

Delegated Report		Analysis sheet	Expiry Date:	05/10/2023		
		N/A	Consultation Expiry Date:	24/09/2023		
Officer			Application Number			
Sarah White			2023/3310/P			
Application Address			Drawing Numbers			
Basement And Ground Floor 20 Endell Street London WC2H 9BD			Please refer to draft decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature			
Proposal						
Shopfront alterations (retrospective)						
Recommendation(s):	Refuse Planning Permission and Warning of Enforcement Action to be taken					
Application Type:	Full Planning Permission					
Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	19	No. of objections	05
Summary of consultation responses <i>(Officers response in italics)</i>	<p>A site notice was displayed outside the site from 23/08/2023 until 16/09/2023 and a press notice was published from 31/08/2023 until 24/09/2023.</p> <p>19no. responses were received comprising 14no. in support and 5no. objections from surrounding residents.</p> <p>A summary of these responses is provided below:</p> <p><u>In support</u></p> <ol style="list-style-type: none"> 1. The appearance of the business is an improvement on the previous mural at the site and previous unkept shop. 2. The design is in keeping with the character and appearance of the building and local area 3. The business owners are good neighbours <i>(not a material planning consideration)</i> 4. The applicants have experience with offering high-end operations <i>(not a material planning consideration)</i> 5. The operation attracts visitors to the area and adds to the vibrant feel of the street and vitality of the area 6. The interior and exterior décor enhances the street scene and is in keeping with the conservation area 					

7. The architectural design and high-quality finishes of the frontage aligns with existing architecture on the street

Officer's response: The comments of support are noted, and where material, have been taken into account during the consideration of this application.

Objections

1. Collection window on side elevation causes noise and disturbance for adjoining neighbours
2. Collection window looks directly into neighbouring residential property, impacting on privacy.
3. Increase in delivery vehicles which block the pavement
4. The customers waiting at the collection window block the pavement which is already narrow
5. External lights have been installed after the application was submitted
6. The railings have not been fully reinstated.
7. The installation of the collection window on Betterton Street is a fundamental change of use of this formerly unused roller shutter.

Officer's response

1. Refer to paragraphs 2.18 – 2.25.
2. Refer to paragraphs 2.18 – 2.25.
3. Refer to paragraphs 2.18 – 2.25.
4. Refer to paragraphs 2.18 – 2.25.
5. This does not form part of the current application.
6. Refer to paragraphs 2.2 – 2.17.
7. Refer to paragraphs 2.2 – 2.17.

**Covent Garden
Community
Association**

The Covent Garden Community Association objected to the proposal, providing the following comments:

1. Support is provided for a well-run café in this location; however, it is the changes to the shopfront which are objectionable.
2. The key issues are the replacement of a wooden shopfront window with a metal framed set of sliding windows on Endell Street, the creation of a servery on Betterton Street adjacent to residential properties and obstruction from customers queuing at the servery on the narrow pavement
3. The proposed design does not respect the characteristics of the historic building of which the shopfront is a part, because of its modern proportions, its obvious slider runnels, and its coated metal frame. A design that retains the previous framework features would be acceptable, using a sympathetic wooden frame.
4. The proposed design is fully-opening. It does not go all the way down to ground level but is still likely to have the same negative impact on local amenity. We ask that any consent for this type of openable design be subject to a Planning condition requiring no music or similar to emanate.
5. The pavement on Betterton Street is already too narrow and the presence of a service hatch, with customers standing to be served, and to queue, will reduce the width even further.
6. The presence of customers at a serving hatch within a few inches of a residential living room, and facing the window of that room, will clearly destroy the privacy of those living there. The presence of an open serving hatch with clattering crockery etc., and the presence of groups

of customers talking as they wait, immediately outside family flats, will clearly create noise impact on those living there throughout the day.

Officer's response

1. *Noted.*
2. *Refer to paragraphs 2.2 – 2.17.*
3. *Refer to paragraphs 2.2 – 2.17.*
4. *Refer to paragraphs 2.2 – 2.17.*
5. *Refer to paragraphs 2.18 – 2.25.*
6. *Refer to paragraphs 2.18 – 2.25.*

**Bloomsbury
Conservation Area
Advisory Committee**

The Bloomsbury CAAC objected to the proposal, providing the following comments:

1. Metal framed sliding windows are completely unacceptable and would cause harm to the conservation area and adjacent to listed buildings (33 and 22 Betterton Street).
2. The proposed design [and actual changes of such design] does not respect the characteristics of the historic building of which the shopfront is a part, because of its proportions, slider runnels, and coated metal frame.
3. The creation of a servery in the wall on Betterton Street not only harms the street scene in a heritage area but also impacts on residential amenity. There are people whose homes are immediately adjacent to this "hatch" and as the intention is obviously to provide easy access to food delivery drivers, who may indeed have to queue for service, this will cause unnecessary obstruction and increase the clutter of people on the very narrow pavement.
4. The works have been undertaken without planning permission.

Officer's response

1. *Refer to paragraphs 2.2 – 2.17.*
2. *Refer to paragraphs 2.2 – 2.17.*
3. *Refer to paragraphs 2.18 – 2.25.*
4. *The application is being treated retrospectively.*

Site Description

The application site comprises a five-storey property located on the corner of Endell Street and Betterton Street. The application relates to the basement and ground floor Class E unit. The commercial unit was previously in use as a clothing store and has since been converted to a café. This change of use does not require planning permission under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The surrounding area is characterised by commercial ground floor units with residential above.

The site is located within the Seven Dials (Covent Garden) Conservation Area and the property makes a positive contribution to the conservation area. The application property is not listed; however it is located next to 33 Betterton Street and opposite 22 Betterton Street and 31 Endell Street, which are all Grade II listed buildings.

Relevant History

There is no relevant planning history for the application site.

Relevant Policies

National Planning Policy Framework (2023)

London Plan (2021)

Camden Local Plan (2017)

A1 Managing the impact of development

D1 Design

D2 Heritage

D3 Shopfronts

Camden Planning Guidance

CPG Design (2021) – Section 6: Shopfronts

Seven Dials (Covent Garnde) Conservation Area Statement (1998)

Draft Camden Local Plan

The Council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

Assessment

1. Proposal

- 1.1. The application seeks retrospective planning permission for changes to the shopfront on Endell Street and Betterton Street.
- 1.2. On the Endell Street elevation, the following works have been undertaken:
 - Replacement of the non-openable windows with large openable and foldable windows within the shopfront
 - Changes to the design of the stall riser
- 1.3. On the Betterton Road elevation, the following works have been undertaken:
 - The replacement of the blind window with a glazed window
 - The replacement of the roller shutter door with a sliding service hatch window
 - Replacement and partial removal of the railings surrounding the lightwells
- 1.4. Officers note that there are other works that have been undertaken at the site without planning permission, however they do not form part of this current application. These include:
 - The erection of awnings on both frontages
 - The installation of external lighting on both frontages
 - Erection of signage

2. Assessment

- 2.1. The principal considerations material to the determination of this application are as follows:
 - Design and Heritage
 - Neighbouring Amenity

Design and Heritage

Policy

- 2.2. The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy D1 outlines that development should respect local context and character and comprise details and materials that are of high quality and complement the local character.
- 2.3. Policy D2 states that in order to maintain the character of Camden's conservation areas, the Council will not permit development that fails to preserve or enhance the character and appearance of that conservation area. Additionally, the Council will resist development that would cause harm to significance of a listed building through an effect on its setting.
- 2.4. Policy D3 outlines that the Council will expect a high standard of design in new and altered shopfronts, canopies, blinds, security measures and other features. When determining proposals for shopfront development, Council will consider (among other factors) the design of the shopfront or feature, including its details and materials; the existing character, architectural and historic merit and design of the building and its shopfront; the relationship between the shopfront and the upper floors of the building and surrounding properties, including the relationship between the shopfront and any forecourt or lightwell; and the general characteristics of shopfronts in the area.
- 2.5. The Council will resist the removal of shop windows without a suitable replacement and will ensure that where shop, service, food, drink and entertainment uses are lost, a shop window and visual display is maintained. Where an original shopfront of architectural or historic value survives, in whole or in substantial part, there will be a presumption in favour of its retention. Where a new shopfront forms part of a group where original shop fronts survive, its design should complement their quality and character.
- 2.6. The Seven Dials (Covent Garnde) Conservation Area Statement also provides guidance on shopfronts and frontages. Specifically at paragraph SD18: *'There are many historic shopfronts dating from the late 18th and 19th century and a number of well-designed modern shopfronts. Proposals for new shopfronts will be expected to preserve or enhance the visual character and appearance of the shopping streets, through respect for the proportions, rhythm and form of the original frontages. Any shopfront of historic interest or architectural quality should be retained and if necessary repaired and the loss of those shopfronts identified under Shopfronts of Merit and any other historic/original shopfront will be strongly resisted. The restoration of wide shopfront entablatures will be welcomed as these can provide planting. Shopfronts that are considered to be out of character with the building or the area generally should be replaced with new shopfronts that are appropriate to the building and enhance the appearance of the Conservation Area.'*

Assessment

- 2.7. The application property is a positive contributor within the Seven Dials Conservation Area. It is part of a short terrace of c.1840 by James Pennethorne which has shopfronts across all ground floor elevations. None of the shopfronts date entirely from the C19th but they retain some elements of C19th detail and fabric and are of a fixed nature with the exception of No. 16 which has had some iteration of an openable shopfront for about 40 years and likely since before the conservation area was designated. The Conservation Area Statement and Management Strategy describes the context as:

"Endell Street has an interesting architectural diversity, with many distinctive buildings. The street was constructed in its present form in 1846 as part of plans drawn up by Pennethorne

(successor to Nash) for improvements to London. As a result it is wider than most Seven Dials streets with a number of mid Victorian medium scale commercial buildings”.

- 2.8. The site also forms the setting of Number 33 Betterton Street (GII), 31 Endell Street (GII) and 22 Betterton Street (GII).
- 2.9. The proposal has been reviewed by Council’s Conservation Officer who raised objection to application. A summary of these comments is provided below.
- 2.10. The alterations which have occurred to the shopfront and ground floor elevation of the building do not meet the requirements of the relevant guidance for the area and as a result fail to preserve or enhance the otherwise positive contribution which the site makes to the character and appearance of the conservation area. There has also been a degree of harm to the setting of neighbouring listed buildings due to the erosion of the historic character and evidential townscape of the site.
- 2.11. The alterations do not preserve or enhance the visual character and appearance of the shopping streets, through respect for the proportions, rhythm and form of the original frontages. The former shopfront was not a shopfront of merit, but it was at least of traditional fixed nature and presented the commercial/retail frontage of the building primarily to Endell Street. Therefore, had an application been made prior to the alterations it would have been expected that any proposed shopfront should be replaced with new shopfronts that are appropriate to the building and enhance the appearance of the Conservation Area.
- 2.12. The most harmful elements of the executed works are the large openable windows within the shopfront on the Endell Street Shopfront, and the partial loss of the railings, the knocking out of the blind opening to Betterton Street, and the creation of a display case and serving hatch in the former door to Betterton Street.
- 2.13. Prior to the works the shop had an animated commercial frontage to Endell Street and a quiet secondary frontage to Betterton Street. This is quite typical of C19th Metropolitan Works schemes and although the arrangement was lost on the other end of the terrace (at some point prior to the designation of the conservation area) the subject site had retained the authentic 1840s townscape character on the Betterton Street return frontage. The character of the site has accordingly been altered from its historic form of shopping parade with non-commercial return elevation into a much busier commercial corner frontage (of the type normally associated with a public house).
- 2.14. Aside from the loss of railings, the creation of a concertina shopfront, the opening of the blind window and the conversion of the side door into a serving area, there is also harm caused to the character and appearance of the area by the fact that the new windows are in square section aluminium. This is entirely at odds with the character of the 1840s host building and the expectation that almost all new shopfronts in pre-C20th buildings in the conservation area should be of painted timber which is a traditional material. The previous shopfront may well have been of metal, but if so, it was metal of a very fine profile and, in any case, any replacement shopfront in the conservation area should seek to “enhance” under the relevant part of the Act.
- 2.15. In accordance with Section 72(1) of the Listed Buildings Act 1990, in the exercise of various functions under the Planning Acts in relation to land in conservation areas (including determination of planning applications) the Council is required to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area. In the case of this application the retention of the unauthorised works would result in failure to preserve or enhance the otherwise positive contribution that the building makes to the character and appearance of the conservation area at a level of less than substantial harm.

2.16. In accordance with Section 66(1) of the Listed Buildings Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. In the case of this application the retention of the unauthorised works would result in failure to preserve the setting of the listed buildings at 33 Betterton Street (GII), 31 Endell Street (GII) and 22 Betterton Street (GII). The impact on the setting is at a level of less than substantial harm.

2.17. Harm to the character and appearance of the host property, conservation area and setting of adjoining listed buildings is therefore a reason for refusal.

Neighbouring Amenity

2.18. Policy A1 outlines that the Council will seek to protect the quality of life of occupiers and neighbours and will not grant permission for development where it would cause unacceptable harm to amenity. This includes impacts on privacy, noise and disturbance and transport impacts.

2.19. At ground floor level, the application property is located next to a wine bar on Endell Street and residential properties on Betterton Street, with residential properties on the upper floors of both the application and neighbouring sites.

2.20. It is noted that the use of the site remains as a Class E use, and therefore it is the impacts of the changes to the shopfront on neighbouring amenity that need to be considered, rather than the use of the site itself. With this in mind, Officers note that all objections received in relation to neighbouring amenity related to the use of the serving hatch rather than the actual physical changes to the shopfront. Nevertheless, these impacts are assessed below.

2.21. Objectors primarily raised concern that the service hatch window on Betterton Street has resulted in customers congregating on the footpath in front of residential windows and reducing their privacy, increasing noise, and blocking the footpath.

2.22. In terms of the privacy impacts, whilst it is acknowledged that the proposal would result in an increase of people stopping in this location, views into the neighbouring residential windows are already available from the public footpath and therefore the proposal is not providing any new sightlines into these windows. Thus, this is an existing situation, and views into these windows would be available regardless of the service hatch being present.

2.23. With regard to noise, again given that it is a public footpath, any member of the public could walk past or stop outside the shop. However, it is not considered that people waiting at the service hatch would create excessive levels of noise beyond what would be considered reasonable for that associated with the café use.

2.24. In terms of people blocking the footpath, given that no physical changes are proposed to the highway as part of the proposal, nor are any structures proposed on the footpath, this impact goes beyond the control of a planning permission. Thus, this does not form a material consideration as part of this application.

2.25. Overall, it is not considered that the changes to the shopfront would result in unacceptable impacts on neighbouring amenity.

3. Recommendation

3.1. **Recommendation 1:** Refuse planning permission.

3.2. **Recommendation 2:** That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 as amended seeking removal of the unauthorised works to the shopfront, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

WHAT ARE YOU REQUIRED TO DO:

1. Reinstate metal railings to replicate the design, materials and proportions of those removed from Betterton Street at ground floor level.
2. Completely remove the large sliding windows on the Endell Street elevation at ground floor level and replace with timber, fixed-closed windows to replicate those removed.
3. Reinstate the blind window to replicate the design, materials and proportions of that removed on Betterton Street at ground floor level.
4. Remove the serving hatch on Betterton Street at ground floor level and replace with a timber door.

PERIOD OF COMPLIANCE: 6 months

SUPPLEMENTARY WARNING

(TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) (ENGLAND) REGULATIONS 2007)

The Council notes that the awning installed at fascia level on both Betterton Street and Endell Street has not received advertisement consent.

Displaying an advertisement in contravention of the stated Advertisement Regulations is an offence. The Council has the authority to initiate a prosecution in the Magistrates' Court under section 224 of the Town and Country Planning Act 1990.

If convicted of the offense, the penalty carries a level 4 fine on the standard scale (currently a maximum of £2,500). In the case of a continuing offense, a daily fine of up to one-tenth of that amount (£250) may be imposed until the violation is resolved.

In light of the above, you are therefore requested to, within **21 days** of the date of this notice:

- 1) **Completely remove the unauthorised awning at fascia level on the Betterton Street elevation.**

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

The shopfront alterations, by reasons of their design, materials, form, loss of historic and architectural features, result in an incongruous shopfront which causes harm to the character and appearance of the host property and conservation area, and harm to the setting of the adjacent listed buildings, contrary to policies D1 (Design), D2 (Heritage) and D3 (Shopfronts) of the Camden Local Plan (2017).