

<b>Address:</b>	170A & 171 Drury Lane London WC2B 5QA		
<b>Application Number:</b>	2009/4151/P	<b>Officer: Jonathan Markwell</b>	
<b>Ward:</b>	Holborn & Covent Garden		
<b>Date Received:</b>	26/08/2009		
<b>Proposal:</b> Change of use of ground floor shop (Class A1) and basement level financial and professional services use (Class A2) to mixed shop and restaurant/café uses (Class A1/A3), installation of new shopfront with associated louvres on front elevation and installation of three condenser units within rear basement service area.			
<b>Drawing Numbers:</b> 01-01; 01-02; 02-01 Rev B; 09-01; 09-02 Rev B; 1148; Drury Lane/FWP/001 Rev A; Drury Lane/FWP/003 Rev A; Drury Lane/FWP/004; Noise Assessment Ref 09090324; Letter from FWP UK LTD, dated 13/08/2009; Marketing Information from RIB, dated 25/11/2009; Marketing Information from Robin Calver, dated 27/11/2009.			
<b>RECOMMENDATION SUMMARY:</b>			
<b>Applicant:</b>		<b>Agent:</b>	
The Margin Finance Corporation Ltd 24 Old Burlington Street LONDON W1S 3AW		RadcliffesLeBrasseur 5 Great College Street LONDON SW1P 3SJ	

## ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A2 Financial and Professional A1 Shop		270m <sup>2</sup> 118m <sup>2</sup>
Proposed	A1 Shop A3 Restaurants and Cafes		388m <sup>2</sup>

## **OFFICERS' REPORT**

**Reason for Referral to Committee:**     **The Director of Culture and Environment has referred the application for consideration as it involves the change of use to create a new Class A3 use [Clause 3 (iv)]**

**This application was deferred from the 17/12/2009 Development Control Committee due to lack of time.**

### **1.     SITE**

- 1.1     The application site is located on the north-east side of Drury Lane between the junctions with Macklin Street (to the north-west) and Parker Street (to the south-east). Directly opposite the site is the junction of Drury Lane with Betterton Street. The application site comprises two separate units – a basement floor level unit with entrance at ground floor level known as No. 170a Drury Lane and a ground floor unit at No. 171 Drury Lane. No. 171 is presently vacant and is set back from the main frontage of a parade of units at ground floor level. No. 170a is currently in use as Anetaprint (Class A2) and encompasses an area at basement floor level which also covers the area of the sites of No's 169 and 172 Drury Lane at ground floor level. At this point Drury Lane is a one-way road, with a zebra crossing close to the application site. To the rear there is a basement level service area shared by other occupiers of ground floor units between Parker Street and Macklin Street and also the New London Theatre.
- 1.2     The application site is part of a large mixed use site between Macklin Street and Parker Street, with three floors of offices above the application site (known as New London House – No. 172 Drury Lane), in addition to the nearby New London Theatre, an underground 330 space car-park (accessed off Parker Mews) and a residential tower block (Winter Garden House, 2 Macklin Street). As such, the surrounding area comprises a mix of uses and is considered to be predominantly commercial in character.
- 1.3     The application site is located within Seven Dials (Covent Garden) Conservation Area. Within the conservation area statement the New London Theatre building as a whole (covering the entire area of this side of Drury Lane between the junctions of Macklin Street and Parker Street) is identified as making a positive contribution to the character and appearance of the conservation area. The application site is also located within the Central London Area (Covent Garden Local Area).

### **2.     THE PROPOSAL**

- 2.1     Planning permission is sought for the change of use of the ground floor shop (Class A1) at No.171 Drury Lane and the basement floor level (including entrance at ground floor level) of the unit known as No. 170a Drury Lane, in use as a financial and professional services use (Class A2). The proposed uses of the basement and ground floors as one unit is as a mixed shop and restaurant/café use (Class

A1/A3). The applicant has denoted that the intended occupier of the proposed unit is 'The Real Eating Company', with the retail element located at ground floor level towards the front of the premises (Drury Lane frontage), a café area towards the rear at ground floor level and a restaurant/café at basement floor level. The applicant has denoted that the intended occupier 'The Real Eating Company' will be a 'retail restaurant' tenant with both uses complementing one another. The kitchen, refuse storage and toilets are provided at basement floor level (a disabled toilet is also provided at ground floor level).

- 2.2 Permission is also sought for the installation of a new shopfront, including a louvre above the proposed shopfront at ground floor level on the Drury Lane elevation. The application also includes details regarding the installation of three condenser units within the rear basement service area (one replacement unit and two new condensers are proposed).
- 2.3 During the course of the application, the applicant has provided further details concerning the vacancy of the ground floor shop unit at No. 171 and made minor alterations to the proposed entrance at ground floor level to ensure that there is step free access into the premises.

### 3. **RELEVANT HISTORY**

#### **171 Drury Lane**

- 3.1 2007/5522/P - Change of use and works of conversion from shop (Class A1) to mixed use as shop and nightclub entrance (Sui Generis) at ground floor level and change of use of part of the first floor from offices (Class B1) to ancillary nightclub space (Sui Generis) including the installation of a new shopfront. (Works all in connection with existing bar/restaurant [Guanabara] in Parker Street). Granted 01/02/2008.

#### **170a Drury Lane**

- 3.2 None.

#### **167 Drury Lane**

- 3.3 2004/0362/P - Change of use of part of ground floor from retail (Class A1) to restaurant/take away (Class A3), installation of a new shopfront, and new air handling units associated with the proposed restaurant use. Granted 21/04/2004.

### 4. **CONSULTATIONS**

#### **Statutory Consultees**

- 4.1 None.

#### **Conservation Area Advisory Committee**

- 4.2 Covent Garden CAAC was formally consulted and has confirmed that they have no comments to make on the application.

## Local Groups

4.3 Covent Garden Community Association objects to the application on the following basis:

- The proposal exceeds the SPG limit of 25% in a frontage.
- “The argument concerning the night club entrance is not accepted. The proposal is an additional use in the area”.
- The proposal will create a cluster in the area as there are two uses (Class A3 and A5) opposite the application site.
- “Noise from the basement plant could travel to the flats above in Winter Gardens House”.

## Adjoining Occupiers

<i>Number of letters sent</i>	19
<i>Total number of responses received</i>	0
<i>Number of electronic responses</i>	0
<i>Number in support</i>	0
<i>Number of objections</i>	0

4.4 A site notice was also erected on 14/10/2009, expiring on 04/11/2009. No responses were received from adjoining occupiers.

## 5. POLICIES

### 5.1 Camden Replacement Unitary Development Plan 2006

SD1	Quality of life
SD6	Amenity for occupiers and neighbours
SD7B	Noise/vibration pollution
SD8	Disturbance
B1	General design principles
B4	Shopfronts, advertisements and signs
B7	Conservation areas
T2	Capacity of transport provision
T3	Pedestrians and cycling
T9	Impact on parking
R1	Location of new retail and entertainment uses
R2	General impact of retail and entertainment uses
R3	Assessment of food and drink uses and licensed entertainment uses
R7	Protection of shopping frontages and local shops
Appendix 1	Noise and vibration thresholds

### 5.2 Other Relevant Planning Policies

Camden Planning Guidance 2006 (CPG)

### 5.3 Supplementary Planning Guidance

Seven Dials (Covent Garden) Conservation Area Statement;

## **6. ASSESSMENT**

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Principle of development – change of use
- Impact of proposed uses

### **Principle of development – change of use**

6.2 The application site is located within the designated Covent Garden commercial Central London Area frontage. The application involves the change of use of a ground floor shop unit (Class A1) to mixed retail and restaurant/café uses (Class A1/A3). Policy R7 of the UDP has a broad presumption against the loss of shopping (Class A1) floorspace and will only grant planning permission for development that is considered not to cause harm to the character, function, vitality and viability of the centre.

6.3 Further guidance is provided within the SPD 'Revised Planning Guidance for Central London; Food, Drink and Entertainment, Specialist and Retail Uses'. This guidance states at paragraph 8.7 that permission for development of food, drink and entertainment uses may be granted normally to a maximum of 25% of total units of each commercial frontage. Within this frontage there are seven units (the unit at No. 170a is not included in this figure as it is located at basement floor level – the calculation only accounts for ground floor units), of which two are in food, drink and entertainment use. These are the Tamarai bar/restaurant/club at No. 167, as granted planning permission in 2004 (see relevant history above) and the New London Theatre, on the junction of Parker Street and Drury Lane. In-between the application site is a Class B1 office use at No. 172 (New London House) and a Class A2 betting shop (financial and professional services use) at No. 170 (William Hill – as granted by 2006/1659/P in 2006).

6.4 Consequently in this instance the 25% guidance figure has already been exceeded (28.6%). The proposed use would increase the percentage of food, drink and entertainment uses within the frontage to (42.9%). However, it is considered that the principle of development should not be based solely on these percentage figures, as these are intended as a guide to making a balanced judgement, taking all of the relevant factors into account. As such, the key test is considered to be the impact the proposals would have on the character, function, vitality and viability of the area.

6.5 It is important to first acknowledge that the proposals will retain an element of retail at ground floor level, with the proposed use being a mix of retail and restaurant/café uses (Class A1/A3). As such, an element of Class A1 use is being retained at the site. In addition, the ground floor unit is currently vacant. During the course of the application, information has been provided to demonstrate that the unit has been

marketed by two agents during the last three years for A1 purposes without success. Whilst there was some initial interest in the unit, none of this was followed through into a user occupying the premises. It does not appear from the advertisements submitted that they were to be let at unreasonable rates for the area, or that the advertising regime did not give the premises enough exposure.

- 6.6 This therefore demonstrates a lack of demand, which it is considered may be due to the physical constraints of the site putting off potential Class A1 occupiers. Factors include the site being located away from the core retail centre of Covent Garden (around Seven Dials), where the premium shop units are located. Furthermore the application site is located within what is considered to be a somewhat dated building and the position of the adjoining units (set forward from the main frontage of the application site) is such that visibility of the unit for passing trade may be reduced. Given this lack of demand, it is likely that if planning permission were refused in this instance, the unit is likely to remain vacant in the future. As such, it is considered that it would be difficult to argue that not allowing the change of use would harm the character, function, vitality and viability of the centre. Indeed, the active use of the currently dead frontage could further improve the vitality of this parade.
- 6.7 The SPD continues at paragraph 8.8 that the Council will seek to ensure that there are no concentrations of food, drink and entertainment uses. As already outlined above, neither neighbouring premises to the application site are in such use. Opposite the application site to the south-east of the Betterton Street is the Sun Public House (No. 21 Drury Lane) and Takari Indian Restaurant (No. 22 Drury Lane). On balance, given the context of the site given above (specifically the vacancy of the unit and the retention in part of a Class A1 use), it is not considered that this would create a significant cluster of such uses in this area that would be sufficient to warrant the refusal of the application if it were to be considered within an appeal scenario. A condition is recommended to ensure the separate A1/A3 floorspace as indicated on the submitted drawings is maintained, to ensure that a substantial element of A1 floorspace is retained in the future at ground floor level in accordance with the original intentions of the scheme.
- 6.8 It is also important to verify that the UDP does not afford any weight to the protection of basement floor level units. As such, there are no policy issues raised in relation to the loss of the existing Class A2 use at basement floor level of the unit known as No. 170a Drury Lane.
- 6.9 Therefore, in overall terms, the principle of the proposed change of use is considered to be accepted given the context of the site. This however is only in relation to the principle of the uses; more detailed commentary regarding the potential impact of the proposed uses is given below.

### **Impact of proposed uses**

- 6.10 First, it is worthy to note that this application is for a mixed A1/A3 permission. The applicant has denoted that the front part of the ground floor unit will be for retail sales (Class A1) of products in association with the intended occupier, 'The Real Eating Company'. To the rear of the ground floor level is a café use, with

restaurant/café (accessed internally via the ground floor level) at basement floor level (Class A3). It is considered that the Class A1 element of this intended operation is unlikely to have any negative impacts on the local area. In-fact, it is considered it will bring into use a currently vacant unit and therefore add to the character, function, vitality and viability of the local area. Thereby the Class A1 use is considered to be acceptable.

- 6.11 In respect to the proposed Class A3 use, Policies R2 and R3 of the UDP guard against such developments that are considered to cause individual or cumulative harm to an area. With specific reference in policy R2, it is noted that the proposed use is assessed with regard to the character, amenity, function, vitality or viability of the area. This policy also states that the site must be readily accessible by a choice of means of transport. Moreover, policy SD6 makes specific reference to safeguarding amenity for occupiers and neighbours. As outlined previously there are a variety of uses surrounding the application site. Although these uses are predominantly commercial in nature, there are also residential properties close by. It is considered that a number of measures are to be taken in order to alleviate negative impacts on the area.
- 6.12 With regard to accessibility, the application site is located close to both High Holborn (to the north) and Kingsway (to the east), which serve a variety of bus routes. Holborn and Covent Garden Underground Stations are also located close to the application site. As such, the application site is located within a highly accessible location for uses such as those proposed.
- 6.13 In terms of the impacts of the proposed use on the local area, the applicant has confirmed that the intended occupier will not purport vertical drinking (alcohol will only be served with meals purchased at the premises). In addition, notices are to be displayed seeking customers to leave the premises in a quiet and orderly way and staff will be trained to ensure customers do not loiter outside the premises. Moreover, given the mixed use character of the area, which includes a number of licensed premises, it is not anticipated that the proposed use would cause any additional harm to the local area.
- 6.14 With regard to the proposed opening hours, the unit is intended to operate between 09:00 to 00:00 (midnight) seven days a week. SPD states with specific reference to the Covent Garden area at paragraph 8.11 (complementing the approach given in paragraph 6.20 of the same guidance) that hours of operation will generally be no later than midnight. As such, the proposed hours are in accordance with this part of the guidance. Moreover, the Central London Area location and the mixed character of the local area result in the proposed closing times to be both appropriate and reasonable in this instance. Regarding the opening hours, the 09:00 hours proposed is considered to be in keeping with the local area and is required for the Class A1 element of the operations proposed. It is recommended that a condition denoting these opening hours is added. In addition, an informative clarifying that this condition means that no customers shall be on the premises and no activities associated with the use (such as preparation and clearing up) will be permitted outside these hours is added for completeness.

- 6.15 In respect of noise and disturbance issues, it is considered that the proposed opening hours will serve to mitigate the impacts of noise disturbance to neighbouring occupiers and the area generally. It is however important to note that the surrounding area comprises a mix of uses within this Central London Area location. In addition, it is recommended that a condition stating that no music shall be played on the premises in such a way as to be audible within any adjoining premises or on any adjoining highway should be added to any permission. This condition is considered necessary to safeguard the amenity of adjoining premises and the area generally, with particular regard to the nearby residential properties at Winter Garden House.
- 6.16 Turning to the potential issue of noise and disturbance from plant and machinery associated with the proposed use, the applicant has submitted a noise assessment in support of the application. The report confirms that the three condenser units proposed adhere to the Council's noise standards. As such, the amenity of the nearest noise sensitive properties will not be harmed as a result of the proposals. Furthermore, it is confirmed that a kitchen extract flue will also be installed, discharging in the servicing area. Carbon filters and attenuators have been included to reduce the impact of noise and odour from this duct. As such, there are no issues raised in respect of the plant proposed as part of the Class A1/A3 use. Notwithstanding this, it is recommended that the Council's standard Environmental Health noise condition relating to noise levels is added to any permission, in order to maintain the amenity of adjoining premises and nearby residential properties.
- 6.17 With regard to design matters, it is proposed to install a new shopfront for the intended operator. The existing shopfront is of little architectural merit and its removal raises no design issues. The proposed shopfront includes a glazed timber framed single door and separate bi-fold doors at No. 171. The existing door at No. 170a will be replaced with timber framed glazed windows at this point. The proposed shopfront includes stallrisers, mullions, transoms and fanlights, all in compliance with the principles outlined in CPG. These elements are all considered to be acceptable in design terms and assist in enhancing the character and appearance of this part of the conservation area. During the course of the application the originally proposed stepped entrance to the premises has been amended to provide level access to and from the site.
- 6.18 Above the shopfront is a powder coated louvre to cover the existing ductwork at this point. Again, this is considered to be acceptable in design terms. The proposed plans also indicate applied vinyl signage to the internal window face of the glazing and above the bi-folding doors where a fascia sign would normally be positioned. Given that these works are all internal to the building, it is considered that advertisement consent would not be required for these works. Notwithstanding this, it is recommended to add an informative denoting that advertisement consent may be required for any further works, such as projecting signs or illuminated fascia signs, in the future.
- 6.19 No design issues are raised regarding the proposed condenser units to the rear of the building at basement floor level. These are located within the servicing area, which is undercover adjacent to the entrance to the underground car park accessed



off Parker Mews. As such, they will not be visible from the public realm and thus not cause any harm to the character and appearance of the conservation area.

- 6.20 In terms of transport matters, it is considered unlikely that there will be any net increase in scale of transport impacts from the proposed Class A1/A3 use in comparison with any Class A1 use. In addition, the designated servicing area to the rear at basement floor level, accessed from Parker Mews, is considered to be sufficient for deliveries to the proposed unit. Consequently the servicing of the unit is not considered to present any transport issues. The applicant has also denoted that there will be no car parking spaces, similar to the existing situation at the site. Regarding cycle parking, the floor area is not sufficient to trigger a requirement for cycle parking to be provided.
- 6.21 With regard to waste and recyclables, the applicant has denoted an area at basement floor level for such facilities. There is also considered to be ample space within the basement level servicing area for further facilities if the need arises. However, the provision proposed is considered to be sufficient for the size of the operation possible from this unit. Notwithstanding this, it is recommended that informatives are added denoting that refuse sacks should not be deposited on the footway until half an hour before collection times and that the Council supports recycling schemes for uses such as the restaurant/café proposed.

## **7. CONCLUSION**

- 7.1 It is considered on balance that the proposed mixed Class A1/A3 use complies with the main thrust of the UDP policies regarding the partial loss of a vacant Class A1 use and a Class A2 use at the application site. Although the proposed use does not comply with the SPD guidance figure for food, drink and entertainment uses within this frontage, it is considered in overall terms that the proposed uses would be likely to assist the character, function, vitality and viability of the area and not harm it having been vacant and marketed for the past three years.
- 7.2 With regard to possible amenity impacts of the Class A1/A3 uses, the proposed operating hours are consistent with guidance for the area and the associated plant proposed is not considered to cause harm to nearby occupiers. The proposed shopfront is considered to be an improvement to that existing and thereby enhance the character and appearance of this part of the conservation area. In light of the above, planning permission is recommended to be granted, subject to conditions.

## **8. LEGAL COMMENTS**

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.