an enhanced leisure and employment destination but also maintain and enhance the attractiveness of Westminster as a visitor destination in line with Policies 14 and 15.

Given the recent changes in the Use Classes Order, the council cannot control growth of cafes and restaurants that are now in a new Class E. Paragraph 16.1 of the City Plan sets out that the focus of policy 16 'will therefore be on other uses such as takeaways, shisha smoking bars and other drinking establishments that are sui generis uses.....Proposals for the provision of these mix of uses within the WERLSPA will be supported provided they do not lead to over-concentration owing to the impacts on servicing and amenity.'

The application proposal provides entertainment uses in the form of a restaurant (Class E), an event space (sui generis) and a bar with a substantial area of outdoor seating (sui generis). This part of Covent Garden along Shelton Street, Neal Street and Langley Street has a strong commercial feel with a mix of office, retail, food and drink and other

commercial uses, particularly at ground floor level. Further to the west is the Mercer's Yards development which provides a number of food and drink uses at ground floor level in addition to some retail uses. Despite this it is recognised that there are also a number of residential flats in close proximity to the site including at Odhams Walk.

Taking into account the largely commercial character of the area, the fact that 28-32 Shelton Street is already in Class E use and the basement of 5 Langley Street was formerly in use as a nightclub, the proposed food and drink and entertainment uses are considered to be of a type and size appropriate to their location. Given the broad mix of commercial uses in the vicinity of the site, it is not considered that the proposal would result in an over-concentration of food and drink and entertainment uses which could harm residential amenity or the vitality and character of the local area. In fact the proposal would be likely to enhance the vitality and character of the area given the place shaping benefits from the opening up of Old Brewer's Yard to public use. Measures within the scheme to protect residential amenity are set out below and issues relating to the servicing of the development are set out in paragraph 9.5.

Letters of support to the proposal have been received from local businesses Stanfords and Hawksmoor and from the Long Acre Business alliance, CAPCO and Shaftesbury.

### **Impact on Residential Amenity**

Food, drink, and entertainment uses need to be carefully managed to prevent harmful impacts on residential amenity and local environmental quality. They have the greatest potential to generate noise and disturbance in nearby streets and to adversely affect local amenity. Although, it is recognised that there can be considerable variation between the effects of different types of food / drink / entertainment uses.

A key issue with the proposal is the impact on nearby residential occupiers in terms of noise and disturbance from the uses proposed and the mitigation measures that are proposed to safeguard residential amenity. In this regard, the City Plan 2019-2040 sets out that the council will utilise the Agent of Change principle, which places the burden on the applicant to ensure mitigation measures are included to safeguard future local amenity.

### **Noise**

The Covent Garden Community Association, the Covent Garden Area Trust and Seven Dials Area Trust have raised noise concerns, particularly in relation to the proposed bar and outdoor drinking area within Old Brewer's Yard and from the roof terrace that forms part of the restaurant at 28-32 Shelton Street. Furthermore detailed comments have been made from the CGCA about the opening hours of the yard, its capacity, the dispersal strategy of customers from the bar late at night and appropriate controls that should form part of a detailed operational management plan. Local residents have also raised similar objections and concerns and consider that the scheme would be harmful to residential amenity. Concerns to this part of the scheme have also been raised by the London Borough of Camden.

The distribution of residential units within close proximity to the site is shown on the plan below and marked as letters A to S. (information provided by the applicant)





The residential properties that are closest to the application site can be summarised as:

- A: 25 Shelton Street (13 flats)
- B: 23 Neal Street (6 flats)\*
- C: 17-19 Neal Street (1 flat)\*
- E: 22 Neal Street (maisonette above Crown and Anchor PH)
- F: 24 Neal Street (1 flat)
- G: 26-28 Neal Street (1 flat)
- H: Multiple residential flats at Mercers development.
- S: Multiple residential flats (105) at Odhams Walk.

\*With regard to 23 Neal Street and 17-19 Neal Street the applicant advises that works in connection with changing the use of these residential units to Class E commercial use (see section 7.2) has commenced and are due to complete in June 2023.

It is the outdoor spaces which have the greatest potential to cause noise and disturbance to neighbouring residential occupiers. The scheme features two outdoor spaces, namely the fifth floor terrace at 28-32 Shelton Street and the external drinking

area at Old Brewer's Yard. In accordance with our Environmental SPD the applicant has provided a Noise Impact Assessment with the application for the outdoor areas.

Environmental Health advise that although this type of assessment will provide an indication of the noise experienced by nearby sensitive receptors, it can only be used as guidance. Actual impacts may be greater or less than what is predicted depending on many factors. In this instance Environmental Health consider that the proposed reduced operating hours of the yard and fifth floor terrace and reduced capacity, would reduce the number of potential noise sources compared to the originally submitted scheme. Noise associated with the use will be audible at nearby sensitive receptors. However, any impacts can be mitigated and reduced, using control measures such as limiting the numbers of patrons able to access the area and conditioning the operational hours to daytime only (0700 -23.00hrs).

#### Licensing position

The Westminster Licensing Sub-Committee determined applications for a New Premises Licence under the Licensing Act 2003 for the various sites that form part of this application on 30 June 2022 and again on 24 November 2022 for Old Brewer's Yard and 5 Langley Street. A summary of the licensing position for each property and any key licensing conditions is included in the assessment of opening hours for each part of the site.

The hours of use and capacity for each venue is set out in the table below.

**Table: Occupancy Schedule and Hours of Use**

| Site Address                               | Proposed Customer Capacity                         | Proposed Staff Occupancy | Opening Hours   |
|--|--|--------------------------|---|
| 28-32 Shelton Street (Restaurant)          | 319 (including 16 covers on external roof terrace) | 81*                      | Monday-Thursday<br>10:00-23:30<br><br>Friday and Saturday<br>10:00-00:00<br><br>Sunday<br>10:00-22:30<br><br>The external roof terrace to open 10:00 to 21:00 each day. |
| 1 Mercer Walk (Micro-brewery)              | 220  | 50                       | Monday-Sunday<br>10:00-22:30  |
| 15A Neal Street (Shop)                     | 15   | 2                        | Monday to Sunday: 10:00 to 22:30  |
| Basement of 5 Langley Street (Event Space) | 350  | 1                        | Monday-Thursday<br>10:00-23:30<br><br>Friday and Saturday<br>10:00-00:00  |

|  |  |     |  |
|--|--|-----|--|
|  |  |     | Sunday<br>12:00-22:30  |
| Rear of 7 Langley Street & Old Brewer's Yard (Bar and Outdoor drinking area) | 150 (with at least 100 people seated and a maximum of 50 standing) | 0   | Monday-Saturday<br>10:00-23:00<br><br>Sunday<br>10:00-22:30<br>The access gate to Old Brewer's Yard from Shelton Street shall be closed at 22.00 and there shall be no new entry to Old Brewer's Yard or egress via the Shelton Street gates after that time save for emergency or for patrons leaving any of the premises abutting Old Brewer's Yard in order to use the Langley street exit. |
| Total  | 1054   | 134 |  |

\* There is capacity calculated in 28-32 Shelton Street to deal with the other spaces as necessary, so this is the utmost capacity required. A proportion of this staff count would be used for serving OBY/7 Langley and 5 Langley Street.

28-32 Shelton Street

The opening hours sought for this Class E are acceptable within the CAZ and align with those agreed by licensing. The property already has lawful Class E use and the existing floorspace could be used for restaurant purposes without needing planning permission. It is accepted that the current scheme proposes an additional 142sqm of Class E floorspace, however, this is not considered so significant as to warrant a reduction in opening hours sought by the applicant. The CGCA recommends the same opening hours as those sought by the applicant.

Outside Terrace:

The opening hours sought for the external terrace at fifth floor level have been revised to 10:00 to 21.00 hours. The CGCA consider the terminal hour should be reduced to 19.00 hours and have provided officers with examples of nearby terraces which have conditions preventing the use of the terrace after 19.00 hours. The terrace has a glass balustrade but because it is at high level it has the potential to cause noise and disturbance. The submitted Noise Impact Assessment identifies the residential property above the Crown and Anchor PH (approx. 36m away from the centre of the roof terrace) as being the most affected noise sensitive property. The report predicts that noise from the terrace will exceed the noise limits applied by the City Council at night (23.00 -07.00 hours ) but is within acceptable limits during the day. Given that the terrace will cease operating at 21.00 hours, it is not considered reasonable to restrict its use until 19.00 hours as requested by the CGCA.

### 1 Mercer Walk

In addition to the microbrewery, this building will have a retail area and bar with a total capacity of 220 persons. There are residential flats in close proximity at 7 Mercer Walk fronting onto Langley Street. The CGCA are however seeking a terminal hour of 21.00 hours Monday to Thursday and Sundays and 22.00 hours on Fridays and Saturdays. The opening hours agreed by licensing are Monday to Thursday 10:00 to 23:30 hours Friday to Saturday 10:00 to 00:00 hours and Sunday 12:00 to 22:30 hours. The opening hours sought for this property, namely Monday-Sunday 10:00-22:30 are considered acceptable within the CAZ. A condition is recommended that from 22:00 hours on Sunday no patrons shall use the West door onto Mercer's Walk except in case of an emergency.

### 15A Neal Street

Whilst it is not considered appropriate to restrict the opening hours of the proposed retail use, as it already has lawful Class E use, it is considered appropriate to ensure the use of the retail shop as a through route between Neal Street and Old Brewers Yard ends at 21:00 hours (and not the 22.00 hours sought by the applicant or 20.00 hours sought by the CGCA). The reason for this restriction is to reduce noise and disturbance to residents in Odhams Walk. As with the micro-brewery, the applicant has advised that refrigeration is to be taken out of the retail shop for the purposes of alcohol sales to discourage drinking in the immediate vicinity. The licensing position with regards to opening hours and sale of alcohol for this property is Monday to Sunday 09:00 to 21:00 hours.

### 5 Langley Street

This premises was previously used as a nightclub (the Langley). Given the planning history of the site, the hours of use sought by the applicant for this property are considered acceptable. The CGCA recommends the same opening hours as those sought by the applicant. Licensing has granted opening hours to the public 10:00 to 23:00 hours Monday to Saturday and 12:00 to 22.30 hours on Sunday with extended non-standard timings of 23.30 Monday to Thursday and 00:00 Friday and Saturday for a specific area with the basement.

### Rear of 7 Langley Street and Old Brewer's Yard

The opening hours sought by the applicant for the bar and external drinking area align with those agreed by the Planning (Major Applications) Sub Committee on 9 August 2022 and are considered acceptable. The terminal hour of 23:00 for Old Brewer's Yard (Monday to Saturday) will have the benefit of allowing a staggered dispersal of customers from the yard rather than an earlier sudden cut off whereby customers all leave the premises at the same time. It is also considered that noise can be mitigated through appropriate management controls at the yard (e.g. the dispersal strategy) through an Operational Management Plan.

The CGCA consider the external drinking/dining element of the development should be refused outright but if allowed then the capacity should be reduced to 50 persons. (see 'Capacity' paragraph below).

In accordance with the licensing position it is recommended that the access gate to Old Brewer's Yard from Shelton Street be closed at 22.00 and there shall be no new entry to Old Brewer's Yard after that time save for emergency or for patrons leaving any of the

premises abutting Old Brewer's Yard in order to use the Langley street exit. The licensing position with regards to the yard is as follows: opening hours Monday to Saturday 10:00 to 23:00 hours, Sunday 12:00 to 22:30 hours. The terminal hour for the supply of alcohol in Old Brewer's Yard is 22.30.

## Land Use Swap

Old Brewer's Yard is mostly surrounded by commercial properties, which include the Pineapple Dance Studios which has upper level windows that overlook both the yard and Langley Passage but there are also residential uses that overlook the yard, namely 23 Neal Street (6 flats) and 17-19 Neal Street (1 flat). These residential uses are located outside the application site. The submitted Noise Assessment Report identifies that these are the most affected noise sensitive properties and that the proposed external seating area will exceed noise limits applied by the council.

To overcome this issue, the owner of these properties (The Mercers Company) intends to convert the residential use to Class E commercial use as part of a separate land use swap with other properties in the vicinity of the site on Long Acre and Drury Lane. Planning applications for the change of use of the residential units within 23 Neal Street and 17-19 Neal Street to Class E (office) uses have already been submitted and permission obtained for the land use swap subject to a S106 legal agreement. (see Section 7.2 'Other relevant history').

It is recommended that the conversion of the residential units at 23 Neal Street (6 flats) and 17-19 Neal Street (1 flat) to commercial use happens prior to the commencement of the uses around Old Brewer's Yard and is secured by S106 legal agreement with the requirement not to occupy the development until the land use swap has been physically completed. The applicant advised that in accordance with the planning permission and listed building consents obtained, work has already commenced to convert these properties to commercial use.

## Management Controls

### Capacity

The capacities sought by the applicant for the various uses proposed are set out in the above table. The capacity of Old Brewer's Yard has been reduced to 150 people (with at least 100 people seated and a maximum of 50 standing). The concerns of the CGCA with regard to the capacity of the yard are understood. They consider the external drinking element of the scheme should be refused outright but if allowed then conditions should limit capacity to 50. It is considered that with appropriate management measures in place through a robust operational management plan and with reduced operating hours until 23:00 Monday to Saturday, the capacity of 150 persons is acceptable.

### Dispersal of customers from Old Brewer's Yard

A number of objections and comments have been raised by local amenity societies, local residents and the Metropolitan Police's Designing Out Crime Officer in relation to the dispersal strategy proposed for the yard. The application proposes that after 22.00 all patrons shall exit Old Brewer's Yard via the Langley Street exit save for emergency exit via Shelton Street. The Metropolitan Police's Designing Out Crime Officer takes the view

that due to the quiet nature of Langley Street, it would be preferable and safer for dispersal in the evening to take place from the main gates on Shelton Street. The view of the Designing Out Crime Officer is noted but the above approach is considered to be the preferred option in terms of protecting the amenity of neighbouring residential occupiers.

#### Operational Management Plan

A key aspect of the proposal will be appropriate management controls in order to minimise any negative impacts from the uses, and in particular from the yard, on local environmental quality and residential amenity. The applicant submitted a draft Operations Management Plan (OMP) with the application and has confirmed that they will continue to consult with the local amenity societies prior to the final version being drafted. The applicant sets out that the principal objectives of the plan will be to maintain the buildings, open space and streetscape to the highest standards for the benefit of occupiers, the public, and the local community; maintain security for occupiers and members of the public; and maintain public safety. The key features of the draft OMP are:

- Diageo will have a security team who will be responsible for the overall 'Guinness buildings at Old Brewers Yard' scheme and will have an office located within the scheme itself. This will be in addition to Mercer's own security within its Covent Garden estate.
- At night-time, the patrolling security officer will be located within Mercer Walk between the hours of 9.00pm and midnight to encourage diners to exit the area quietly and via Langley Street if possible.
- The Shelton Street gates and passageway from Langley Street will be closed overnight.
- The applicant will install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team
- Buskers and street performers shall not be permitted to operate within the site
- Smoking is to be permitted within Mercer Walk and in designated areas within the yard.

Officers consider that a much more comprehensive and robust OMP should be secured by condition including more detail on how the dispersal of the yard will be managed, full details of how many security staff will be employed and where they will be located on site, full details of a direct telephone number at the premises to be made available for residents and businesses, the policy on takeaway alcohol sales, full details of CCTV, details of staff training and use of virtual queuing through smart phone apps. The council expects the OMP to be developed in consultation with the Covent Garden Community Association, the Covent Garden Area Trust and the Seven Dials Trust prior to its submission to the City Council for approval.

The Covent Garden Community Association consider that the OMP should be secured and approved by the City Council prior to any part of the development being implemented (i.e. a pre-commencement condition). This is because the CGCA consider that once the development is constructed, it would be more difficult for the City Council as the Local Planning Authority to refuse to agree the OMP. These concerns are noted, however, in this instance the applicant advises that whilst the existing operations teams from other Diageo sites will assist and give general support and guidance on the OMP, negotiations on its specific content would commence once permission has been granted

and when a designated operations director is hired formally by the applicant. Given that an OMP is related to the use of the proposed development rather than building works, it is not necessary for this condition to be pre-commencement and as such imposing a pre-commencement condition would be unreasonable.

### Odours

An odour assessment report has been submitted with the application. This has been revised following the redesign of the roof extension at Shelton Street.

The Class E restaurant use at 28-32 Shelton Street includes multiple kitchens serving food to customers both inside the restaurant and within Old Brewer's Yard. The proposed kitchen extract duct will terminate at roof level from within the proposed external roof plant.

For the micro-brewery at 1 Mercer Walk, emissions are proposed to be exhausted at roof level. The potential for odours from the proposed microbrewery, such as fermented malt, hobs and barley odours, yeasty odours and alcohol odours. has been assessed in the odour assessment. Mitigation measures to prevent odour release have been detailed within the report. Environmental Health do not object and recommend that a pre commencement condition is applied to the development requiring the odour abatement measures to be installed and maintained prior to first use of the brewery and thereafter retained.

The odour assessment confirms that there will be no primary cooking within the proposed bar at the rear of 7 Langley Street and within the basement of 5 Langley Street.

The odour report sets out that from time to time within Old Brewer's Yard, there may be additional food odours within the courtyard, such as the Guinness Food truck to support events. A condition is recommended to require an updated odour assessment to deal with odours from the food truck.

The applicant is advised by informative that they must register a food business with the council, where under environmental health legislation, the food business must meet our standards on ventilation and other equipment so it does not cause noise, smells, or other types of nuisance.

### **Social & Community Use**

Policy 16 of the City Plan states that 'Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate'

The applicant is proposing to provide a community space in the basement of 5 Langley Street in the form of an events space which will be a multi-purpose room able to host local community events. The applicant has provided details of how it intends to serve the community in its document entitled 'Diageo Executive Summary on serving the community at Old Brewers' Yard' which is provided as a background paper. In summary the applicant advises that the event space could be used for meetings by local amenity the societies, by local residents or by community groups in the wider area.

Officers welcome the proposal by the applicant to allow the use of part of the space within the basement at 5 Langley Street. It is recommended that full details of a community strategy are secured as part of a legal agreement. The strategy will need to set out who will be eligible to use the space and the proposed minimum no of hours for the space to be made available. Details of monitoring arrangements to include annual reports on usage, no of local residents who have used it, any requests by local residents which were declined but unable to be fulfilled etc. will also be required

### **Land use conclusion**

The application site is located within a predominately commercial part of the CAZ, typical of the WERLSPA. However, multiple residential units can be found to the west on Mercer's Walk and Shelton Street, to the north on Neal Street and to the east at Odhams Walk. Despite this, measures will be in place to mitigate and manage noise impacts for neighbouring residents and to protect local environmental quality. Taking into account the Agent of Change principle these measures include controlled hours of use and capacity, method of customer dispersal after 22:00 hours, a requirement for the applicant to submit a robust operational management plan and an updated delivery and servicing management an (see para 9.5) for the council's approval and a S106 Agreement to secure the land use swap.

This planning application also provides an element of community use at 5 Langley Street (basement) and an opportunity through the recommended conditions to gain greater control over the use of 28-32 Shelton Street, which would not otherwise have been possible if the existing building without an extension is converted into a restaurant and over the use of the basement of 5 Langley Street which appears to be an unrestricted nightclub use in planning terms. In these circumstances, the proposed scheme to provide a number of hospitality and entertainment uses and a visitor attraction is considered acceptable.

## **9.2 Environment & Sustainability**

### **Sustainable Design**

Policy 38(D) (Design Principles) of the City Plan seeks to ensure that development will enable the extended lifetime of buildings and spaces and respond to the likely risks and consequences of climate change by incorporating principles of sustainable design.

The proposal is largely for the repurposing and refurbishment of existing buildings with the aim to limit heat losses and gains through improvements to the building fabric. Other measures include the use of low carbon energy in the form air source heat pumps at 1 Mercer Walk and 28-32 Shelton Street and energy efficiency measures such as low lighting power and advanced lighting controls and high efficiency mechanical plant. Photo voltaic panels are provided at roof level on the Mercer Walk(133sqm) and Shelton Street (100 sqm) buildings. A BREEAM pre-assessment has been submitted which shows a score of 70.22% with the potential of targeting credits to bring the score up to 96%. The lower threshold of EXCELLENT equates to a score of 70%. This is welcome in policy terms.



## Energy Performance

Policy 36 (Energy) of the City Plan expects all development to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change.

The applicant has provided an Energy Statement with their application. This follows the principles of the Mayor of London's energy hierarchy. The table below shows there will be a 56% reduction in regulated carbon dioxide savings. This is welcome in policy terms. As the application is not a major development the scheme does not have to achieve net zero in terms of Policy 36 (B).

|  | Regulated Carbon Dioxide Savings |    |
|--|----------------------------------|----|
|  | Tonnes CO <sub>2</sub> per Annum | %  |
| <b>Be Lean:</b> Savings from energy demand reduction | 63.9                             | 25 |
| <b>Be Clean:</b> Savings from heat network           | 0                                | 0  |
| <b>Be Green:</b> Savings from renewable energy       | 79.4                             | 31 |
| Cumulative on-site savings                           | 143.6                            | 56 |

## Air Quality

Policy 32 (Air quality) states that the council is committed to improving air quality in the city and expects development to reduce exposure to poor air quality and maximise opportunities to improve it locally without detriment of air quality in other areas.

The proposed development is not expected to lead to a significant change in vehicle traffic on the local roads or generate any significant on site emissions related to combustion. The impacts of the proposed development in the applicant's air quality assessment have been found to be negligible. The development is considered to be air quality neutral and adopts an air quality positive approach. Environmental Health has raised no concerns with regard to the development of the air quality assessment carried out.

## Flood Risk & Sustainable Drainage

The application is located within a surface water flood risk hotspot and has submitted a flood risk assessment and drainage strategy as part of the application in accordance with policy 35(B) of the City Plan. This concludes that it is not feasible to provide surface water attenuation within the scheme and that the existing drainage network would be retained. However, rainwater harvesting from the canopy will be incorporated into the scheme with a new rainwater harvesting tank located in the basement of 28-32 Shelton Street and used for toilet flushing. Details of this are recommended to be secured by condition.

## Light Pollution

It is recommended that details for the lighting of the courtyard are secured by condition. This will be to minimise the detrimental impact of glare and light spill on local amenity as required by Policy 33(B) of the City Plan.

### 9.3 Biodiversity & Greening

As originally submitted the scheme included a living wall to be sited on the west side of 1 Mercer Walk facing the public piazza. Whilst the provision of a living wall was welcome in policy terms, it was proposed to replace an existing piece of public art that was provided as part of the Mercer development which was considered unacceptable. The applicant was asked to find an alternative location for the living wall but has advised that there are no other suitable sites within the development. This is regretted but is considered acceptable given the nature of the site.

### 9.4 Townscape, Design & Heritage Impact

#### TOWNSCAPE AND DESIGN:

Old Brewers Yard lies to the north of Long Acre, bound by Shelton Street to the north, Neal Street to the east and Langley Street to the west. Currently the yard is accessed via Shelton Street, between nos. 28-32 and 34, and a passageway through 6 Langley Street. The proposals relate to 28-32 Shelton Street, 1 Mercer Walk, 15A Neal Street, 5, 6 and 7 Langley Street.

The site lies within the northern corner of the Covent Garden Conservation Area and forms part of the complex of former brewery buildings and warehouses which were established in the area from the mid-eighteenth century. Many of the former warehouses survive which architecturally distinguishes this area from the rest of Covent Garden and are fundamental the character and appearance of this part of the conservation area.

#### Heritage Assets

##### Covent Garden Conservation Area:

The Covent Garden Conservation Area covers an area to the north of Strand, centred around the market building (IISTAR) and piazza originally developed in the 1630's and designed by Inigo Jones. The market was established in the area in the 1670s, with the current building being constructed in the 1830s. Other notable landmarks in the area include St Pauls Church, sited on the western side of the piazza, as well as the Royal Opera House and former Floral Hall, sited on Bow Street. The area is also characterised by its 18<sup>th</sup> century street pattern, with notable buildings of that period surviving along King's Street and Henrietta Street. The area also includes numerous listed theatres, which form part of the wider West End theatre district. To the north of the market and piazza and Long Acre, the character consists of a mix of Victorian warehouses and commercial buildings.

Many of the buildings within the vicinity of Covent Garden Market, were historically used as storage for the market as well as merchant's offices, such as 21-23 Neal Street/34

Shelton Street. The application site itself lies partially on the site of the Woodyard Brewery which was established in the area in 1740. The brewery expanded between Long Acre and Shelton Street, with many of the warehouse buildings linked at high level by cast iron bridges creating a very distinct townscape character. The brewery ceased operating in 1940, and the area was also affected by bombing in the Second World War, particularly along Neal Street, nevertheless many of the warehouses survive giving the area its distinct character and appearance.

#### Seven Dials Conservation Area:

The site also borders the Seven Dials Conservation Area, which lies to the north within the London Borough of Camden. The Seven Dials Conservation Area has three sub areas, the site lies directly to the south of sub-area 1: Seven Dials, and includes the distinctive layout of Seven Dials, devised by Thomas Neal at the end of the 17<sup>th</sup> century. The buildings which line the northern side of Shelton Street, immediately opposite the site, include nos. 27-33 Shelton Street (the Seven Dials Warehouse), a typical warehouse building with a contemporary glass roof extension which is grade II listed.

The Seven Dials Conservation Area Statement describes the area and it states that, *'the special character of the area is found in the range and mix of building types and uses and the street layout. The character is not dominated by one period or style of building but rather it is their combination that is of special interest'*. In relation to Shelton Street, the statement describes the area as, *'dominated by the former Woodyard Brewery buildings which line both sides of this narrow street. Evidence of the high-level linking iron bridges remain on some of the buildings and these form part of the distinctive industrial character of this part of the conservation area. At the junction of Shelton Street with Neal Street and Earlham Street is the Seven Dials Warehouse.'*

#### Listed Buildings:

Whilst 28-32 Shelton Street, 1 Mercer Walk and 15A Neal Street are all unlisted, the site accommodates, and is surrounded by, a number of listed buildings. These are listed for architectural and historic interest and all make a significant contribution the character and appearance of the conservation area. They are

- 24-26 Shelton Street – a grade II listed former warehouse, early nineteenth century, originally part of brewery complex. This building adjoins the application site.
- 6 Langley Street - a grade II listed former warehouse, early nineteenth century, originally part of brewery complex. The passageway underneath this building forms part of the application site.
- 7 and 8 Langley Street - a grade II listed former warehouse, early nineteenth century, originally part of brewery complex. 7 Langley Street forms part of the application site.
- 34 Shelton Steet (also known as 21 Neal Street) - a grade II listed former warehouse, early nineteenth century, originally part of brewery complex. Located adjacent to the application site.
- 17 and 19 Neal Street – a grade II listed former warehouse, early nineteenth century, originally part of brewery complex. Located adjacent to the application site.
- Seven Dials Warehouse, 27-33 Shelton Street / 42-54 Earlham Street) – a grade II listed former brewery building, mid-nineteenth century. Located opposite the

- application site.
- Cambridge Theatre, Earham Street – grade II listed with return to Shelton Street (No. 23) located to the west of the application site.
  - 25-37 (odd) Neal Street – grade II listed terrace of properties located to the north of the application site.

### **28-32 Shelton Street**

This is a ground plus 4-storey brick built former warehouse that was part of the 19th century Combe & Co Brewery. Whilst unlisted, the building is not without merit and makes a positive contribution to the character and appearance of the Covent Garden Conservation Area and to the setting of the Seven Dials Conservation Area. Unembellished, its brick facade is articulated by a uniform arrangement of large multi-paned Crittall windows. At its base, the ground floor features modern shopfronts replicating a traditional retail aesthetic, but which falls short of reinforcing the warehouse character of the building and streetscape. The top of the building features a late twentieth century saw tooth pitched roof incorporating patent glazing along the two northern pitches. The roof is largely concealed by the building's parapet and only visible from high-level private views.

The Covent Garden Area Trust, Covent Garden Community Association, Seven Dials Area Trust and Historic England all raised concerns with the original initial proposals which sought a two-storey extension to the building. The proposals have subsequently been revised to address concerns of height, bulk, and detailed design. Whereas the previous scheme sought a brick vertical extension at fifth floor level with a metal framed glass extension at sixth floor level, the revised proposal seeks a one-storey upward extension at fifth floor level with a plant enclosure above. The largely glazed extension will be set back from the parapet of the host building and the party wall of the grade II listed 24-26 Shelton Street. On the east elevation the extension would feature a solid metal panelled facade. The extension will feature a partially solid roof with the glazing of the facade continuing at 90 degrees to run along the parameter of the roof plane. The façade treatment of the fifth floor is an intentional departure from the robust solidity of the host building and is distinctly contemporary. That said, its set back position from the Shelton Street facade, and solidity exhibited to the eastern façade and roof, to some extent, moderates the glazing. The internal soffit beam, which will be glimpsed through the glazing, provides an appreciable horizontal plane and defined termination to the roof.

Whereas the plant room in the original scheme was internalised and contained within the previously proposed brick extension at fifth floor level, the revised scheme proposes plant at roof level, enabling the height and bulk of the scheme to be significantly reduced. Set back from Shelton Street, and positioned towards the western end of the roof, the plant will be screened within a metal louvered enclosure. Whilst the plant will present some additional height and bulk to the roofscape, it has been positioned to avoid appearing in key views of the building. It also avoids impairing the gable end and roof profile of no. 24-26 Shelton Street, which is grade II listed. The placement of the plant to roof level has enabled the height and bulk of the scheme to be significantly reduced compared to the previous scheme. Roof top plant is not unusual within this part of Covent Garden with many neighbouring buildings exhibiting similarly design roof plant.

The local amenity societies and Historic England had objections to the height of the

original scheme and its resulting overbearing relationship with the neighbouring listed buildings. The revised development is significantly lower in height, allowing a gradual step-up in height from 34 Shelton Street to 24-26 Shelton Street, successfully mediating between the buildings without appearing overbearing. The revised scheme sits more comfortably in its context, and notably below the ridge of no. 24-26, allowing much of its roof profile to be perceived.

It is felt that the height and bulk of the scheme has been successfully reduced to an acceptable level. However, it is recognised that due to its contemporary design, the proposed roof extension will be a noticeable addition to the townscape. The proposal will be apparent in only a small number of townscape views, but most notably, directly opposite the site at the junction of Neal Street, Shelton Street and Earlham Street, within the Seven Dials Conservation Area. Here the building's increased height and the glazed nature of the extension will be most apparent. However, when viewed a short distance north along Neal Street, the extension becomes completely concealed by the opposing building. When viewed from the west along Shelton Street and from the east at the junction with Endel Street, the extension and the additional height proposed would be read in the context of an undulating roof line and the comparable scale of the warehouse buildings opposite the site along Shelton Street.

The additional height and contemporary design of the roof extension will have an impact upon the character and appearance of the building and wider area, including both conservation areas. This impact is for the most part considered to be benign due to the modest scale of the extension and the restricted number of views from which it can be seen. In terms of the impact on 28-32 Shelton Street, the reduced size of the extension and its lightweight design ensures that it does not overly dominate or erode the industrial character of the building, which is a key component of its positive contribution to the conservation areas. That the roof extension is appreciably different in architectural style will draw some attention and will be visible in key views of the building from within the conservation areas and this element of discordancy is the reason why a low level of less than substantial harm is identified. This 'low level' attribution is identified because the host building will remain a strong and positive contributor to the character of the Covent Garden Conservation Area and to the setting of the Seven Dials Conservation Area; and because the visual impacts of the roof extension are restricted.

In terms of the impact on the setting of neighbouring listed buildings, the revised scheme would no longer obstruct long views of the distinctive roof profile of no. 24-26 Shelton Street and would no longer appear discordant with the prevailing height and scale of the area, including the neighbouring listed buildings identified. The setting of the grade II listed Seven Dials Warehouse directly opposite the site and the return elevation of the Cambridge Theatre on Shelton Street is complimented by buildings of similar age, scale and character. Whilst the roof extension will be visible within the visual setting of those buildings, it's scale is sufficiently sub-ordinate to have a minimal impact on their setting. Whilst the design of the extension is contemporary and to some extent at variance with its context, except that is for the (largely unnoticeable from street level) glass roof top extension on the Seven Dials Warehouse directly opposite the application site, this is not however considered to detract from the setting or appreciation of neighbouring listed buildings. Any adverse impact is at the low end of less than substantial harm, as has been identified for the Seven Dials Conservation Area as a whole.

### Old Brewers' Yard

Located to the south of Shelton Street and currently accessed through 34 Shelton Street and 6 Langley Street, Old Brewer's Yard is presently used as a service yard for many premises fronting Neal Street, Shelton Street and Langley Street. Whilst the traditional and historic facades of nos. 7- 8 Langley Street and 34 Shelton Street/21-23 Neal Street, and to some extent the application site, contribute to the aesthetic quality and character of the space, the historic character of the yard has been significantly diluted by post war extensions and alterations, which have not been sympathetic.

The reinvigoration of the yard would be hugely beneficial in conservation and design and place shaping terms, not only by enhancing the aesthetic of the yard through the removal of clutter but by permitting public access to a currently private space that also links with the Mercer's Yards development to the west. It is important that the openness of the yard is not entirely lost with the introduction of the canopy.

The canopy will exhibit a saw tooth profile with glass roof, supported by industrial rafters which would span the courtyard. The raised height of canopy is fitting for the scale of the adjacent warehouse buildings which front the yard and allows a degree of openness to be retained. Its industrial appearance is also fitting for the space. The canopy will be attached directly to the rear of no. 7 Langley Street. Whilst listed, the rear of no.7 is entirely modern, of no historic interest and of low architectural and aesthetic value and could be considered to detract from the significance of the host building. Fixing the canopy to the modern facade of no. 7 is therefore not considered contentious from a listed building perspective.

The canopies relationship with the buildings at 8 Langley Street, 34 Shelton Street and 17-19 Neal Street is of more importance. As grade II listed buildings (though no.8 was rebuilt following fire damage), their facades are of significance from a heritage asset perspective, and they make a considerable contribution to the character and appearance of the yard. Subsequently, the canopy has been designed to be set back from these facades to avoid physically impacting upon them. Also, the transparent quality of the canopy will allow the upper levels of these buildings to be viewed from within the yard. Whilst the canopy will be an addition to their setting it is not considered to adversely affect it or diminish their appreciation within the space.

The rear elevations of 5 and 7 Langley Street are later rear extensions and lack the architectural or historic interest of their host buildings. Modifying and repurposing their modern openings onto the yard strikes the right balance between retaining some of the informal industrial feel of the space whilst improving their aesthetic. For the same reason above, the introduction of a short glass canopy over the existing passageway between no.7 and no.5 Langley Street will have a negligible impact on the significance of these listed buildings. This area is also very discrete from the main area, and not readily viewed from within the yard itself.

There are no alterations proposed to the grade II listed 6 Langley Street. The alterations proposed to the neighbouring buildings at nos. 5 and 7 Langley Street set out above are not considered to have any significant impact on the setting and significance of 6 Langley Street. The passageway underneath the building will, however, form part of the site providing an exit and entrance via Langley Street.

As part of the proposals, it is intended to install a new gate to the coach way under the grade II listed no. 34 Shelton Street. Modern metal gates are currently in place within the existing double height opening and their removal raises no concerns from a listed building or townscape perspective. The new gates, which will be traditionally detailed hard wood double gates, are considered more in keeping with the character of the area.

### 15A Neal Street

An unlisted building, no. 15A Neal Street has a characterful shopfront, but overall, the building makes a neutral contribution to the conservation area. The removal of the existing shopfront and installation of a contemporary, largely glassed frontage is not felt to detract from the character and appearance of the Covent Garden Conservation Area and therefore is not opposed. Similarly, and for the same reason, the alterations to the rear of the building to allow for the provision of an additional pedestrian route through to Old Brewers' Yard from Neal Street are not opposed in design terms. The modern shopfront to the rear will not harm the setting of the adjacent grade II listed building at 17-19 Neal Street.

### 1 Mercer Walk

1 Mercer Walk is a former warehouse building and an unlisted Building of Merit. The proposal intends to use the building as a microbrewery, resulting in some external alterations such as modifications to the roof top plant area and the addition of external openings on its eastern side. Generally, the proposals will maintain the building's architectural character resulting in a negligible impact on the character and appearance of the Covent Garden Conservation Area.

### **Balance of Harm**

The extension proposed to 28 -32 Shelton Street is considered to cause a low level of less than substantial harm to the character and appearance of the Covent Garden Conservation Area, the Seven Dials Conservation Areas and to the setting of nearby listed buildings and other non-designated heritage assets. This is largely due to the contemporary design of the roof extension and that it will be visible in key views of the building from within the conservation areas. Historic England, whilst noting the acceptability of the height and bulk of the proposals, has expressed reservations with the contemporary design of the extension, and they also conclude that the proposal will cause a low level of less than substantial harm.

In accordance with para 202 of the NPPF, the wider scheme provides a number of substantial public benefits which are considered to adequately outweigh this low level of less than substantial harm, notably the revitalisation of Old Brewer's Yard and historic buildings, providing public access to the yard and place shaping benefits through increased connectivity in this part of Covent Garden. These public benefits are set out in more detail in paragraph 10 of this report.

### **Representations**

The Covent Garden Area Trust, Covent Garden Community Association and Seven

Dials Trust have jointly responded to the revised proposals. Whilst they acknowledge that the height of the Shelton Street extension has been reduced, they feel it still represents a substantial addition which is oversized and over dominant and inconsistent with the character of the area. They also feel that the proposals do not go far enough to mitigate the harm proposed.

In terms of its design, the Trusts and the Association do not feel that the glazed design is appropriate for this location and that a more restrained approach should be taken with more solidity introduced. They also highlight policy SD25C of the Seven Dials Conservation Area Statement that states "All external works should be carried out in materials that match as closely as possible in colour, texture and type those of the original building or are common in the area."

As discussed above, the height and bulk of the scheme has been meaningfully reduced to lessen the impact on townscape views. Whilst acknowledging that the extension will change the appearance of the roofscape, the extension mediates successfully between the varying heights exhibited by the neighbouring buildings. The overall reduction in height and bulk is a marked improvement on the original scheme resulting in a much-reduced level of harm.

In terms of its design, its glazed appearance is a striking addition to the building. For the most part, in wider views, the extension will be obscured by neighbouring buildings, with it being most noticeable within the immediate setting of the site. Given that the positive attributes of the existing building will be maintained and the impact on townscape and conservation areas is limited in terms of the townscape views the impact on the designated heritage assets is assessed to be at a low level of less than substantial harm. It is acknowledged that the difference in the materials does not comply with policy SD25C of the Seven Dials Conservation Area Statement and that this contributes to the harm to the Seven Dials Conservation Area but that the harm is nonetheless considered to be less than substantial.

The London Borough of Camden have also responded to the revised scheme, they welcome the reduction in height of the roof extension to 28-32 Shelton Street and its set back position but maintain that the revised design is unsympathetic and causes less than substantial harm the setting of neighbouring listed buildings and the Seven Dials Conservation Area.

The LB Camden's concerns with the design approach of the extension are not entirely shared. The City Council does not consider that the proposals will cause a significant level of harm to the setting of neighbouring listed buildings, and any adverse impact is at the low end of less than substantial harm. Likewise, the impact on the Seven Dials Conservation Area is considered restricted to a small number of views, causing a low level of less than substantial harm to the appreciation of the conservation area and its setting.

### **Archaeology**

The site is located within an Archaeological Priority Area. The following ground works are proposed:



- Two new lift pits will be inserted into the basement of 28–32 Shelton Street;
- A new lift pit will be inserted into the basement of 5 Langley Street;
- A new lift pit will be inserted into the basement of 1 Mercer’s Walk;
- The columns in the Yard will require the excavating of foundations approximately 0.45m deep.

Historic England (Archaeology) has no objections subject to a pre-commencement condition to secure a written scheme of investigation.

## 9.5 Residential Amenity

### Daylight & Sunlight

Policy 7. Managing development for Westminster’s people seeks to promote neighbourly development by ‘Protecting and where appropriate enhancing amenity, by preventing unacceptable impacts in terms of daylight and sunlight, sense of enclosure, overshadowing, privacy and overlooking.’ under part A and ‘Protecting and where appropriate enhancing local environmental quality’ under Part B.

The only part of the proposed development where there will be an increase in massing is at 28-32 Shelton Street, where a single storey extension (with external plant room) is proposed at roof level. Therefore, this is the only part of the development which has the potential to affect neighbouring properties with respect to daylight.

The applicant has provided a daylight and sunlight report that identifies the nearest residential properties that could be affected by the proposal, namely second and third floor windows at 22 Neal Street and windows facing the proposed development at 14-18 Neal Street. The daylight and sunlight report concludes that the proposal is fully compliant with the BRE’s publication ‘Site layout planning for daylight and sunlight’ (second edition) in terms of the vertical sky component (VSC), Daylight Distribution and Annual Probably Sunlight Hours (APSH) analysis.

Following the submission of the current application, the BRE published a new edition of its daylight and sunlight guidance ’ (third edition 2022). However the applicant’s daylight consultant has advised that no update to the assessment is required. This is because the main changes in the new BRE guide relate to daylight and sunlight within new developments. The analysis methodology and assessment criteria for daylight and sunlight to existing neighbouring buildings remains the same. As such, the applicant confirms that the VSC and APSH analysis performed remains valid and no changes are required.

The CGCA has raised a concern that the open area at the junction of Neal Street and Earham Street will lose some of its sunlight at 12pm and 2pm in March and in the morning in June. In general streets are not analysed in detail and are not considered to have a special requirement for sunlight. The daylight and sunlight report did include shadow analysis of the “Existing” and “Proposed” scenarios and the results show negligible differences on sunlight to neighbouring streets.

### **Sense of Enclosure**

The LB Camden has raised concerns about the impact of the proposal on 31-33 Shelton Street (also known as 39-51 Earlham Street) in daylight terms but the analysis provided by the applicant confirms that whilst there will be some breaches of the BRE guidance to windows in the elevation facing the application site this will not be significant and will not prejudice the use of the building for commercial purposes (retail and offices). Similarly given the commercial use of the building it is not considered that there will be any significant impact in terms of loss of outlook from this property.

### **Privacy**

Given the commercial use of 31-33 Shelton Street (also known as 39-51 Earlham Street) it is not considered there will be any significant harm arising from any overlooking from the proposed roof extension. The fifth floor roof terrace at the rear of the proposed roof extension to the Shelton Street building would have a obscured glazed balustrade. This will mitigate overlooking from the terrace to residential properties to the east, such as Odhams Walk, located approximately 24m away.

### **Noise & Vibration**

The application includes mechanical plant equipment at roof level on 1 Mercer Walk, 28-32 Shelton Street and on the roof of 7 Langley Street with pipework running on the roof of 8 Langley Street. Environmental Health has no objection in terms of noise and vibration subject to the standard noise conditions and a condition to secure a supplementary noise report. A condition is also recommended to prevent the transmission of noise and vibration to residential units adjoining 1 Mercer Walk. The application therefore complies with Policy 33(D) Local environmental impacts.

## **9.6 Transportation, Accessibility & Servicing**

### **Highway Impact**

The Highways Planning Manager welcomes the promotion of sustainable transport by prioritising walking by the opening up of the pedestrian link into the Yard. It is recommended that this new route is secured through a walkways agreement. It is acknowledged that the new pedestrian link will have to be closed when the development is not open to the public which is considered sensible. The proposal is considered to support the aims of Policy 25 of the City Plan.

### **Servicing and Waste & Recycling Storage**

Policy 29 (B) states that 'Servicing, collection and delivery needs should be fully met within a development site and applicants will produce Delivery and Servicing Plans which encourage provision for low-emission, consolidation and last mile delivery modes.'

The draft Delivery and Servicing Management Plan (DSMP) submitted with the application sets out that up to 30 deliveries could be generated by the proposed land uses at the outset per day and that this is similar to the current site uses in full occupation.

The DSMP envisages that the buildings that form part of Old Brewer's Yard would be serviced off-street from within the yard itself between 07.00 to 10.00 hours (to allow use of the yard by the public after this time.) This is welcome in policy terms and will reduce the impact of servicing the development on neighbouring occupiers, particularly residents in Odhams Walk. The servicing arrangements for the microbrewery at 1 Mercer Walk are slightly different in that it is intended that some servicing takes place from Langley Street (subject to the hours restrictions on that street) which is not supported by policy 29. The Highways Planning Manager is disappointed with this arrangement and would like as much servicing as possible for the microbrewery at 1 Mercer Walk to take place from within the yard itself and then wheeled across the road by trolley. Given the enclosed nature of the yard, this would also be preferable in amenity terms.

It is therefore recommended that a condition secures a revised DSMP that sets out the level of servicing for 1 Mercer Walk that will take place from the yard, and includes full justification for any on-street servicing. The plan would also need to set out how the servicing in the yard will be managed and the measures which will encourage low-emission, consolidation and last mile delivery modes.

### **Cycling & Cycle Storage**

The long stay cycle parking provision is acceptable in policy terms. Whilst 20 short stay spaces is not fully policy compliant with London Plan standards, the existing development has no short-stay cycle parking and the overall uplift in floorspace is only 531 sq. m, and what is proposed is considered enough to serve that amount of floorspace. It is recommended that the cycle parking is secured by condition.

## **9.7 Economy including Employment & Skills**

The West End has been particularly hard hit by the pandemic and there is a need for businesses within the Central Activities Area to be supported at this time to enable their post pandemic recovery. The proposed development will contribute to the recovery of the West End in accordance with Policies 1 and 13 in the City Plan 2019-2040 by providing new employment and job opportunities through operation and construction and will provide new upskilling and training programmes that will benefit the local community.

The applicant has advised that

- The scheme will secure investment of £73m
- The applicant (Diageo) will create up to 150 jobs to support the microbrewery operation and restaurants split between permanent, hospitality and supply positions. 20 will be full time hospitality and supply, the rest will be hourly hospitality, operations, and management.
- The site will become the Southern UK hub of Diageo's award-winning Learning for Life Bartending and Hospitality Programme. The programme has provided skills and improved the employability and livelihoods of over 5,500 people across the UK to date. The ambition is for over 100 London based students to graduate from the 'Guinness at Old Brewer's Yard' programme each year, with a proportion of the employment opportunities to be ring-fenced for Learning for Life graduates

## 9.8 Other Considerations

### Code of Construction

Given the character of the surrounding area which has narrow streets which are busy with pedestrians (and in the case of Shelton Street) also with vehicles, it is recommended that the council's standard condition requiring the applicant to demonstrate that any implementation of the scheme, by the applicant or any other party, will be bound by the council's Code of Construction Practice. This is to protect the environment of neighbouring occupiers and those who work and visit the area as set out in Policies 7 and 33 of the City Plan.

### Community Liaison

To ensure that an on-going dialogue with stakeholders during construction and during the operational life of the development, it is recommended that a Community Liaison Group is established (as recommended by Cllr Hyams in her representation). This could be secured through the S106 legal agreement.

## 9.9 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

## 9.10 Planning Obligations & Pre-Commencement Conditions

The draft 'Heads' of agreement are proposed to cover the following issues:

- i. The relocation of the residential use at second and third floor level at 23 Neal Street and third floor level at 17-19 Neal Street as part of a separate land use swap. The applicant not to occupy the development until the land use swap has been physically completed in all material respects to a standard ready for residential occupation and evidence has been submitted to the City Council to confirm completion of such works.
- ii. Details of a community strategy for use of the Event Space at 5 Langley Street.
- iii. To secure a Community Liaison Group during construction and during the operation life of the development.
- iv. Walkways Agreement to secure access to Langley Passage and Old Brewer's Yard.
- v. Monitoring costs.

The estimated CIL payment is: £33,040 Mayoral CIL and £82,600 Westminster CIL.

During the course of this application a notice was served relating to the proposed imposition of a pre-commencement condition to secure the applicant's adherence to the City Council's Code of Construction Practice during the demolition/excavation and construction phases of the development and details relating to archaeology. The applicant has agreed to the imposition of these conditions.

## 10. Conclusion

The proposed scheme will add to the highly diverse mix of uses within this part of

Covent Garden which is located within the CAZ and the West End Retail and Leisure Special Policy Area. The retail and leisure experience will provide a more diverse evening economy for those who work, visit and live in Covent Garden. The concerns of the amenity societies and local residents about noise and disturbance are understood but as set out in this report, measures will be put in place to mitigate and manage noise impacts for neighbouring residents and to protect local environmental quality.

Section 9.4 of this report identifies that the roof extension to 28-32 Shelton Street will cause a low level of less than substantial harm to the character and appearance of the Covent Garden and Seven Dials Conservation Areas and the setting of neighbouring listed buildings. This is largely due to the contemporary design of the roof extension and that it will be visible in key views of the building from within the conservation areas. However, this low level of less than substantial harm is outweighed by the public benefits of the scheme. These public benefits are considered to be:

- The provision of a new £73 million retail and leisure destination and micro-brewery visitor attraction within Covent Garden and the economic benefits the increased footfall will bring to the area. This will positively contribute to the function of Covent Garden and the West End;
- The proposals intend to provide a unique experience which will complement the current visitor experience and encourage footfall to spread beyond the historic market area; .
- Economic benefits from new employment and job opportunities through operation and construction;
- Community benefits from the use of the basement of 5 Langley Street as a community space in accordance with details secured as part of a s106 agreement;
- Public access to Old Brewer's Yard;
- Place shaping benefits from the proposed through routes that will increase permeability in this part of Covent Garden and improve connectivity to existing public spaces and public routes at Mercer Walk and St Martin's Courtyard;
- Heritage benefits through the reinvigoration of existing historic buildings that face onto Old Brewers Yard and the revealing of the historic yard to the public through its use as a social space.

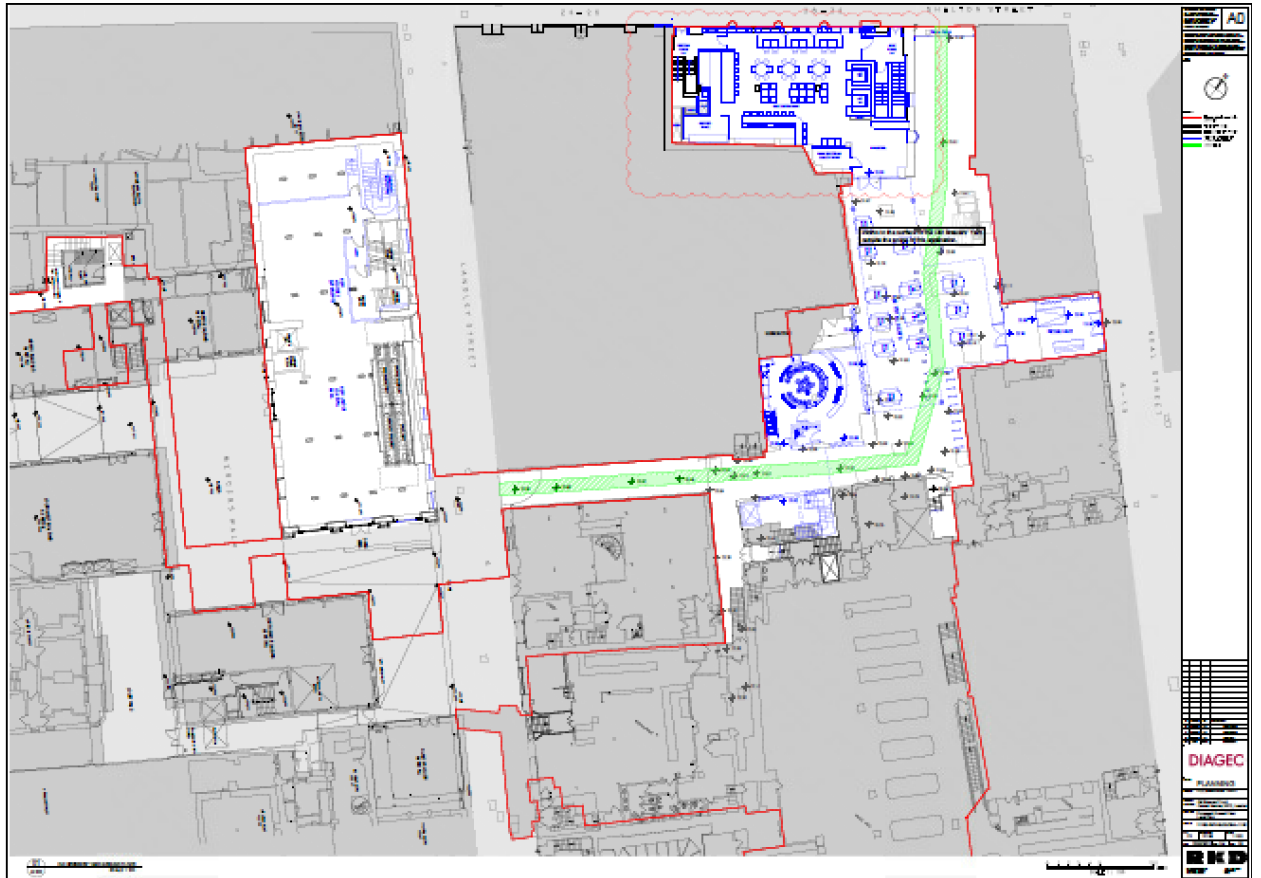
A condition is recommended to ensure that the extension at 28-32 Shelton Street is not occupied until the public route through Old Brewer's Yard, the community space in the basement of 5 Langley Street and the micro-brewery have been provided in accordance with the terms of the planning permission and the S106 legal agreement.

As such, whilst being mindful of policies 38, 39 and 40 of the City Plan 2019-2040, given the public benefits that would be delivered, which are set above, the proposal is considered acceptable in terms of its impact on the designated heritage asset(s). Therefore, the recommendation to grant conditional permission and consent is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, the recommendation to grant conditional permission is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

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| IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: MATTHEW MASON BY EMAIL AT <a href="mailto:mmason@westminster.gov.uk">mmason@westminster.gov.uk</a> . |
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**11. KEY DRAWINGS**

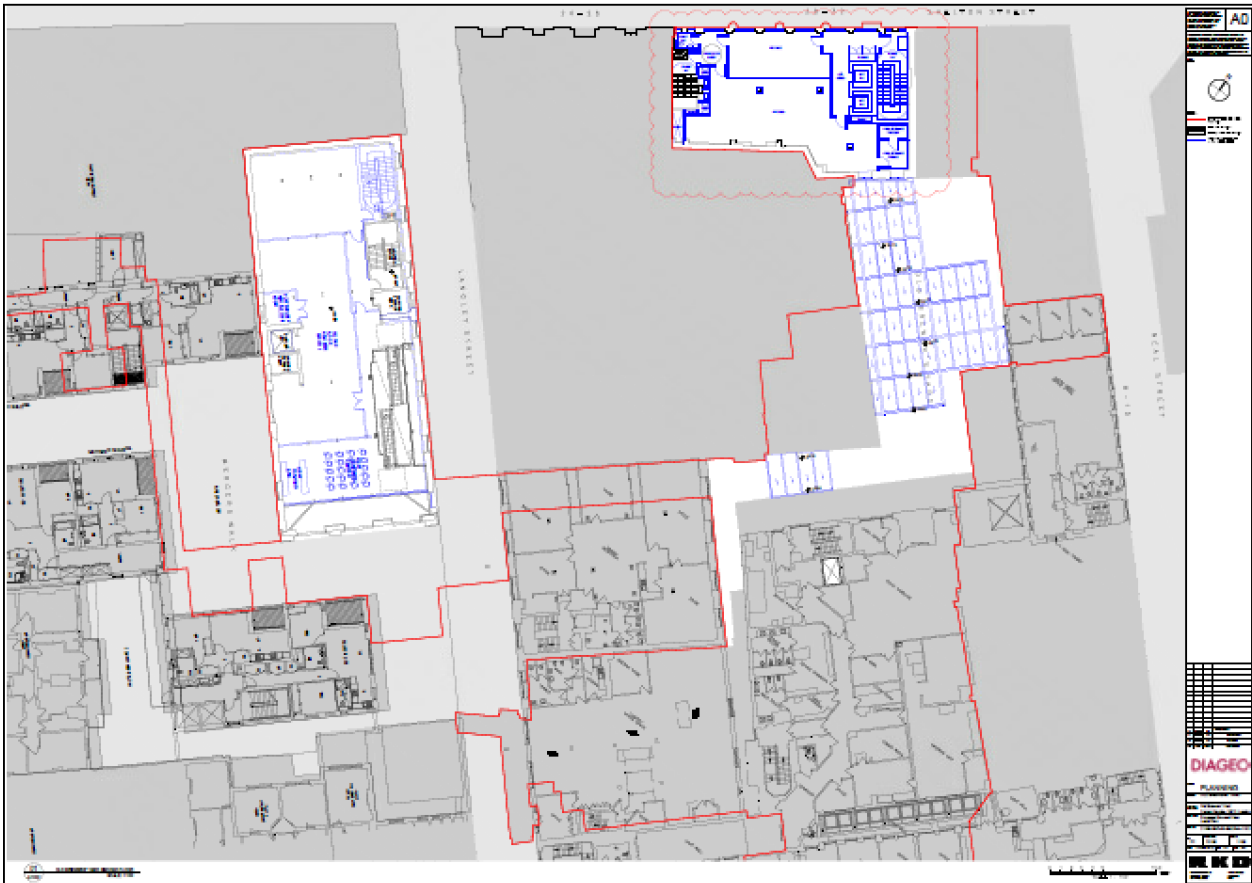


**PROPOSED GROUND FLOOR PLAN**

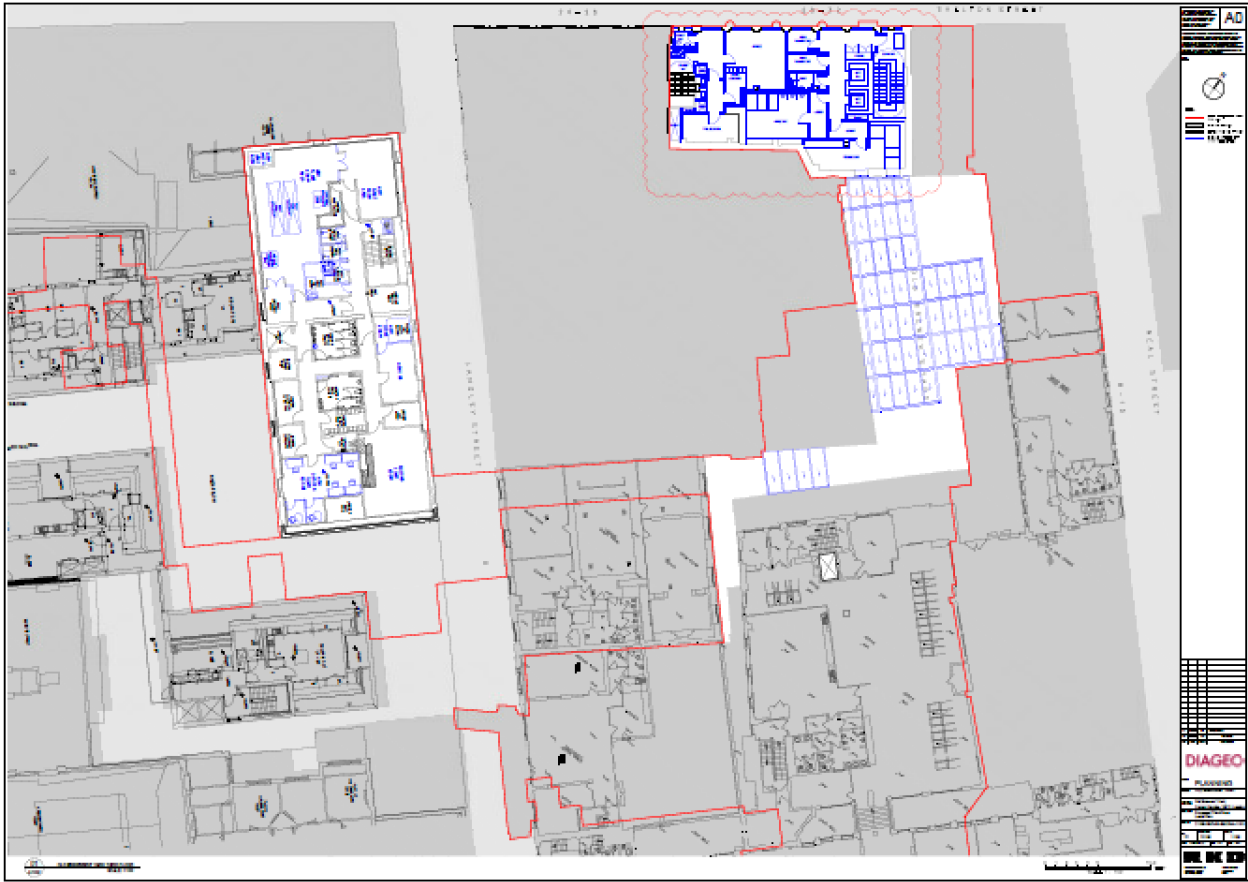


PROPOSED FIRST FLOOR PLAN

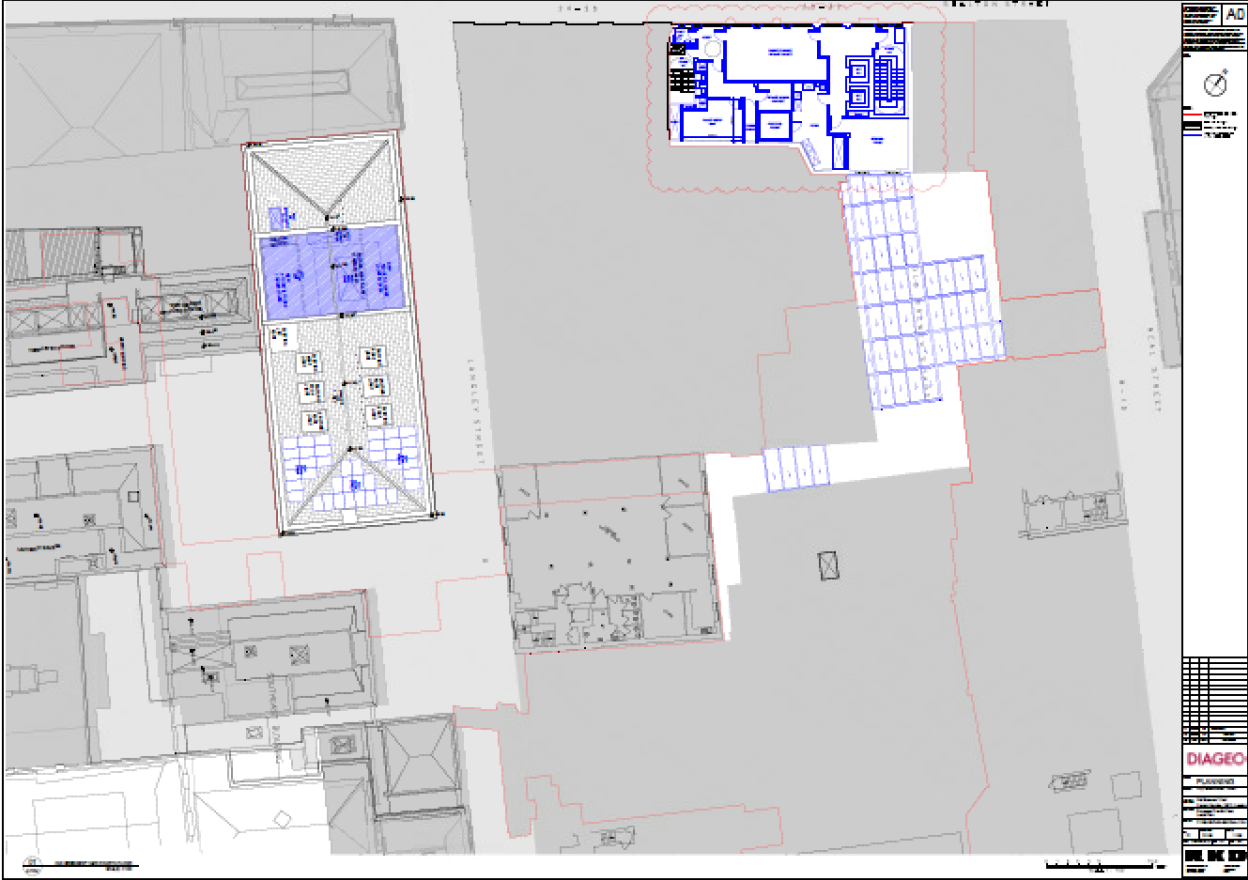




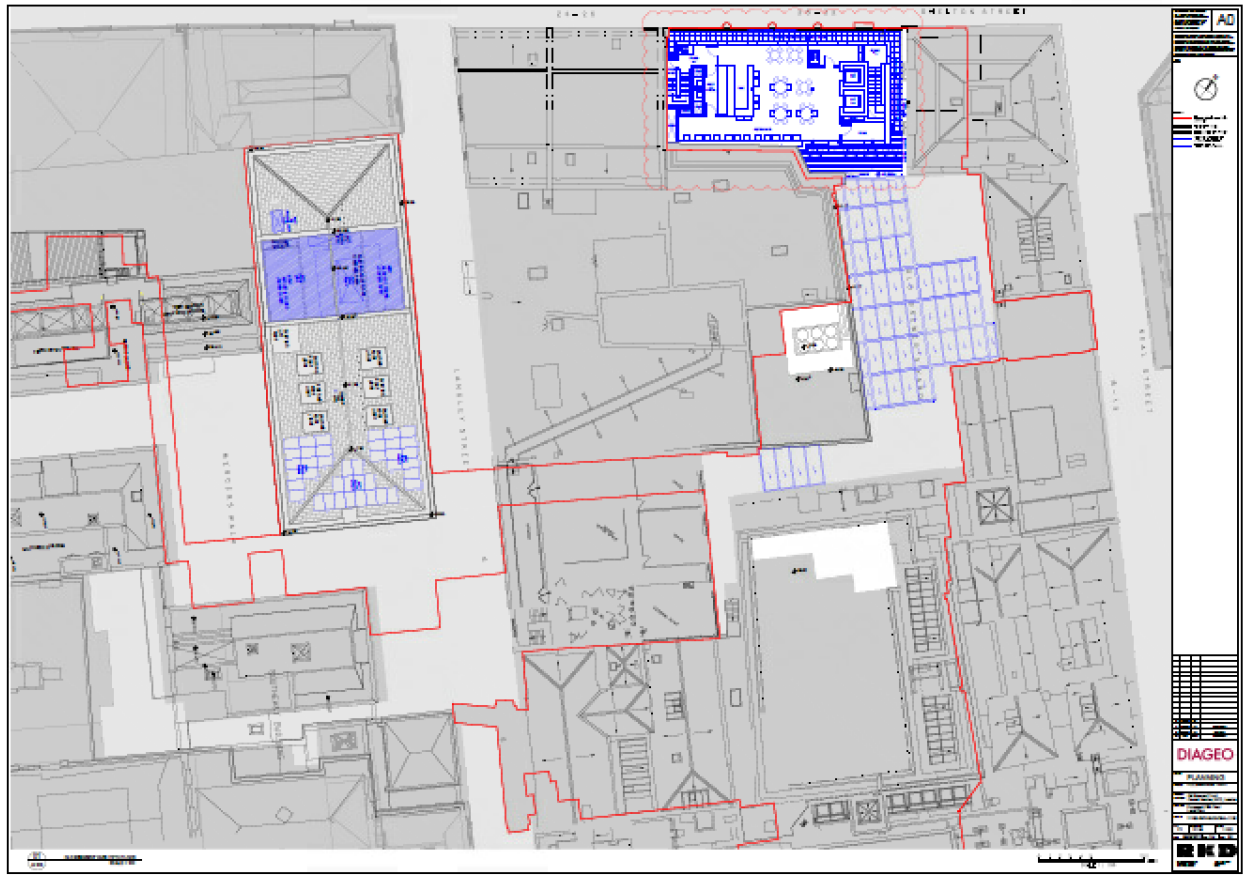
PROPOSED SECOND FLOOR



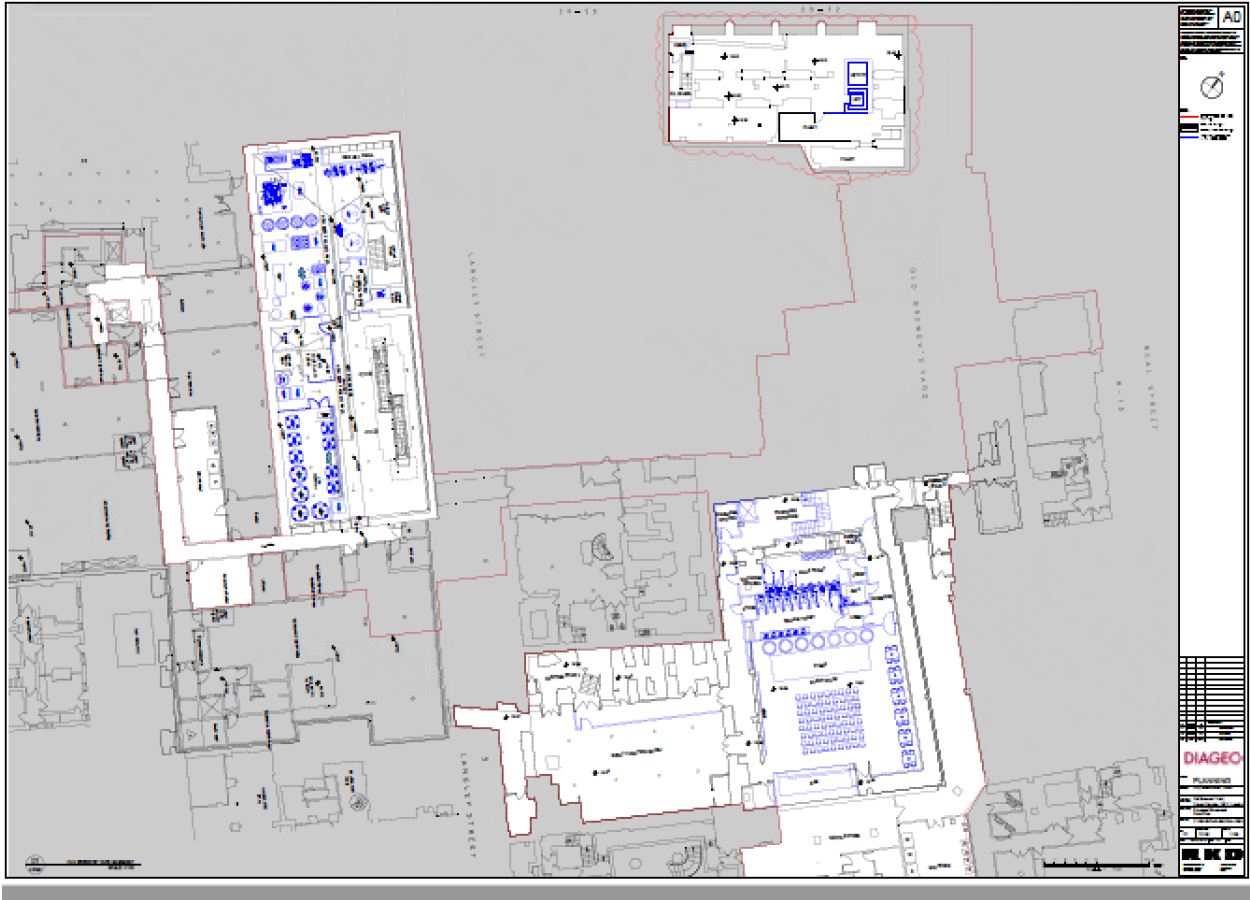
PROPOSED THIRD FLOOR



PROPOSED FOURTH FLOOR



PROPOSED FIFTH FLOOR



PROPOSED BASEMENT



EXISTING SHELTON STREET ELEVATION



PROPOSED SHELTON STREET ELEVATION





© AVZ LONDON

1.6 m above ground

08:39 6 January 2023

SHELTON STREET VISUAL



15A, Neal Street – Existing West Façade



15A, Neal Street – Proposed West Façade

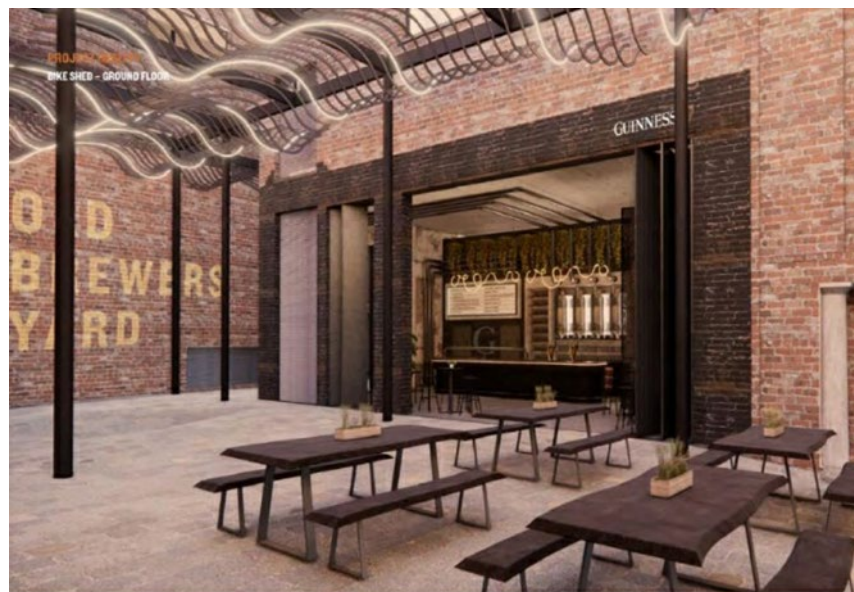


PROPOSED 1 MERCER WALK VISUAL





REAR OF 7 LANGLEY STREET (EXISTING)



PROPOSED VISUAL OF NEW BAR AT REAR OF 7 LANGLEY STREET

**DRAFT DECISION LETTER**

**Address:** 28 - 32 Shelton Street, London, WC2H 9JE

**Proposal:** Mixed-use development at Old Brewer's Yard including: at 28-32 Shelton Street, the erection of a single storey roof extension, a rooftop plant enclosure and other external alterations (including shopfront alterations, new rear access to the Yard, and plant) in connection with the use of the building as a restaurant (Class E(b)); at 1 Mercer Walk, the installation of ancillary plant & servicing equipment, external alterations including opening up of blind windows on east elevation and the installation of PV panels at main roof level, all in connection with the use of the building as a microbrewery and visitor attraction with ancillary retail, bar and training space (Sui Generis); at 15A Neal Street (ground floor only), external alterations including installation of full-height glazed rear wall and installation of a new shopfront; at 5 Langley Street (basement, part-ground floor and part-roof only) alterations to north and west facade and installation of new plant, all in connection with the flexible mixed-use of the basement and part-ground floor as entertainment/events/community space with ancillary storage areas (Sui Generis); at the rear of 7 Langley Street, installation of plant at roof level and the use of the former bin store as a bar area servicing the Yard (Sui Generis); at Old Brewer's Yard, the erection of a new high-level glazed canopy structure and semi-permanent external seating, installation of new entrance gates fronting Shelton Street, placement of planters and associated street furniture, for use of the Yard as a flexible entertainment/dining/events/ community outdoor space (Sui Generis). (Site includes Old Brewer's Yard, 28-32 Shelton Street, 15A Neal Street, 5 and 7 Langley Street, 1 and 3 Mercers Walk and 107-115 Long Acre).

**Reference:** 22/02009/FULL

**Plan Nos:** , Existing , 21166-RKD-SI-00-DR-A-1000, 21166-RKD-SI-00-DR-A-1010, 21166-RKD-SI-00-DR-A-0099, 21166-RKD-SI-00-DR-A-0100, 21166-RKD-SI-00-DR-A-0101, 21166-RKD-SI-00-DR-A-0102, 21166-RKD-SI-00-DR-A-0103, 21166-RKD-SI-00-DR-A-0104, 21166-RKD-SI-00-DR-A-0105, 21166-RKD-SI-00-DR-A-0106., , 21166-RKD-ME-00-DR-A-1200, 21166-RKD-SH-00-DR-A-2200, 21166-RKD-SH-00-DR-A-2201, 21166-RKD-NE-00-DR-A-3200, 21166-RKD-LA-00-DR-A-5200., , 21166-RKD-ME-00-DR-A-1300, 21166-RKD-SH-00-DR-A-2300, 21166-RKD-SH-00-DR-A-2301, 21166-RKD-SH-00-DR-A-2302, 21166-RKD-NE-00-DR-A-3300, 21166-RKD-OB-00-DR-A-4300, 21166-RKD-OB-00-DR-A-4301, 21166-RKD-OB-00-DR-A-4302, 21166-RKD-LA-00-DR-A-5300., , , , Proposed, - To be confirmed

**Case Officer:** Matthew Mason

**Direct Tel. No.** 020 7641  
07866037944

**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 **Pre Commencement Condition.** Prior to the commencement of any: , (a) demolition, and/or, (b) earthworks/piling and/or, (c) construction , , on site you must apply to us for our written approval of evidence to demonstrate that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of the relevant completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the City Council as local planning authority has issued its written approval through submission of details prior to each stage of commencement. (C11CD)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R11AD)

- 3 No demolition or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and , A. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works , B. Where appropriate, details of a programme for delivering related positive public benefits, C. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason:

To avoid damage to any archaeological remains on site as set out Policy 39 of the City Plan 2019 - 2040 (April 2021). (R32AD)

- 4 The opening hours for the uses hereby approved shall be: , (i) 28-32 Shelton Street - customers shall not be permitted within the restaurant premises (Class E) before 10:00 or after 23.30 Monday to Thursday, before 10:00 or after 00:00 (midnight) Friday and Saturday and before 10:00 or after 22:30 on Sundays., (ii) 1 Mercer Walk, - customers shall not be permitted within the micro-brewery premises (sui generis) before 10:00 or after 22.30 on any day. , (iii) 5 Langley Street (basement) - customers shall not be

permitted within the event space premises (sui generis) before 10:00 or after 23.30 Monday to Thursday, before 10:00 or after 00:00 (midnight) Friday and Saturday and before 10:00 or after 22:30 on Sundays., (iv) Rear of 7 Langley Street - customers shall not be permitted within the bar premises (sui generis) before 10:00 or after 23.00 Monday to Saturday and before 10:00 or after 22:30 on Sundays., (v) Old Brewer's Yard - customers shall not be permitted within the external seating area (sui generis) before 10:00 or after 23.00 Monday to Saturday and before 10:00 or after 22:30 on Sundays.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 5 The access gate to Old Brewer's Yard from Shelton Street shall be closed at 22.00 and there shall be no new entry to Old Brewer's Yard or egress via the Shelton Street gates after that time save for emergency or for patrons leaving any of the premises abutting Old Brewer's Yard in order to use the Langley Street exit.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 6 You must only allow customers to use the external terrace area on the fifth floor at 28-32 Shelton Street between 10:00 to 21.00 hours on any day. The external terrace shall be vacated by 21.00 hours each day.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 7 The capacity for the uses hereby approved, excluding staff, shall be: , (i) 28-32 Shelton Street - 303 customers within the restaurant premises at any one time. (excluding the roof terrace at fifth floor level) , (ii) 1 Mercer Walk - 220 customers at any one time., (iii) 5 Langley Street (basement) - 350 customers at any one time., (iv) Rear of 7 Langley Street and Old Brewer's Yard - 150 customers at any one time (with at least 100 people seated and a maximum of 50 standing at any one time).

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 8 You must not allow more than 16 customers (excluding staff) onto the fifth floor roof terrace at 28-32 Shelton Street at any one time. Apart from movement to access or leave tables before, during or after a meal, you must ensure customers are seated at all times while on the roof terrace.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 9 You must not allow access by members of the public from 15a Neal Street into Old Brewers Yard or from Old Brewer's Yard into 15a Neal Street before 10.00 and after 21.00 hours each day.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 10 Notwithstanding the submitted information, you must apply to us for approval of an operational management plan for each of the permitted uses within the development hereby approved. The plan should be developed in consultation with the Covent Garden, Community Association, the Covent Garden Area Trust and The Seven Dials Trust. You must not use any part of the development until we have approved what you have sent us. Thereafter you must manage the development in accordance with the details approved. (see informative 2)

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 11 No alcoholic drink shall be sold in connection with the development except for consumption upon the premises with the exception of 1 Mercer Walk and 15A Neal Street where alcoholic drink can be sold from the retail shop.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 12 No amplified sound shall be played in the entrance and exit of any of the premises hereby approved or within the fifth floor terrace at 28-32 Shelton Street.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 13 You must not play any recorded or live music which is audible outside the site premises (which for the avoidance of doubt includes Old Brewer's Yard).

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

- 14 You can only use the ground floor of 15A Neal Street for (i) Display or retail sale of goods, other than hot food (Class E(a)); (ii) Provision of Financial, Professional and other appropriate services (Class E(C) and (iii) Offices to carry out any operational or administrative functions and research and development of products or processes (Class E(g)). You must not use it for any other purpose, including any within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it). (C05AB), , ,

Reason:

The application does not include sufficient information to assess alternative uses within Class E and for this reason we cannot agree to unrestricted use as restaurant, indoor sport, provision of medical or health services, creche, day nursery or day centre. This is to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policies 7, 29 and 33 of the City Plan 2019 - 2040 (April 2021).

- 15 You must use 28-32 Shelton Street only for (i) Display or retail sale of goods, other than hot food (Class E(a)); (ii) Sale of food and drink for consumption (mostly) on the premises (Class E(b)); (iii) Provision of Financial, Professional and other appropriate services (Class E(C); and (iv) Offices to carry out any operational or administrative functions and research and development of products or processes (Class E(g)). You must not use it for any other purpose, including any within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it). (C05AB)

Reason:

The application does not include sufficient information to assess alternative uses within Class E and for this reason we cannot agree to unrestricted use as indoor sport, provision of medical or health services, creche, day nursery or day centre. This is to avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policies 7, 29 and 33 of the City Plan 2019 - 2040 (April 2021).

- 16 You must apply to us for approval of details of all external lighting for the terrace at fifth floor level at 28-32 Shelton Street and for Old Brewer's Yard. You must not start work on this part of the development until we have approved what you have sent us. Thereafter you must carry out the lighting in accordance with the details approved. You must ensure that all lighting is switched off when the terrace is not in use.

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 Covent Garden Conservation Area and to protect neighbouring occupiers from light pollution, as set out in Policies 7 , 33, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 17 The design and construction of the separating building fabric within 1 Mercer Walk should be such that the received noise value in any neighbouring residential

dwelling(s), with music/entertainment occurring, should achieve a value of 10 dB below that measured/assessed without music/entertainment events taking place, at the quietest time of day and night, measured/assessed over a period of 5 minutes and in the indices of Leq & LFMax in 63 Hz & 125 Hz octave bands. , , Maximum noise levels generated by the proposed development should be demonstrated not to exceed NR30 Leq / NR35 LFMax (day) and NR25 Leq / NR30 Leq (night) inside residential dwellings with the music/entertainment occurring. This includes noise from all sources (including music noise, impact noise from patrons, moving tables/chairs etc).

Reason:

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, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

- 18 You must apply to us for approval of detailed drawings of the design, construction and insulation of the whole kitchen extract ventilation system(s) and any associated equipment for the development. You must not start on these parts of the development until we have approved in writing what you have sent us. You must then carry out the work according to the approved drawings. You must not change it without our permission. (C13BC)

Reason:

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

- 19 You must install the odour abatement measures set out in the Odour assessment: Old Brewers Yard Covent Garden document dated 8th April 2022 (as varied by the Odour Addendum dated 12 January 2023) prior to the uses commencing. Thereafter you must retain and maintain these odour abatement measures for as long as approved premises remain in use.

Reason:

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

- 20 (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 in writing 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 in writing 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 written 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 LA90, 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. (C46AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and 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. (R46AC)

- 21 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 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that the development is designed to prevent structural transmission of noise or vibration and to prevent adverse effects as a result of vibration on the noise



environment in accordance with Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R48AB)

- 22 You must apply to us for approval of details of a supplementary acoustic report demonstrating that the plant will comply with the Council's noise criteria as set out in Condition(s) 20 of this permission. You must not start work on this part of the development until we have approved in writing what you have sent us. (C51AB)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. (R51AC)

- 23 You must apply to us for approval of a sample panel of brick for the ground floor courtyard of 28-32 Shelton Street. The sample panel of brick to be provided on site, showing brick, brick bond and type of mortar. 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 samples. (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 Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 24 You must apply to us for approval of a sample of the following parts of the development - ventilation louvre to Shelton Street. 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 sample(s). (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 Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 25 You must apply to us for approval of details of the metal panels to the eastern flank of the fifth floor extension, showing any seam details. 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 Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 26 You must apply to us for approval of details of the following parts of the development: , , i. Canopy details: including fixings to no. 7 and 8 Langley Street and 28-32 Shelton Street and column/supports and beam details.(see informative 8), ii. Details of the new shopfronts and entrance doors to Shelton Street (scaled 1:10); , iii. Details of the new frontage to 15A Neal Street (scaled 1:10); , iv. Details of all new external doors and windows to 1 Mercer Walk; and , , 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 Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 27 Unless otherwise set out in the Servicing Management Plan approved under condition 258of this decision, all servicing of the development, which includes deliveries and refuse collection, must be from within Old Brewer's Yard and take place between 07.00 to 10.00 hours on any day.

Reason:

To avoid blocking the surrounding streets, to protect the environment of people in neighbouring properties and to ensure the full benefits of the scheme are realised by ensuring that after 10.00 hours the public are able to access freely the Langley Street Passage and Old Brewer's Yard as public realm. This is as set out in Policies 25, 29 and 39 of the City Plan 2019-2040 (April 2021).T

- 28 Notwithstanding the submitted information, you must apply to us for approval of an Servicing Management Plan for the development hereby approved. You must not occupy any part of the development until we have approved what you have sent us. Thereafter you must manage the development in accordance with the details approved. (see informative 6)

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

- 29 You must provide each cycle parking space and associated facilities for cyclists shown on the approved drawings prior to occupation of the development. Thereafter the cycle spaces and associated facilities for cyclist must be retained and the space used for no other purpose. (C22IA)

Reason:

To provide cycle parking spaces for people using the development in accordance with Policy 25 of the City Plan 2019 - 2040 (April 2021). (R22FB)

- 30 The provision for the storage of waste and recyclable materials for the development, as shown on drawing number 21166-RKD-SI-00-DR-A-1099 Rev P2 is to be made permanently available and used for no other purpose. All occupants within the development must have access to the two bin stores located at the basement. Waste servicing must be carried out within the site demise as stated in the Transport Statement dated March 2022. No waste should be left on the public highway., , ,

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

- 31 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

- 32 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 Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 33 The glass that you put in the side (east) elevation of the roof extension and east facing glass balustrade to 28-32 Shelton Street must not be clear glass and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have given our written approval for the sample. You must then install the type of glass we have approved and must not change it without our permission. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out Policies 7 and 38 of the City Plan 2019 - 2040 (April 2021). (R21AD)

- 34 You must provide, maintain and retain the following energy efficiency measures before

you start to use any part of the development, as set out in your application., , - Photovoltaic panels to the roof of 1 Mercer Walk and 28-32 Shelton Street., - Recovery of waste heat from ventilation systems, , , You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44AD)

- 35 You must apply to us for approval of details of the rainwater harvesting system. You must not start work on this part of the development until we have approved what you have sent us. Thereafter you must carry out the rainwater harvesting in accordance with the details approved and prior to occupation of the Yard and bar at rear of 7 Langley Street. Thereafter you must retain and maintain the rainwater harvesting system in accordance with the details approved.

Reason:

In accordance with policy 35(B) of the City Plan 2019 - 2040 (April 2021) as the site is located within a surface water hotspot.

- 36 The development hereby permitted shall be carried out so as to have a minimum target rating of 'Excellent' under the BREEAM Refurbishment and Fit Out category. Upon certification by the Building Research Establishment (or equivalent) a copy of the certificate detailing the awarded score for each building will be submitted to the local planning authority within 6 months of completion for our approval. ,

Reason:

To make sure that the development affects the environment as little as possible, as set out in Policies 36 and 38 of the City Plan 2019 - 2040 (April 2021). (R44BD)

- 37 You must apply to us for approval of detailed drawings of a soft landscaping scheme for Old Brewer's Yard. You must not start work on the relevant part of the development until we have approved in writing what you have sent us. You must then carry out the landscaping and planting within 3 months of completing the development (or within any other time limit we agree to in writing)., , If you remove any trees that are part of the planting scheme that we approve, or find that they are dying, severely damaged or diseased within 2 years of planting them, you must replace them with trees of a similar size and species. (C30CC)

Reason:

To improve the appearance of the development, to make sure that it contributes to the character and appearance of this part of the Covent Garden Conservation Area, and to improve its contribution to biodiversity and the local environment. This is as set out in Policies 34, 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R30CE)

- 38 You must apply to us for approval of details of the food truck within Old Brewer's Yard.

You must not start work on this part of the development until we have approved what you have sent us. Thereafter you must install the food truck in accordance with the details approved.

**Reason:**

To make sure that the footprint and appearance and of the food truck is suitable to allow sufficient pedestrian movement within the yard and to ensure that it contributes to the character and appearance of this part of the Covent Garden Conservation Area. This is as set out in Policies 25, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 39 Notwithstanding the approved plans, you must apply to us for approval of details of an updated odour report that includes an assessment of the odour from the food truck and details any mitigation measures. You must not use the food truck until we have approved what , you have sent us. Thereafter you must carry out development in accordance with the details approved and thereafter retain them.

**Reason:**

To protect the environment of people in neighbouring properties as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R14AD)

- 40 Customers shall not use the West door within 1 Mercer Walk building onto Mercer's Walk from 22:00 hours on Sunday except in case of an emergency.

**Reason:**

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

**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 the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the London Plan (March 2021), 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 are advised that the Operational Management Plan should include, but not be restricted to, matters including: how the dispersal of the yard will be managed, full details of how many security staff will be employed and where they will be located on site, full details of a direct

telephone number at the premises to be made available for residents and businesses, the policy on takeaway alcohol sales, full details of CCTV, details of staff training and use of virtual queuing through smart phone apps. The OMP should include the restrictions/conditions imposed by licensing.

- 3 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (including date decision and planning reference number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 4 You are advised that advertisement consent will be required for any external signage on the building.
- 5 You are advised that painting the flank wall of 23 Neal Street may require listed building consent - a visually contrasting paint scheme, or murals are likely to be considered harmful and unacceptable.
- 6 The revised Delivery and Servicing Management Plan will need to include a full justification for any on-street servicing for 1 Mercer Walk together with details of how the servicing in the Yard will be managed to ensure there is no conflict between servicing vehicles arriving at the same time and vehicles being able to fully turn around within the site. The Plan will also need to set out the measures which will encourage low-emission, consolidation and last mile delivery modes.
- 7 The written scheme of investigation will need to be prepared and implemented by a suitably professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 8 With regard to condition 26(i) you are advised that fixings to no. 7 and 8 Langley Street, which is grade II listed, must be limited and avoid compromising architectural details.
- 9 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to;
  - i. The relocation of the residential use at second and third floor level at 23 Neal Street and third floor level at 17-19 Neal Street as part of a separate land use swap. The applicant not to occupy the development until the land use swap has been physically completed in all material respects to a standard ready for residential occupation and evidence has been submitted to the City Council to confirm completion of such works.
  - ii. Details of a community strategy for use of the Event Space at 5 Langley Street.
  - iii. To secure a Community Liaison Group during construction and during the operation life of the development.

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- iv. Walkways Agreement to secure access to Langley Passage and Old Brewer's Yard.
- v. Monitoring costs.

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.

**DRAFT DECISION LETTER**

**Address:** 28 - 32 Shelton Street, London, WC2H 9JE

**Proposal:** Works to rear-part of 7 Langley Street comprising the part-demolition of external walls and construction of new walls, openings, and associated fixtures including canopy fixtures pertaining to Old Brewer's Yard, the complete demolition of internal structures and installation of new internal structures including replacement staircase and new mezzanine level for use as a bar and ancillary storage, and installation of plant at roof level; together with works at 28-32 Shelton Street comprising the installation of entrance gates fronting the undercroft shared with listed building 34 Shelton Street. [Site includes 6, 7-8 Langley Street and 34 Shelton Street].

**Reference:** 22/02163/LBC

**Plan Nos:** 21166-RKD-LA-00-DR-A-5200 Rev P0, 21166-RKD-SI-00-DR-A-0100 Rev P1, 21166-RKD-SH-00-DR-A-2302 Rev P0, 21166-RKD-SH-00-DR-A-2201 Rev P0, 21166-RKD-SI-00-DR-A-1100 Rev P1, 21166-RKD-SI-00-DR-A-1101 Rev P1, 21166-RKD-SI-00-DR-A-1102 Rev P1, 21166-RKD-SI-00-DR-A-1107 Rev P1, 21166-RKD-LA-00-DR-A-5210 Rev P0, 21166-RKD-OB-00-DR-A-4320 Rev P0, 21166-RKD-OB-00-DR-A-4311 Rev P0., , Townscape, Heritage and Visual Impact Assessment (February 2022),

**Case Officer:** Matthew Mason

**Direct Tel. No.** 020 7641  
07866037944

**Recommended Condition(s) and Reason(s)**

- 1 The works 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 All new work and improvements inside and outside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the approved drawings or are required in conditions to this permission. (C27AA)

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Covent Garden Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040



(April 2021). (R27AC)

- 3 You must apply to us for approval of details of the following parts of the development: , ,  
i. The canopy and details of fixings to 7 and 8 Langley Street and column/supports and beam details. , ii. The new shutters/doors to the rear of 7 Langley Street, , 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.

Reason:

To protect the special architectural or historic interest of this building and to make sure the development contributes to the character and appearance of the Covent Garden Conservation Area. This is as set out in Policies 38 and 39 of the City Plan 2019 - 2040 (April 2021). (R27AC)

#### **Informative(s):**

- 1 SUMMARY OF REASONS FOR GRANTING CONDITIONAL LISTED BUILDING CONSENT -  
In reaching the decision to grant listed building consent with conditions, the City Council has had regard to the relevant policies in the National Planning Policy Framework, the London Plan (March 2021), the City Plan (April 2021), as well as relevant supplementary planning guidance, representations received and all other material considerations., , The City Council has had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and has decided that the proposed works would not harm this special architectural or historic interest; or where any harm has been identified it has been considered acceptable in accordance with the NPPF., , In reaching this decision the following were of particular relevance:., Policies 38, 39 and 40 of the City Plan 2019 - 2040 adopted in April 2021 and paragraph 2.4 of our Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings.

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.