

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	29/04/2020
		N/A / attached	<b>Consultation Expiry Date:</b>	17/05/2020
<b>Officer</b>			<b>Application Number(s)</b>	
Thomas Sild			2020/1133/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
Basement and Ground Floor 68A Neal Street London WC2H 9PA			See decision notice	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Change of use of part ground and basement level floorspace from office (Use Class B1) to venue (Sui generis) (Retrospective)				
<b>Recommendation(s):</b>	Refuse planning permission			
<b>Application Type:</b>	Full Planning Permission			

<b>Conditions or Reasons for Refusal:</b>	Refer to Decision Notice
<b>Informatives:</b>	

### Consultations

<b>Adjoining Occupiers:</b>	No. notified	<b>NA</b>	No. of responses	<b>17</b>	No. of objections	<b>17</b>
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<b>Summary of consultation responses:</b>	<p>Press Notice from 23/04/2020 – 17/05/2020  Site Notice from 22/04/2020 – 16/05/2020</p> <p>Summary of reasons for objection:</p> <ul style="list-style-type: none"> <li>• Crowds congregate outside the entrance</li> <li>• Incompatible use with surrounding residential</li> <li>• Guests create noise and shout outside and in the surrounding streets</li> <li>• Staff create noise and disturbance as part of the venue experience</li> <li>• Neal Street is narrow and magnifies sound, especially during evenings after shops have closed</li> <li>• Guests drop litter and smoke outside</li> <li>• Use results in anti-social behaviour</li> <li>• Concerns over fire safety</li> </ul>
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<b>CAAC/Resident group comments:</b>	<p>Objection from Covent Garden Community Association</p> <p>Summary of comments:</p> <ul style="list-style-type: none"> <li>• The use has been problematic for months</li> <li>• The use is unsafe due to constrained space and access</li> <li>• Noise and drunken behaviour echo to surroundings</li> <li>• Visitors loiter late into the night disturbing residents</li> <li>• The operational management plan would not be effective to mitigate impacts</li> <li>• Applicant has not sufficiently marketed the space for B1 use</li> <li>• The use should be subject to licencing regulations</li> </ul>
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### Site Description

The site relates to the basement level and small part of ground floor space to the rear of 68A Neal Street. The floorspace is accessed from Neal Street which forms a primary retail frontage within Covent Garden town centre. 68A Neal Street is understood to be in entirely commercial use with a range of business tenants, however access is via a shared passageway/corridor with no. 68 Neal Street which contains residential occupants above ground floor level. The site is situated within Seven Dials Conservation Area.

### Relevant History

EN19/0811 – Ongoing enforcement case alleging change of use of basement flat to host third party events without consent resulting in loss of employment space and harm to neighbour amenity.

68A Ground floor (above the application site)

- January 2008 - 2007/5641/P granted permission for change of use from office use (Class B1) to use as a dental surgery (Class D1(a)).
- May 2008 - 2008/1453/P granted permission for change of use from office use (Class B1) to flexible use as offices/dental practice (Class B1/D1).

Both of the above permissions relate to the ground floor and not the basement floorspace. Street views indicate that the permission was implemented and the ground floor has been used as a dental surgery.

## Relevant policies

### NPPF 2019

### London Plan 2019

### Local Plan 2017

Policy A1 Managing the impact of development

Policy A4 Noise and vibration

Policy E1 Economic Development

Policy E2 Employment premises and sites

Policy G1 Delivery and location of growth

Policy T1 Prioritising walking, cycling and public transport

Policy TC2 Camden's centres and other shopping areas

Policy TC4 Town Centre uses

### Camden Planning Guidance

CPG Amenity (2018)

CPG Employment sites and business premises (2018)

### Seven Dials (Covent Garden) Conservation Area Statement

## Assessment

### 1. Proposal

1.1. Planning permission is sought for retrospective change of use of the basement and part of the ground floor space from office B1a to venue (Sui generis). The venue use is described as an 'immersive theatrical experience' where groups of guests participate in a prison themed alcohol based experience.

1.2. The main considerations with this application are:

- Land use
- Impact on neighbouring amenity

### 2. Land Use

2.1. The basement floorspace currently holds a lawful B1 use. Planning history does not indicate when this use became lawful and it has not been determined as to when the space was last occupied by an office user.

2.2. The application site is located within the Central London Area, and the Council's aim is to protect premises and sites that are suitable for continued B class business use. Under policy

E1 and E2 of the Camden Local Plan business and employment use is specified as referring to a B class and associated unclassified uses only.

- 2.3. Policy E2 seeks to retain land and buildings that are suitable for continued B class business use. A change of use from this business use will be resisted unless it can be demonstrated that the site is no longer suitable for its existing business use and the possibility of retaining the unit has been fully explored over an appropriate period of time.
- 2.4. In addition, Local Plan policy E2 and CPG5 guidance advise that where a change of use to a non-business use is proposed, the applicant must demonstrate to the Council's satisfaction that there is no realistic prospect of demand to use the site for an employment use. The applicant must submit evidence of a thorough marketing exercise, sustained over at least two years. The premises should be marketed at realistic prices, include a consideration of alternative business uses and layouts and marketing strategies, including management of the space by specialist third party providers. The marketing assessment would need to include a number of elements such as continuous marketing over at least 2 years; reasonable advertised rents; attractive lease terms; and a commentary on the interest shown in the building.
- 2.5. Supporting information has been provided in the form of a marketing statement from Hubble HQ. The statement indicates that the space has been advertised with this agency since 2015; however, evidence of continuous marketing throughout this period has not been provided. The statement includes a webpage link showing the floorspace advertised as a 'creative basement space' with photographs showing the floorspace set up as an events venue for hire with soft furnishings of this nature. Officers do not consider this to be an acceptable advertisement for office floorspace. The premises has been in use for the current unauthorised activity since 2019 and webpage evidence suggests that the space has been advertised for private event hire prior to this. The space has not been vacant for at least two continuous years up to the date of submission and evidence has not been provided to demonstrate marketing has taken place over a sustained two year period.
- 2.6. As such the application has failed to demonstrate that the premises are no longer capable of retaining a B1 use, contrary to Camden's Local Plan.
- 2.7. Policy TC2 Camden's centres and other shopping areas seeks to promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors. Policy TC4 Town Centre uses Council seeks to ensure that the development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. The Council will consider the impact of the development on nearby residential uses and amenity, noise and vibration generated either inside or outside of the site and the potential for crime and antisocial behaviour, including littering.
- 2.8. Whilst the venue is considered to fall under a variety of entertainment use, and therefore is considered a valid town centre use, the proposal is not considered to comply with policies TC2 and TC4 due to its unacceptable impact on neighbour amenity. Full assessment of the neighbour amenity impact of the proposed use is discussed in the following section.

### **3. Neighbour Amenity**

- 3.1. Local Plan policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permissions for development that does not cause harm to amenity and policy A4 seeks to ensure that noise and vibration is controlled and managed.

- 3.2. The Council will not grant planning permission for development likely to generate unacceptable noise and vibration impacts or development sensitive to noise in locations which experience high levels of noise, unless appropriate attenuation measures can be provided and will not harm the continued operation of existing uses.
- 3.3. Camden will only grant permission for noise-generating development if it does not cause unacceptable harm to amenity.
- 3.4. CPG 'Community uses, leisure facilities and pubs' indicates that where there is an application for a new nightclub or proposed extension or redevelopment of an existing venue, the Council will seek to ensure there is no unacceptable increase in noise experienced in the surrounding area and that proposals are located in existing centres.
- 3.5. The applicant's submission states that the premises will function as an 'immersive theatrical experience' where a maximum of 40 visitors take part in the experience for a period of 2 hours. No alcohol is sold on the premises however guests are allowed to bring their own alcohol.
- 3.6. Guests are present on site during scheduled 'experiences'. The stated hours of use are 6:15pm to 10:15pm on Wednesdays and Thursdays, 5pm to 11:15pm on Friday's, 12:30pm to 11:15pm on Saturdays and 1:45pm to 5:45pm on Sundays.
- 3.7. The application floorspace is accessed by a shared passageway/corridor with residential occupants at no. 68 Neal Street and there are a high number of residential occupants in the immediately adjoining and surrounding buildings, including at nos. 66, 68, 70-74 Neal Street and 61 and 71 Endell Street to the rear.
- 3.8. A large number of objections from adjoining occupiers have been received in relation to noise, and alcohol related antisocial behaviour disturbance caused by users of the venue. Web pages for the venue indicate an alcohol themed experience and it is understood that patrons are able to bring their own alcohol to the premises.
- 3.9. The applicant has provided an operational management plan in support of the application. The plan indicates measures designed to reduce disturbance to residents. This includes instructing guests to wait at a designated location away from the venue beforehand, instruction that leaving and re-entry is not permitted and that two door staff are available to ensure that guests do not linger outside and move elsewhere.
- 3.10. The nature of this site is highly constrained, in close proximity to both residential and commercial occupants and the unauthorised use for the proposed purpose has demonstrated entry and exit to the building results in significant noise disturbance and other impacts on amenity and quality of life for neighbours. Given the site specific context officers do not consider that an effective strategy for managing the impact of this use on surrounding occupiers has so far been provided.
- 3.11. The proposed use would result in harm to the amenity of neighbours and this application has failed to demonstrate that management of the venue effectively mitigates its amenity impact on the surroundings. As such the proposed use is contrary to Policies A1 and A4 of the Camden Local Plan 2017.

#### **4. Recommendation**

1. Refuse planning permission
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 to cease the use of the basement and part ground floorspace as a sui generis venue and reinstate B1 office use 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.

The Notice shall allege the following breach of planning control:

The change of use of the basement and part ground floor space from B1 office to sui generis venue

#### WHAT YOU ARE REQUIRED TO DO:

1. Cease the use of the floorspace as a sui generis venue and reinstate B1 office use
2. Make good any damage caused as a result of the above works.

#### PERIOD OF COMPLIANCE

The Notice shall require that the use as sui generis venue ceases within a period of 3 months of the Notice taking effect.

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

1. The use, in the absence of an appropriate marketing exercise, fails to demonstrate that the premises are no longer suitable for continued B1 use. The proposal therefore results in the loss of B1 employment premises for small businesses, businesses and services that provide employment for Camden residents, support the functioning of the Central Activities Zone (CAZ) and the local economy contrary to policies E1 (Economic Development) and E2 (Employment Premises and Sites) of the Camden Local Plan 2017.
2. The use, by reason of its associated noise and general disturbance to adjacent residential occupants would be contrary to policies A1 (Managing the impact of development), A4 (Noise and vibration), TC2 (Camden's centres and other shopping areas) and TC4 (Town Centre uses) of the London Borough of Camden Local Plan 2017