

## Grounds of Appeal Statement

BrewDog, 142 Shaftesbury Avenue, London, WC2H 8HJ

**Appeal Ref:** TBC

**LPA Ref:** 2020/0482/P

**Firstplan Ref:** 20012/MS/sik

**Date:** August 2020

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## Appendices

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Appendix 1 – Decision Notice (Application Ref. 2020/0482/P) dated 7 April 2020

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Appendix 3 – Inspector’s Appeals Decision (Appeal Ref. APP/X5210/C/19/3221268) dated 20 February 2020

# Section 1 Introduction

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- 1.1 This Appeal Statement accompanies an appeal submitted on behalf of our client, BrewDog Retail Ltd., against the London Borough of Camden's decision (made on the 7 April 2020) to refuse planning application 2020/0482/P in relation to 142 Shaftesbury Avenue, London WC2H 8HJ. The application sought consent for:

**"Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4)."**

- 1.2 The decision notice, attached at Appendix 1, provides four reasons for refusal:

**"1. The proposed development, by reason of its siting, scale, and design, represents undue harm to the character, appearance and architectural integrity of the property, and fails to preserve or enhance the character and appearance of the Seven Dials (Covent Garden) Conservation Area. As such the proposal is contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).**

**2. The proposed access doors and balcony, by reason of their number, scale, design, prominent location and distance to neighbouring occupiers, would likely result in unduly harmful levels of noise and disturbance to nearby residential properties. As such the proposal is contrary to policies A1 (Managing the impact of development) and A4 (Noise and Vibration) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).**

**3. The proposed development, in the absence of a legal agreement to secure a construction management plan and an appropriate financial contribution towards implementation support, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and Location of Growth), A1 (Managing the Impact of Development), T3**

(Transport Infrastructure), T4 (Sustainable Movement of Goods and Materials), DM1 (Delivery and Monitoring), and A4 (Noise and Vibration) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).

4. The proposed balcony, by reason of its siting, scale, design and proximity to neighbouring windows, would result in unduly harmful levels of overlooking, particularly to Gloucester Mansions, 140A Shaftesbury Avenue. As such the proposal is contrary to policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019)."

## Appendix 1

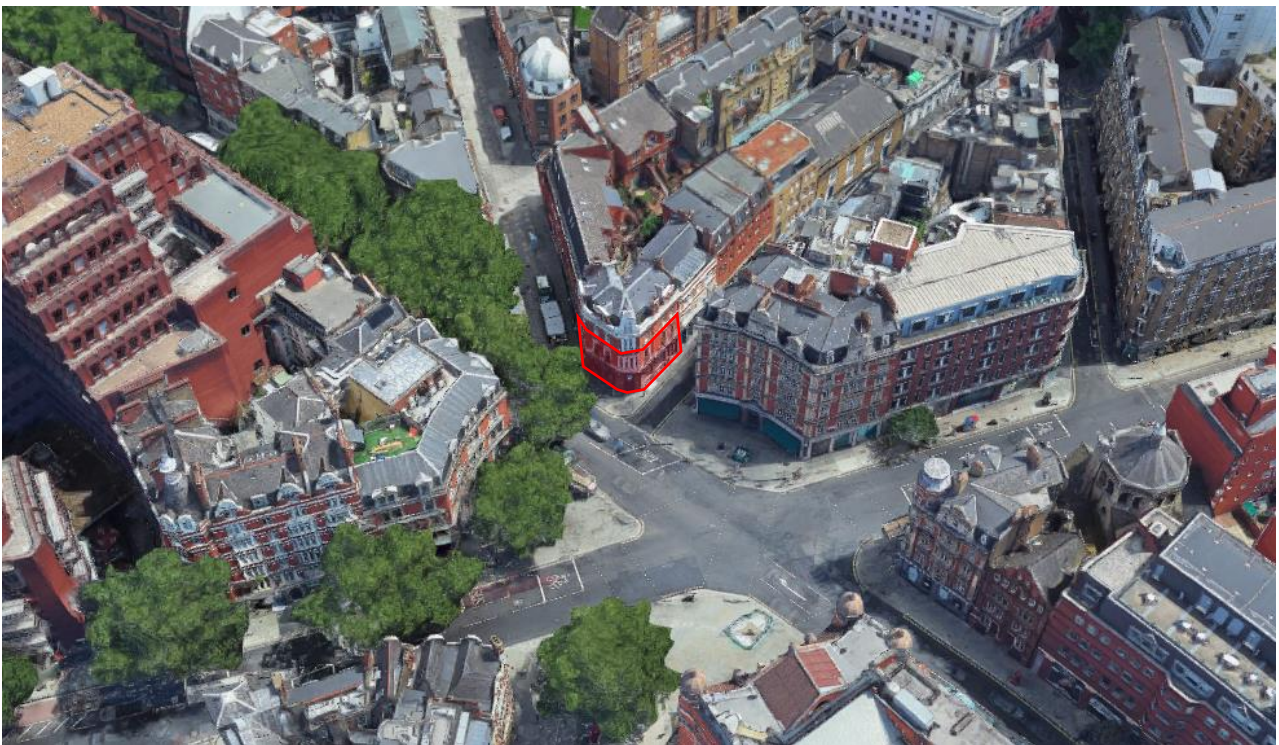
- 1.3 This Statement comprises the Appellant's 'Grounds of Appeal' and sets out their full representations and any supporting evidence. It specifically responds to the Council's reason for refusal set out on the decision notice and the issues raised within the planning officer's report. This Statement further sets out the basis on which the Appellant considers that full planning consent should be granted.
- 1.4 This Statement is set out as follows:
- **Section 2** sets out background information including the site description and planning history;
  - **Section 3** explains the details of the appeal scheme;
  - **Section 4** sets out the relevant planning policies and guidance;
  - **Section 5** assesses the proposals in the context of these policies and guides and the Council's reasons for refusal; and
  - **Section 6** provides a summary and conclusion.

## Section 2 Background Information

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### a) Site and Surrounding Area

- 2.1 The Appeal relates to an existing public house located at 142 Shaftesbury Avenue, London WC2H 8HJ. The public house (Class A4) occupies the basement, ground and first floors of a historic, three-storey building on Cambridge Circus. This is a corner site, at the meeting point of Shaftesbury Avenue, Earlham Street and West Street as shown in figure 1 below. The pub has been occupied by BrewDog (the Appellant) since early 2018.



**Figure 1.** Aerial View of the Appeal Site

- 2.2 The site lies within London's West End, in the Central Activities Zone (CAZ), a major business and employment centre and the main focus of Camden's economy. This area comprises a diverse mix of uses including retail, restaurants, offices, theatres, public house, offices and residential properties. BrewDog's strong brand and popular beer are a great fit for such a busy, energetic location.
- 2.3 The building fronts onto Cambridge Circus, a busy traffic junction for vehicles and pedestrians alike at the intersection of Shaftesbury Avenue and Charing Cross Road.



- 2.4 Prior to being occupied by BrewDog, the site was briefly operated as the 'Ape and Bird' for a short time from 2015, however it has historically been known as the '*Marquis of Granby*' (after the prominent figure in the Household Calvary who is believed to have more public houses in Britain names after him than any other person!) for 125 years. As shown in figure 2 below the pub was characterised by its generous foliage above the ground floor.



**Figure 2.** The Marquis of Granby was well known for its dense foliage

- 2.5 The building is characterised by a painted timber shopfront separated by granite pilasters at ground floor level. The main entrance, situated at the corner, forms the focal point of the building, accentuated by pilasters and decorative corbel brackets and cornice surrounds. The first and second floors are characterised by red brick and sash windows and stucco detail.
- 2.6 The appeal site falls within the Seven Dials (Covent Garden) Conservation Area. The site is not listed and is not a locally listed building. The Palace Theatre (Grade II\*, in LB Westminster), is located on the opposite side of Cambridge Circus. This is also built in red brick with a distinctive glazed cantilevered canopy running along its front and side elevations.

- 2.7 The site lies within sub-area 1 of the Conservation Area, 'Seven Dials', named after the distinct layout of the area which results in its radiating plan of streets, the legacy of an ambitious building plan devised by Thomas Neale, at the end of the 17th century.

**b) Relevant Planning History**

- 2.8 Application ref. 2020/0482/P was validated on 6 March 2020 and sought permission for '*Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4).*'
- 2.9 During the determination period, two objections were raised by the statutory consultees of the Covent Garden Community Association (CGCA) and the Bloomsbury Conservation Area Advisory Committee (BCAA). No third-party comments were received from neighbouring residents.
- 2.10 On 7 April 2020, following discussion with the Case Officer, the application was refused for the aforementioned four reasons of refusal. The Officer's Report is available at Appendix 2.

**Appendix 2**

- 2.11 Below, a chronological listing of other planning history relevant to the site is listed:
- **Application ref. 2013/3495/P** – Planning permission was granted in August 2013 for the installation of five air conditioning units at first floor level housed within acoustic enclosure and installation of new full-height extract duct to rear elevation.
  - **Application ref. 13/0298/P** – Planning permission was granted in January 2013 for amendments to planning permission (ref. 2011/1704/P). Amendments relate to 36-38 West Street only.
  - **Application ref. 2012/4607/A** – Permission was granted in October 2012 for the display of externally non-illuminated advertisement banner sign on the scaffolding around the building.
  - **Application ref. 2011/3790/A** – Permission was granted in September 2011 for the installation of an externally illuminated scaffold shroud with advert panel to the first and second floor corner elevations.
  - **Application ref. 2011/1704/P** – Planning permission was granted in February 2012 for the change of use from residential unit ancillary to public house to provide 3 x 2 bed and 4 x studio units at second and third floor levels of 142 Shaftesbury Avenue. This application also included development of neighbouring unit at 36-38 West Street.



- **Application ref. 2007/5716/P** – Planning permission was granted in March 2008 for the installation of four no. retractable canvas awnings on the Shaftesbury Avenue and Earlham Street elevations.
- **Application ref. 9602786** – Advertisement consent was withdrawn in September 1996 for two externally illuminated ‘amenity boards’.
- Various applications relating to advertisements dating from 1981.

## Section 3      The Appeal Scheme

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- 3.1      The appeal scheme relates to the following development at 142 Shaftesbury Avenue, London WC2H 8HJ:

**“Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4).”**

### Use and Proposal

- 3.2      The proposed development will not alter the use of the building which will remain as a public house (Class A4).
- 3.3      The proposals can be split into two parts, the alterations to the ground floor shopfront, and the erection of a balcony together with the alterations required at first floor level to accommodate this.

### Alterations to Ground Floor

- 3.4      It is proposed to remove the shopfront windows and the associated stallrisers and replace these with two double doors that include a design to match the existing window and panelling on the West Street elevation. Similarly, it is proposed to remove one shopfront window and stallriser on the Shaftesbury Avenue elevation.
- 3.5      All new doors have been designed to give a similar visual appearance to the existing windows and stallriser.

### Alterations to First Floor

- 3.6      At first floor level, the Appellant seeks to introduce a traditional style, black metal balcony wrapping around the first-floor perimeter facing West Street and Shaftesbury Avenue elevations extending

approximately 20m in total. The balcony features a 1100mm high balustrade with an open grille floor deck with black metal. This will be 1000mm in width, and is expected to be used for standing patrons.

- 3.7 Planting will be incorporated to the balcony edge which will reflect the historic distinctive planting of the Marquis of Granby.
- 3.8 To accommodate access to the balcony the proposals seek the removal of one of the sash windows on the West Street elevation to be replaced with a glazed door. The existing window frame will be maintained so that the new arrangement retains the balance of the building.

#### Alternative Arrangement

- 3.9 In the light of current circumstances it has become very clear to the Appellant the importance of providing quality outdoor and ventilated space for their patrons at their sites. The appellant would welcome the Inspector's comments on the acceptability of the two elements of the proposals in isolation should they be minded not to allow both parts of the appeal.

## Section 4 Planning Policy Context

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- 4.1 This section of the Statement highlights the planning policies relevant to the proposal and focuses on the policy context in respect of the delivery of new housing and those policies referenced within the Decision Notice. Key policies from the Draft New London Plan are also referenced.

### **a) National Planning Policy Framework (NPPF, 2019)**

- 4.2 The NPPF is the overarching policy framework for England and sets out the Government's planning policies and how these should be applied. Paragraph 8 identifies the three overarching objectives of sustainability, the first of which requires planning to help building a strong, responsive and competitive economy that supports economic growth, innovation and improved productivity.
- 4.3 Paragraph 10 of the NPPF advises that at the heart of the framework is a "presumption in favour of sustainable development". Paragraph 11 continues by confirming that for decision making this means approving development proposals that accord with an up-to-date development plan without delay. The NPPF sets out that the planning system has three overarching objectives; an economic objective, a social objective and an environmental objective.
- 4.4 In terms of decision taking, paragraph 38 sets out that Local Planning Authorities should approach decisions on proposed development in a positive and creative way. It states that decision-makers at every level should seek to approve applications for sustainable development where possible. Paragraph 47 requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 4.5 At the heart of the framework there is a *"presumption in favour of sustainable development"*. Paragraphs 10 and 11 of the NPPF outline this and note that for decision taking sustainable development means approving development proposals that accord with an up to date development plan without delay.
- 4.6 In terms of economic development, Paragraph 80 outlines that:

***"Planning policies and decisions should help create the conditions in which business can invest, expand and adapt. Significant weight should be place on the need to***

*support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”*

4.7 Paragraph 85 of the NPPF states that:

*“Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.”*

4.8 Chapter 12 sets out that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

#### **b) The London Plan (2016)**

4.9 The London Plan is the overall strategic plan for London, setting out an integrated economic, environmental, transport and social framework for the development of London over the next 20 – 25 years. The overall strategy is to promote sustainable development, including the use of previously developed land and buildings, in a design led approach ensuring development is accessible and takes into account physical constraints.

4.10 Policy 2.10 *Central Activities Zone – Strategic Priorities* outlines how Council will enhance and promote the CAZ and sustain and enhance the distinctive environment and heritage of the CAZ.

4.11 Policy 2.11 *Central Activities Zone – Strategic Functions* sets out that the Council will ensure development complements and supports the clusters of other strategically important, specialised CAZ uses including legal, health, academic, state and ‘special’ uses while also recognising the ‘mixed’ nature of much of the CAZ.

4.12 Policy 7.4 *Local Character* requires development to have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. It should improve an area’s visual or physical connection with natural features.

4.13 There are a range of other policies to which have been considered in the development and design of the application proposals including:

- Policy 1.1 *Delivering the Strategic Vision and Objective Visions for London*
- Policy 4.1 *Developing London's Economy*
- Policy 5.3 *Sustainable Design and Construction*
- Policy 7.5 *Public Realm*
- Policy 7.8 *Heritage Assets and Archaeology*

### **c) Draft New London Plan**

- 4.13 Whilst the existing London Plan (2016) remains the current policy document for the GLA area, the New London Plan now carries significant weight in planning decisions as its adoption is imminent.
- 4.14 Policy GG2 *Making the Best Use of Land* sets out that to create successful, sustainable mixed-use places that make the best use of land, those involved in planning and development must enable the development of brownfield land, prioritise sites which are well-connected by public transport, jobs and services and proactively explore the potential to intensify the use of land to support additional development.
- 4.15 Policy D4 *Delivering Good Design* discusses how the Council will seek to ensure high quality design of new developments.
- 4.16 Policy HC1 (C) *Heritage Conservation and Growth* states that where a development affects a heritage asset, it should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
- 4.17 Further regard has also been given to the following draft policies:
- Draft Policy SD4 *The Central Activities Zone (CAZ)*
  - Draft Policy D1 *London's Form, Character and Capacity for Growth*
  - Draft Policy D5 *Inclusive Design*

### **e) Local Planning Policy**

#### **i. Camden Local Plan (2017)**

- 4.18 Policy G1 *Delivery and Location of Growth* sets out how the Council will deliver growth by securing high quality development and promoting the most efficient use of land and buildings. This includes supporting development that makes best use of its site, taking into account quality of design, its



surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site.

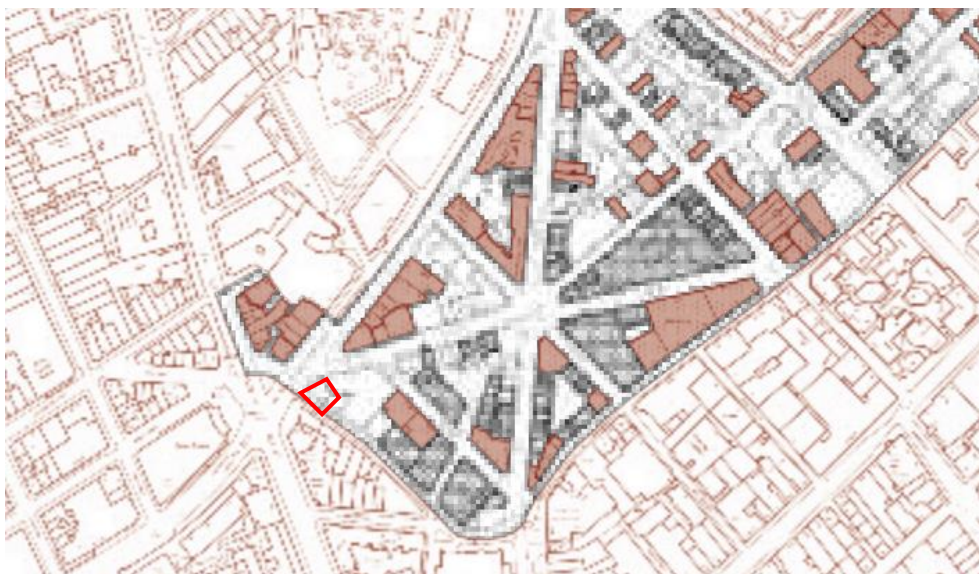
- 4.19 Policy C4 *Public Houses* discusses how the Council will seek to protect public houses which are of community, heritage or townscape value.
- 4.20 Policy A1 *Managing the Impact of Development* sets out that the Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity. Factors to consider will include:
- Visual privacy, outlook
  - Sunlight, daylight and overshadowing
  - Artificial light levels
  - Noise and vibration
- 4.21 Policy A4 *Noise and Vibration* outlines that the Council will ensure that noise and vibration is controlled and managed. Noise generating development is only permitted in circumstances where it can be in place without causing harm to amenity.
- 4.22 Policy D1 *Design* sets out that the Council will ensure high quality design in development. Development will be required to:
- Respect local context and character;
  - Preserve or enhance the historic environment and heritage assets;
  - Be sustainable in design and construction;
  - Comprise details and materials that are of high quality and complement the local character;
  - Integrate well with the surrounding streets and open spaces;
  - Be inclusive and accessible for all.
- 4.23 Policy D2 *Heritage* states that the Council will preserve and where appropriate, enhance Camden's rich and diverse heritage assets and their setting, including Conservation Areas.
- 4.24 Policy D3 *Shopfronts* discusses how the Council expects a high standard of design in new and altered shopfronts, canopies, blinds, security measures and other features. When determining proposals relating to shopfronts, the Council will consider:

- “a. the design of the shopfront or feature, including its details and materials;*
- b. the existing character, architectural and historic merit and design of the building and its shopfront;*
- c. 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;*
- d. the general characteristics of shopfronts in the area;*
- e. community safety and the contribution made by shopfronts to natural surveillance;*  
*and*
- f. the degree of accessibility.”*

4.25 Policy TC4 *Town Centre Uses* sets out how the Council will ensure that development of 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.

ii. Seven Dials (Covent Garden) Conservation Area Appraisal

4.26 The Appraisal sets out the approach to the preservation and enhancement of the Seven Dials (Covent Garden) Conservation Area. Seven Dials (Covent Garden) Conservation Area was first designated in 1971, with the site lying within ‘Seven Dials’ which relates to sub-area 1 named after the layout of the area designed by Thomas Neale. The Area was subsequently extended in 1991 and 1998. As demonstrated in figure 3, the site lies at the very edge of the Conservation Area, with Westminster’s Soho Conservation Area forming the later of Cambridge Circus.



**Figure 3.** Mapping showing positive buildings in red and listed buildings in grey. The site is marked red.

- 4.27 The Appraisal does not list the site as a listed building or building which makes a positive contribution to the Area. In terms of design, the Conservation Area has a long history of development which is demonstrated in the variety of styles which are juxtaposed within it. The last twenty years has seen the development of a successful combination of refurbishment and modern design, reflecting the dynamic changing character of the area, located in a unique historic context.
- 4.28 Where new development is thought to have harmed the character or appearance of the area it has usually been caused by one or more of the following reasons:
- a. The use of inappropriate facing materials
  - b. Excessive bulk, massing and height
  - c. Signs erected on upper floors
  - d. Signage of inappropriate size, proportions and materials
  - e. Loss of original features
  - f. Introduction of prominent air handling units/ducting
  - g. Loss of significant views
  - h. Development that does not respect the historic context.
- 4.29 The last section of the Appraisal sets out a number of Guidelines to abide by when proposing new development including those below:

- **Design** - Appropriate design for the Conservation Area can reflect both the historic and the modern context and both traditional and contemporary materials may be appropriate.
- **Materials and Maintenance** – The existing or original features and details characteristic of the Conservation Area should only be replaced when possible. Original detailing such as timber shopfront facades, timber framed sash windows, etc. where retained add to the visual interest of properties, and where removed in the past replacement with suitable copies will be encouraged.
- **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.

iii. Camden Planning Guidance - Design (2019)

- 4.30 The Camden Planning Guidance covers a range of topics (such as housing, sustainability, amenity and planning obligations) and so all of the sections should be read in conjunction, and within the context of Camden's Local Plan. Camden is a diverse and dynamic borough with many attractive and historic neighbourhoods as well as both traditional and modern buildings of the highest quality. The purpose of this guidance is to promote design excellence and to outline the ways in which developments can achieve high quality design.
- 4.31 Guidance is also given to balconies and terraces which can provide valuable amenity space. However, they can also cause nuisance to neighbours. Potential problems include overlooking, overshadowing, noise, light spillage and security.
- 4.32 It is stated that balconies and terraces should complement the elevation upon which they are to be located. Consideration should therefore be given to the following:
- Detailed design to reduce the impact on the existing elevation;
  - Careful choice of materials and colour to match the existing elevation;
  - Possible use of setbacks to minimise overlooking – a roof terrace need not necessarily cover the entire available roof space;
  - Possible use of screening (frosted glass etc) to prevent overlooking of habitable rooms in residential properties or nearby gardens, without reducing daylight and sunlight or outlook.
- 4.33 Adequate safety and security measures are used to prevent accidents or crime.

- 4.34 In terms of folding shopfronts, these are not generally considered acceptable, particularly on historic buildings such as listed buildings and those in Conservation Areas. They can erode the shopfront appearance, create a visual void and increase noise. When closed they appear as a row of doors rather than a shopfront, which creates a heavier appearance and reduces the area of glass in the shopfront.

**iv. Camden Planning Guidance – Amenity (2018)**

- 4.35 This Guidance provides information managing the impact of development on key amenity issues within the borough such as:

- Overlooking, privacy and outlook
- Daylight and sunlight
- Artificial light
- Construction management plans
- Noise and vibration

- 4.36 In specific reference to balconies and roof terraces, it is noted that they should be carefully sited and designed to reduce potential overlooking.

**v. Camden Planning Guidance – Altering and Extending Your Home (2019)**

- 4.37 Whilst this contains guidance for residential properties, the information is applicable to the appeal site. In regards balconies this states that these should complement the elevation upon which they are to be located. Consideration should therefore be given to the following:

- Detailed design to reduce the impact on the existing elevation;
- Careful choice of materials and colour to match the existing elevation;
- Possible use of setbacks to minimise overlooking – a roof terrace need not necessarily cover the entire available roof space;
- Possible use of screens or planting to prevent overlooking of habitable rooms or nearby gardens, without reducing daylight and sunlight or outlook;
- Preference for screens to be 1.7m high, made of timber, and not be visually permeable
- Need to avoid creating climbing opportunities for burglars.

#### **f) Planning Policy Summary**

- 4.38 As will be discussed further within Section 5, it is considered that the proposals accord with the relevant planning policies at national and local level.
- 4.39 In summary, at a national level, there is a clear presumption in favour of sustainable development and a recognition that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. This is echoed in London policy, particularly in London's CAZ, so that this area remains strategically important.
- 4.40 At a local level, the Camden Local Plan promotes the most efficient use of land and buildings and policy C4 seeks to protect and support the long-term viability of public houses. In respect of design, local policy stresses the importance of responding to local characteristics in terms of built form, massing, architectural detailing and materials.
- 4.41 In respect of alterations these should generally remain subordinate to the host building and preserve or enhance the character and appearance of conservation areas. Specific guidance is discussed fully in section 5 where it is identified that the proposals appropriately respond to all relevant criteria.
- 4.42 The appeal scheme is considered to be supported by, and be in compliance with, all relevant national, London wide and local planning policy.



## Section 5      Analysis and Addressing the Council's Reasons for Refusal

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- 5.1      This appeal seeks to overturn the decision of the London Borough of Camden to refuse permission for the:

**“Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4).”**

- 5.2      This section will deal with the four reasons of refusal as set out in the Decision Notice and the Delegated Officer's report.

**a) Assessment of Reason for Refusal 1**

- 5.3      This reason is stated as follows:

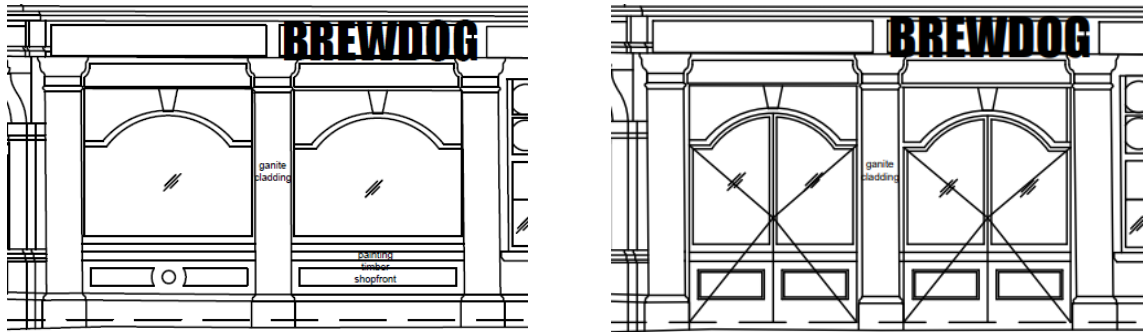
**“1. The proposed development, by reason of its siting, scale, and design, represents undue harm to the character, appearance and architectural integrity of the property, and fails to preserve or enhance the character and appearance of the Seven Dials (Covent Garden) Conservation Area. As such the proposal is contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).**

- 5.4      The appeal site is located within the Seven Dials Conservation Area. As highlighted within its appraisal, the special character on which it is found, involves the range and mix of building types and uses and the street layout. The character is not dominated by one particular period or style of building but rather it is their combination that is of special interest.
- 5.5      In particular, the last twenty years has seen the development of a successful combination of refurbishment and modern design, reflecting the dynamic changing character of the area, located in a unique historic context.

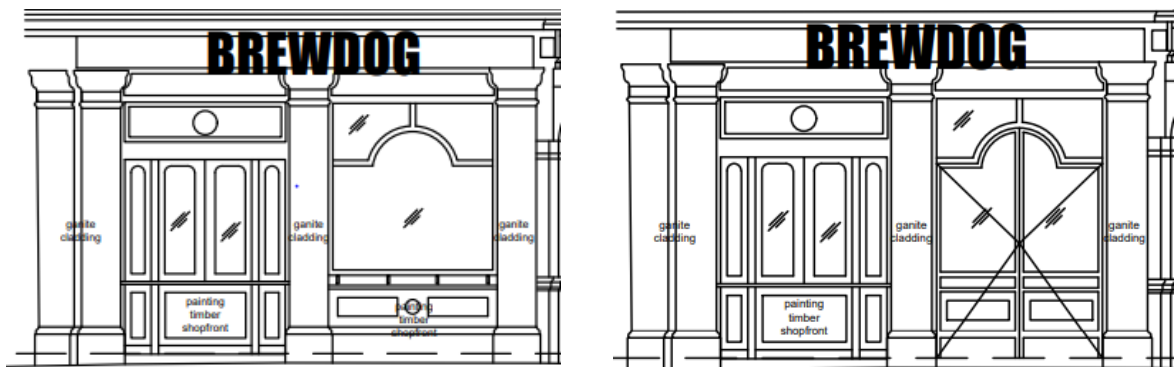
- 5.6 Camden's planners, the CGCA and the BCAA state that although the site is not specifically mentioned as a positive contributor to the Conservation Area, it is clear that it is. The Appellant agrees with this assessment.
- 5.7 The CMCA go on to state that they will request for the appeal site to be added to the list of listed buildings within the Appraisal. It should be noted that although the majority of buildings on Cambridge Circus match the provenance and good condition of the site, the Palace Theatre is the only building fronting onto this junction which is listed. In this way, and with all due respect, this seems like an elaborate attempt to halt any future development at the site. Simply because a building makes a positive contribution to an area, it does not mean that alterations cannot and should not occur.
- 5.8 The proposed alterations are not considered to adversely impact the architectural merit of the building and are discussed in detail below in regards the first reason of refusal.

### **Shopfront Alterations**

- 5.9 The proposed alterations to the shopfront on West Street and Shaftesbury Avenue elevations will create three new entrances into the property at ground level by replacing three existing windows and their associated stallriser with double doors. The design of these doors would incorporate panels and window design that matches the existing so that the doors effectively mimic the existing windows in terms of design and proportion when closed.
- 5.10 This proposal was chosen so to align with the existing siting and scale of the windows and not diminish the importance of the central corner door. In design and heritage terms this proposal is considered in accordance with local policy D1 and D2, together with London Plan policies 7.4 and draft policies D4 and HC1.
- 5.11 Rather than appearing 'incongruous' and 'inauthentic' as suggested by the Planning Officer in their report, these doors will appear like for like with the existing windows as shown in figures 4 and 5 of the following page. The Appellant would of course be happy to accept a condition which requires detailed drawings of these doors should the Inspector consider this necessary.



**Figure 4.** Existing (left) and proposed (right) ground floor elevation on West Street



**Figure 5.** Existing (left) and proposed (right) ground floor elevation on Shaftesbury Avenue

- 5.12 The CGCA state within their objection that folding shopfronts are not generally considered acceptable within the Local Plan and Camden’s Planning Guide on Design, which is true, particularly on ‘historic buildings’ within Conservation Areas. The Design Guide states that *‘when closed they appear as a row of doors rather than a shopfront, which creates a heavier appearance and reduces the area of glass in the shopfront.’* Although the proposals would create an opening shopfront, they would not be folding doors and have been designed as a sympathetic alteration appearing with the same proportions and styling as the original windows. This ensures that they would not detract from the existing character, architectural and historic merit of the existing shopfront in accordance with local policy D3.
- 5.13 The Design Guide further states that *‘when folding shopfronts are open, they erode the appearance of the shopfront, creating a visual void’*. Again, a folding shopfront is not proposed at the site. The proposals are designed such that even if all doors were open at once there would be pilasters separating them to ensure there is no ‘visual void’. Far from this, the proposals would create an inviting scene into the public house and improve ventilation.
- 5.14 The Appellant would like to highlight that opening shopfronts are not uncommon in the surrounding area which consists of busy streets heaving with restaurants and public houses that spill onto the

highway via opening doors or external seating areas. When done successfully these can add to the vibrancy of the area as shown in figures 6 and 7 below.



**Figure 6.** Café Bohème, situated less than 0.1 miles from the site features an opening shopfront within Westminster



**Figure 7.** Won's Tea Room and Bar, situated less than 0.1 miles from the site also features an opening shopfront within Westminster

- 5.15 Indeed, in their assessment of an unlawful recessed shopfront with bi-folding doors at 82 Camden High Street, NW1 0LT (ref. APP/X5210/C/19/3221268), the Inspector found that the bi-folding doors did not create “a void in the streetscene” but instead appeared as an invitation to enter and make use of the facilities on offer, therefore making a contribution to the vitality of the commercial frontage. They stated:

*“My assessment of the new shopfront differs very much from that of the Council. I do not consider that, when open, the shopfront creates “a void in the streetscene”: instead, it appears as an invitation to enter and make use of the facilities on offer, and it therefore makes a contribution to the vitality of the commercial frontage. When closed, the shopfront does not “appear as a row of doors”: its design, and the materials used, are high-quality and appropriate to their setting within the street and the conservation area.”*

### Appendix 3

- 5.16 While all planning applications and appeals must be judged on their own merits, similarities can be drawn from this appeal to the site in terms of the potential positive impact on the street scene.



**Figure 8.** 82 Camden High Street

- 5.17 The supporting text of policy D1 states that ‘character is about people and communities as well as the physical components.’ Taking into account the energetic atmosphere of the surrounding area, and the



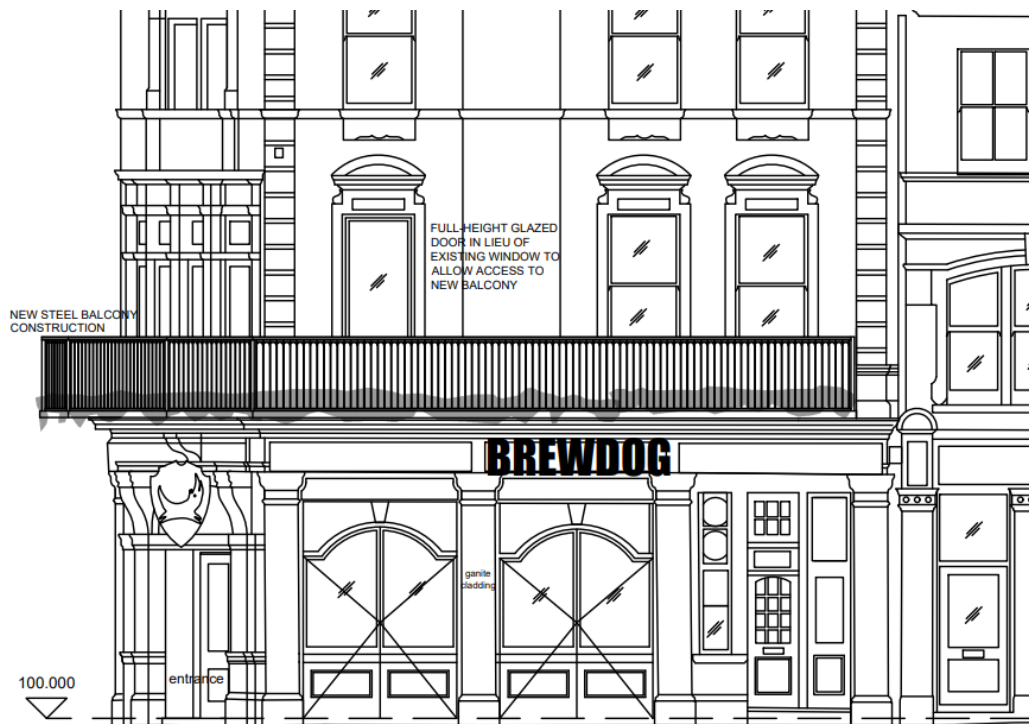
mix of uses found here it is therefore not considered that the opening doors would negatively impact on this either. Indeed, the proposals will help enhance this distinct atmosphere which draws many to the area.

- 5.18 In this way the siting, scale, and design of the proposed opening doors is found to be like for like with the existing windows and will therefore preserve the character and appearance of the Seven Dials (Covent Garden) Conservation Area in accordance with policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).

### **Balcony and Associated Access**

- 5.19 The proposed balcony would wrap around the first floor of the building on the West Street and Shaftesbury Avenue elevations. The proposed scale and design are kept minimal so to not detract from the existing architectural qualities of the host building.
- 5.20 In terms of scale, the balcony would be modest in size, projecting a 1m from the building elevation with a balustrade of 1.1m height. Such dimensions were chosen so to not appear overly dominant on the building.
- 5.21 Metal was chosen to reflect the traditional iron balustrades that are found in the surrounding area and referenced within the Conservation Area appraisal. The proposed railings do not involve an intricate design so that the building elevation can still be viewed from the street scene. Visually this means that the building can maintain its proportions and the hierarchy of the floor levels. In this way the balcony would represent a harmonious addition to the building which will not detract from existing architectural features of the building. Balconies and railings of this nature are a common feature of buildings of this era and would provide an attractive, sympathetic and lightweight appearance, adding subtle visual interest to the building and creating a much-needed and high quality small external space to serve the premises.
- 5.22 The addition of overhanging planting would further contribute to a positive appearance, creating an opportunity to 'green' the surrounding urban setting.
- 5.23 The resultant design therefore adds visual interest to the building, that will be further enhanced using planting around the edge, while not detracting from the host buildings historic integrity in accordance with local policies D1 and D2.





**Figure 9.** The proposed balcony as viewed from West Street

5.24 We note that within the CGCA's objection it is stated that none of the other buildings at Cambridge Circus have any such additions to their frontage, however we reference again that variety is noted as one of the main characteristics of the Conservation Area. While it is true that there are no other balconies in the immediate area, views from the site alone show that the Palace Theatre incorporates a glazed cantilevered canopy (albeit this does reside in another Conservation Area, this is the same setting for the site), and the Ambassador's Theatre incorporates a glazed canopy as shown in figures 10 and 11 below. The balcony structure would therefore not be out of place as suggested.



**Figures 10 and 11.** The Palace Theatre (left) and Ambassador's Theatre (right) both feature iron canopies

- 5.25 Within the Officers report they state that the balcony would be ‘*particularly visible in longer views, harming views into the conservation area.*’ Again, we contest this statement. As demonstrated clearly by views of the Palace Theatre and Ambassador’s Theatre in figures 10 and 11, the existence of these protruding canopy structures on their elevations does not detract from the surrounding Conservation Areas or the buildings themselves.
- 5.26 To serve as an access to the balcony the proposals seek to remove one sash window at first floor level and replace it with a door. Again, this door would involve materials that resemble, as close as possible, those of the existing window to ensure that it appears harmonious with the original features of the building. The use of like for like materials has been deemed the most appropriate response to ensure that the overall design quality and composition of the existing building is maintained. Again, the Appellant is happy to accept a condition requiring detailed drawings of this.
- 5.27 In regards the introduction of the balcony and associated door, the Officer sets out their report that these would result in less than substantial harm to the surrounding Conservation Area:

***“Given the above assessment, it is considered that the formation of additional access doors and a balcony would result in less than substantial harm to the character and appearance of the surrounding conservation area”***

- 5.28 Notwithstanding this, they did not believe that the proposals would meet the test as set out in para 196 of the NPPF (2019) and that the benefits would not outweigh the harm caused to the character and appearance of the conservation area. It is the Appellant’s belief however, that the benefits do outweigh the less than substantial harm.
- 5.29 The site lies within London’s CAZ, a major business and employment centre and the main focus of Camden’s economy. National and local policy encourages building a strong, responsive and competitive economy that supports economic growth, innovation and improved productivity. It is important to note that the lively atmosphere is one of the most important attributes which draws visitors to this area.
- 5.30 The A4 use has already been established at the site for many years with the proposals representing further investment by the Appellant into the property. The proposals would help create a high-quality attraction for visitors and locals, in turn serving to enhance the role of the site in supporting economic growth of the area. This is particularly important in the current Covid-19 circumstances. Balconies and terraces on public houses can be found throughout London. Far from causing crime or antisocial

behaviour, these provide outdoor amenity spaces which serve to enliven the areas in which they are situated. A number of examples are noted below:



**Figure 12.** The Punch and Judy, Covent Garden



**Figure 13.** The Swan, Bayswater



**Figure 14.** The Churchill Arms, Kensington

- 5.31 The proposed alterations to the first floor have therefore taken into account the character of the building, maintain the same scale as features that would be lost, retain decorative features and use materials that reflect those in place on the building and those found in the immediate area. The proposed alterations and balcony are considered to be proportionate to this non-listed building and will evidently not cause harm to the character, appearance or significance of the Conservation Area. They will ensure the continued success of the site and the surrounding area as a destination for visitors.
- 5.32 Contrary to reason for refusal 1, they are therefore considered in accordance with Policies D1 and D2 and the London Plan (2016), and the NPPF (2019) and should be considered acceptable.

**b) Assessment of Reason for Refusal 2**

Reason no. 2 is given as:

**2. The proposed access doors and balcony, by reason of their number, scale, design, prominent location and distance to neighbouring occupiers, would likely result in unduly harmful levels of noise and disturbance to nearby residential properties. As such the proposal is contrary to policies A1 (Managing the impact of development) and A4 (Noise and Vibration) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).**

- 5.33 The property relates to an established public house fronting onto Cambridge Circus, a busy traffic junction within London's CAZ. The surrounding area is characterised by commercial uses and associated



levels of activity and movement with residential uses existing harmoniously with these. Indeed, residential uses are located on the upper floors of the existing public house and some of the surrounding buildings too.

- 5.34 We would like to emphasise that the Appellant, BrewDog, have developed a strong reputation as being well-run and managed establishments, and are operated with a strong emphasis on “beer education”, specialising in the sampling and tasting of the extensive range of beers available. As a result, the bars have a very strong product focus, and their appeal and target market therefore differ greatly from more traditional and/or mainstream bars. The ethos of BrewDog bars is on tasting and sampling beers in a relaxed environment, rather than mass consumption. The bars are open throughout the afternoon and evening, and food is available throughout opening. There is no dancefloors, DJ or live performances, with background music only.
- 5.35 In terms of the proposed balcony, the CGCA states that this would serve 40 vertical outside drinkers. To confirm, the floor area of the balcony is 20sqm and although there is not a specific category for balconies in the Building Regulations, in this instance the area has been treated the same as a bar (being an extension of this in any case), and would give an occupancy of maximum 20 patrons (outside of Covid restrictions). This would be regularly monitored by staff and the Appellant is happy to accept a condition requiring the submission of an Operational Management Plan for the balcony.
- 5.36 Owing to the restricted nature of the surrounding streets it is not possible for the site to incorporate an external seating area as is common to surrounding pubs and restaurants. Instead, the proposed opening doors would allow for the outdoors to come in, during the warmer days of the year. Again, this would be monitored by staff. As noted above, opening doors and shopfronts have proven successful in the surrounding area. To reference the appeal at 82 Camden High Street, London NW1 0LT again (ref. APP/X5210/C/19/3221268), the Inspector found in terms of noise that:

***This is a busy commercial frontage with many food and drink outlets and the nearest residents would not in my opinion experience a loss of amenity when the doors were open.***

- 5.37 Notwithstanding the above the Appellant has instructed an acoustic engineer to carry out a Noise Impact Assessment of the proposals which is submitted with the appeal.

- 5.38 The report concludes that the proposals would not result in an un-neighbourly noise increase and would not materially harm the living conditions of nearby occupiers.
- 5.39 Notwithstanding these findings, the Appellant would be willing to accept conditions for example requiring a management plan, and/or closure of the balcony space by 10pm in order to provide additional comfort regarding this matter.
- 5.40 In the light of the above, it is clear that the proposals will not have any detrimental impact on the wider surrounding area or its amenity in accordance with policies A1 and A4, the Camden Planning Guidance on Amenity and should therefore be considered as acceptable.

**c) Assessment of Reason for Refusal 3**

**3. The proposed development, in the absence of a legal agreement to secure a construction management plan and an appropriate financial contribution towards implementation support, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and Location of Growth), A1 (Managing the Impact of Development), T3 (Transport Infrastructure), T4 (Sustainable Movement of Goods and Materials), DM1 (Delivery and Monitoring), and A4 (Noise and Vibration) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).**

- 5.41 The Council are seeking to secure a CMP to help minimise the impact of construction and a CMP implementation support contribution as section 106 planning obligations. We confirm that the Appellant is willing to agree to this in order to comply with policies G1, A1, T3, T4, DM1, and A4 of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).
- 5.42 Once the appeal has been submitted the Appellant will contact the Council's legal team to begin drafting this S106 with the required obligations.

**d) Assessment of Reason for Refusal 4**

**4. The proposed balcony, by reason of its siting, scale, design and proximity to neighbouring windows, would result in unduly harmful levels of overlooking, particularly to Gloucester Mansions, 140A Shaftesbury Avenue. As such the proposal**



**is contrary to policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019)."**

- 5.43 The nearest residential property (except those located directly above the site) are Gloucester Mansions, opposite the site on West Street, with the first floor flat of relevance.
- 5.44 The Case Officer found that while the proposals would not result in harm in terms of daylight/sunlight/overshadowing impacts to this property, there would be potential for *'additional'* levels of overlooking as a result of the proposed balcony.
- 5.45 However, the first floor of the site can already be accessed by patrons, with windows facing directly across to Gloucester Mansions. The proposals would not therefore introduce any new overlooking. Furthermore, the property is located in a busy commercial central London location, where a level of activity and indeed overlooking is both common and to be expected – and a common arrangement all the way along West Street. As such, the proposals would not result in any unacceptable issue here.
- 5.46 In this way the proposed balcony would not result in unduly harmful levels of overlooking and should therefore be taken forward for approval.

## Section 6 Conclusion

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6.1 The appeal scheme seeks planning permission for:

**“Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4).”**

6.2 The statement has demonstrated the following:

- The site has been successfully operated by the Appellant as a public house since 2018. They have developed a strong reputation for their well-run and managed establishments in London and throughout the UK;
- The proposals, in terms of their siting, scale and design, are in accordance with local policies on design and heritage that will have no adverse impacts on the host building or the surrounding Conservation Area;
- Seven Dials is a primary focus for pedestrian activity in the CAZ with many other public houses and commercial uses located here. Notwithstanding the associated noise levels of this area, a Noise Impact Assessment has been carried out to demonstrate that the proposals would not result in harm to neighbouring resident’s amenity;
- The Appellant is willing to enter a legal agreement with Camden Council to secure a construction management plan and an appropriate financial contribution towards implementation support;
- The proposed balcony would not result in further overlooking into neighbouring residential properties than already exists;
- The proposals will enable this popular, reputable bar operator to continue their successful operation of the site, enhancing the vitality and vibrancy of the area, improving and adding activity to the CAZ, and boosting the area’s daytime and evening economy in accordance with Council objectives.

6.3 In conclusion, the appeal proposals are considered to comply with all of the relevant planning policies and guidance at national, regional and local levels, and is acceptable in all respects. We therefore respectfully request that the appeal is allowed, and that planning permission is granted.

## Appendix 1

Application ref: 2020/0482/P  
Contact: Ben Farrant  
Tel: 020 7974 6253  
Date: 7 April 2020

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Firstplan  
Bramah House  
65-71 Bermondsey Street  
London  
SE1 3XF

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990 (as amended)

### **Full Planning Permission Refused**

Address:

**142 Shaftesbury Avenue  
London  
WC2H 8HJ**

Proposal:

Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4).

Drawing Nos: 2602 L20, 2602 L21, 2602 L22, 2602 L23B, 2602 L24A & Planning and Heritage Statement by FirstPlan Ref: 20012 dated January 2020.

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

#### **Reason(s) for Refusal**

- 1 The proposed development, by reason of its siting, scale, and design, represents undue harm to the character, appearance and architectural integrity of the property, and fails to preserve or enhance the character and appearance of the Seven Dials (Covent Garden) Conservation Area. As such the proposal is contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).
- 2 The proposed access doors and balcony, by reason of their number, scale, design,

prominent location and distance to neighboring occupiers, would likely result in unduly harmful levels of noise and disturbance to nearby residential properties. As such the proposal is contrary to policies A1 (Managing the impact of development) and A4 (Noise and Vibration) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).

- 3 The proposed development, in the absence of a legal agreement to secure a construction management plan and an appropriate financial contribution towards implementation support, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and Location of Growth), A1 (Managing the Impact of Development), T3 (Transport Infrastructure), T4 (Sustainable Movement of Goods and Materials), DM1 (Delivery and Monitoring), and A4 (Noise and Vibration) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).
- 4 The proposed balcony, by reason of its siting, scale, design and proximity to neighbouring windows, would result in unduly harmful levels of overlooking, particularly to Gloucester Mansions, 140A Shaftesbury Avenue. As such the proposal is contrary to policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the NPPF (2019).

Informative(s):

- 1 Without prejudice to any future application or appeal, the applicant is advised that reason for refusal 3 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.
- 2 If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer

## Appendix 2

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	27/03/2020
		N/A	<b>Consultation Expiry Date:</b>	05/04/2020
<b>Officer</b>			<b>Application Number(s)</b>	
Ben Farrant			2020/0482/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
142 Shaftesbury Avenue London WC2H 8HJ			See draft 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>				
Installation of access doors (following removal of existing windows) on ground floor West Street and Shaftesbury Avenue elevations; Installation of first floor balcony on West Street and Shaftesbury Avenue elevations, with associated access door (following removal of existing window) (Use Class A4).				
<b>Recommendation(s):</b>	Refused planning permission			
<b>Application Type:</b>	Full Planning Application			

Conditions or Reasons for Refusal:	Refuse Permission			
Informatives:				
Consultations				
Adjoining Occupiers:	No. of responses	00	No. of objections	00
Summary of consultation responses:	A site notice was displayed between 10/03/2020 and 03/04/2020.  A press advert was displayed in the Ham & High between 12/03/2020 and 05/04/2020.  No third party comments were received.			
Bloomsbury Conservation Area Advisory Committee (CAAC)	<p>The Bloomsbury CAAC object to the application, and responded with the following:</p> <p>“The BCAAC is the advisory committee for all developments in Camden occurring within conservation areas south of Euston Road, with the exception of Hatton Garden. This application concerns changes to the façade including the addition of a balcony at first floor to a public house named ‘Brewdog’. The application is within the Seven Dials Conservation Area.</p> <p>It is quite clear to us that the proposed balcony and other changes to the façade will have a negative impact upon the special appearance of the building and the conservation area.</p> <p>While the building itself is not marked as a positive contributor in the appraisal statement we do consider the building to have significant architectural merit, and evidently has historic value as a preserved Victorian building. It is a handsome corner building which exhibits many interesting classical details arranged in a pleasing composition which has not been damaged with the passage of time. It is well-preserved and the only elements which detract from its appearance are the overbearing and inappropriate advertisements at ground floor introduced by ‘Brewdog’, and the inappropriate choice of paint colour which would usually be white. Apart from these minor alterations which are anyway reversible, the building is a very well-preserved example of Victorian public house architecture.</p> <p>The introduction of a balcony at first floor under any circumstance would harm the appearance of this building by substantially disrupting this composition, and the poorly designed proposed balcony constructed in the proposed inappropriate materials would especially detract from its appearance.</p> <p>The associated changes to convert the first-floor fenestration into doors onto the balcony would also be greatly damaging to the building.</p> <p>Further we consider that the proposed changes to substantially alter the ground floor frontage would be harmful to both the appearance and character of the building. The current ground floor frontage almost certainly is preserved from the Victorian times and therefore should not be altered.</p>			



	<p>Further one should observe that the building is in a sensitive area, Cambridge Circus, where every corner building facing onto the Circus' centre is well-preserved Victorian, all built in similar styles and materials, a reflection of the late Victorian slum-clearance project which drove Shaftesbury Avenue through the famed slums of St Giles. None of the buildings facing onto the Circus, of which the public house is one, have been the subject of such negative alterations as are proposed, and thus the proposed alterations would not only negatively affect the building itself but the whole of Cambridge Circus. Taken as a composition, Cambridge Circus is a heritage asset of high significance.</p> <p>For these reasons we believe the proposed changes to diminish the special appearance and character of the Seven Dials Conservation Area, contrary to policies D1 and D2 of the Camden Local Plan 2017.”</p>
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## Site Description

142 Shaftesbury Avenue is a landmark building situated on a corner plot with frontages to West Street, Earlham Street and Shaftesbury Avenue, which means it is visible from several vantage points, including longer views from the opposite side of Cambridge Circus (in LB Westminster).

It is located within the Seven Dials Conservation Area, though it is not a listed building. The Palace Theatre (Grade II\*, in LB Westminster), 24 West Street and 14 Earlham Street (Grade II) are the nearest listed buildings (some 45m away).

## Relevant History

**2013/3495/P** - Installation of five air conditioning units at first floor level housed within acoustic enclosure and installation of new full-height extract duct to rear elevation - **Granted 05/08/2013**.

**2013/0298/P** - Amendments (involving alterations to the shopfront on West Street elevation) to planning permission (ref:2011/1704/P) granted 21/02/2012 for change of use from residential unit ancillary to public house (Class A4 and offices (Class B1) to provide 3 x 2 bed and 4 x studio units (Class C3) at 2nd and 3rd floor levels of 142 Shaftesbury Avenue and 1st, 2nd and 3rd floor levels of 36-38 West Street, change of use from offices (Class B1) to either restaurant (Class A3) or public house (Class A4) use at ground floor and basement levels of 36-38 West Street, including external alterations to shop front and basement and ground floor rear extension at 36-38 West Street - **Granted 04/02/2013**.

**2012/4607/A** - Display of externally non-illuminated advertisement banner sign on the scaffolding around the building - **Granted 10/10/2012**.

**2011/3790/A** - Installation of an externally illuminated scaffold shroud with advert panel to the first and second floor corner elevations (Shaftesbury Avenue and West Street) - **Refused 19/09/2011**.

**2011/1704/P** - Change of use from residential unit ancillary to public house (Class A4 and offices (Class B1) to provide 3 x 2 bed and 4 x studio units (Class C3) at 2nd and 3rd floor levels of 142 Shaftesbury Avenue and 1st, 2nd and 3rd floor levels of 36-38 West Street, change of use from offices (Class B1) to either restaurant (Class A3) or public house (Class A4) use at ground floor and basement levels of 36-38 West Street, including external alterations to shop front and basement and ground floor rear extension at 36-38 West Street - **Granted subject to S106 21/02/2012**.

**2007/5716/P** – Installation of 4 no. retractable canvas awnings on the Shaftesbury Avenue and Earlham Street elevations of the pub (Class A4) – **Granted 26/03/2008**.

## Relevant policies

**National Planning Policy Framework 2019**

**The London Plan March 2016**  
**Intend to Publish London Plan 2019**

**The Camden Local Plan 2017**

G1 - Delivery and location of growth

A1 - Managing the impact of development

A4 - Noise and vibration

D1 - Design

D2 - Heritage

T3 - Transport infrastructure

T4 - Sustainable movement of goods and materials

### **Camden Planning Guidance**

CPG Altering and extending your home (2019)

CPG Amenity (2018)

CPG Design (2019)

CPG Transport (2019)

### **Seven Dials (Covent Garden) Conservation Area Statement (1998)**

## **Assessment**

### **1.0 Proposal**

1.1 The application seeks the following:

- Installation of 3 sets of access doors to replace 1 x window on the Shaftesbury Avenue elevation and 2 x windows on the West Street elevation. The doors have been designed to give a similar visual appearance to the existing windows.
- Installation of first floor balcony wrapping around the West Street and Shaftesbury Avenue elevations. This would allow patrons external access at first floor level. The balcony would wrap around the majority of the property and would overhang the pavement. This would be finished with black painted railings.
- A sash window at first floor level on the West Street elevation would be removed and replaced with a glazed door to allow access to the balcony.

### **2.0 Assessment**

2.1 There are three main elements for consideration in the determination of this scheme:

- Design and Impact on Conservation Area
- Impact on Amenity
- Transport

### **3.0 Design and Impact on Conservation Area**

3.1 Whilst CPG Altering and Extending your Home (2019) contains guidance for residential properties, the information is applicable to the application site. It provides specific guidance on balconies, stating that, where appropriate, they should be designed in such a way as to complement the elevation upon which they are to be located.

3.2 CPG Design (2019) states that proposed development should consider, amongst other factors, the context of the development and its surrounding area, and the design of the building itself.

3.3 Policy D1 of the Camden Local Plan (2017) states that the Council will seek to secure high quality design in development. The Council will require that development: a. respects local context and character; b. preserves or enhances the historic environment and heritage assets in accordance with policy D2 (Heritage).

3.4 Local Plan Policy D2 states that the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings.

3.5 Shaftesbury Avenue and the North East corner of Cambridge Circus were formed by the Metropolitan Board of Works in the 1880s by widening the existing street. Shaftesbury Avenue then became an important central London Avenue, with a distinctive scale of buildings and use of materials, dominated by red brick and the use of terracotta. 142 Shaftesbury Avenue is a landmark building situated on a corner plot with frontages to West Street, Earlham Street and Shaftesbury Avenue, which means it is visible from several vantage points, including longer views

from the opposite side of Cambridge Circus (in LB Westminster). The red brick, decorative gable and detailing including dentile cornice link it to other landmark buildings in close proximity, forming a frame for Cambridge Circus. It is not mentioned as a positive contributor in the Seven Dials Conservation Area Statement, however this appraisal is particularly old (1998) and by virtue of the materials, links to other buildings in the vicinity and the architectural and historic interest of the building, it is clear that this analysis is incorrect and the building does make a positive contribution to the character and appearance of the conservation area.

- 3.6 The architectural composition of the building is focused around its entrance door, which sits directly on the corner elevation and has a prominent and elaborate entranceway with pilasters, corbal brackets and cornice surrounding the entrance door and a prominent bay with stucco detailing and a decorative gable at upper levels. Originally there would have been another access door on the Shaftesbury Avenue elevation of the building (see drawing below published in Building News, September 10th 1886). This is still evident in the existing window frame, which is different to all the other openings. A door in the historic location could be considered.



- 3.7 Doors in the proposed locations would appear incongruous and inauthentic and would result in the loss of the characteristic feature of the windows and the panelling beneath the windows, failing to preserve or enhance the character and appearance of the conservation area, contrary to Local Plan policy D2.
- 3.8 The application further seeks to remove a 1/1 sash window at first floor level and replace it with a door. It also seeks to install a balcony comprising a black metal open grille floor deck and a 1.1m high black metal balustrade wrapping around the Shaftesbury Avenue and West Street elevations at first floor. The unjustified loss of a historic feature (the window) cannot be supported. Both the door and the balcony would appear as incongruous and inauthentic features out of keeping with the architectural and historic composition of the host building and the surrounding area. The balcony would be particularly visible in longer views, harming views into the conservation area.
- 3.9 For the above reasons, the works would fail to respect the local context and character or preserve or enhance the character and appearance of the conservation area, as required by Local Plan policies D1 and D2.
- 3.10 Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.
- 3.11 Given the above assessment, it is considered that the formation of additional access doors and a balcony would result in less than substantial harm to the character and appearance of the

surrounding conservation area.

- 3.12 Para 196 of the NPPF (2019) states that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.
- 3.13 It is acknowledged that the proposal would result in external amenity space for patrons of the public house and would provide further access points to the building, which could help support the occupation of the public house (an aim of policy C4 of the Camden Local Plan). Though no information has been submitted to support any such assessment. As such, there may be some limited benefit arising as a result of the proposal. However this would not outweigh the harm caused to the character and appearance of the conservation area.
- 3.14 The proposal is thereby considered to constitute less than substantial harm to this conservation area, with no demonstrable public benefits derived from the scheme which would outweigh such harm. The proposal is therefore considered to be contrary to Section 16 of the NPPF (2019) which seeks to preserve and enhance heritage assets.
- 3.15 Given the above assessment, the proposal would be contrary to policies D1 and D2 of the Camden Local Plan, as well as to Section 16 of the NPPF (2019), and refusal is warranted on this basis.

#### **4.0 Impact on Amenity**

- 4.1 Policy A1 of the Camden Local Plan seeks to protect the quality of life of neighbouring occupiers. The factors to consider include: visual privacy and outlook; sunlight, daylight and overshadowing; artificial light levels; noise and vibration. It should be noted that residential units exist within the immediate vicinity, including at the upper floors of 142 Shaftesbury Avenue, 36-38 West Street and Gloucester Mansions 140A Shaftesbury Avenue.
- 4.2 The proposed amendments, by reason of their siting, scale and design would not result in harm in terms of daylight/sunlight/overshadowing impacts. However there is potential for additional levels of overlooking and noise.
- 4.3 The balcony would allow patrons of the pub external access to the property at first floor level. It is acknowledged that residential occupiers exist within the vicinity, including directly opposite on West Street. The proposed balcony would allow unrestricted views into residential flats at close proximity. The proposal would result in a significantly increased level of overlooking than that available on site at present, contrary to policy A1 of the Camden Local Plan, and refusal is warranted on this basis.
- 4.4 Given the proposal would increase the size of openable elements within the existing fenestration (replacing a total of 3 windows with double doors to the ground floor, and replacing a sash window with a glazed door at first floor), and would include the formation of a wrap-around balcony, it is likely to result in additional levels of noise.
- 4.5 CPG Amenity (2018) outlines that a Noise Impact Assessment would be expected to support an application for noise generating entertainment proposals. It is noted that residential occupiers live within the vicinity. The additional access doors and balcony would both be accessible to patrons of the public house and would likely result in additional levels of noise.
- 4.6 Given the proximity to the residential accommodation, the noise generated by the extended use of the external part of the licensed premises would be un-neighbourly and would materially harm the living conditions of nearby occupiers. There is no mitigation made to limit any noise transference, or evidence submitted to demonstrate that the proposal would not result in undue

harm to neighbours.

- 4.7 The proposal would likely generate additional levels of noise than that currently experienced on site. In the absence of a Noise Impact Assessment (or similar report), or any mitigation for such noise, the proposal would unduly impact on neighbouring occupiers and would be contrary to policies A1 and A4 of the Camden Local Plan. Refusal is warranted on this basis.

## **5.0 Transport**

- 5.1 Typically a Construction Management Plan (CMP) would not be necessary for a development of this type/scale. However, this development is in a busy central London location, and is on streets with no loading or unloading permitted at any time. Therefore to minimize the impact on the highway infrastructure and neighbouring community, the Council would seek to secure a CMP and a CMP implementation support contribution of £3,136 as section 106 planning obligations in accordance with policy A1 of the Camden Local Plan.
- 5.2 Given the context of the recommendation this consequently forms a further reason for refusal of the application, although an informative will also specify that without prejudice to any future application or appeal, this reason for refusal could be overcome by entering into a legal agreement in the context of a scheme acceptable in all other respects.

## **Recommendation**

Refuse planning permission

## Appendix 3



## Appeals Decisions

Site visit made on 21 January 2020

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

**Decision date: 20<sup>th</sup> February 2020**

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**Appeal A: Ref: APP/X5210/C/19/3221268**

**Appeal B: Ref: APP/X5210/C/19/3221184**

**82 Camden High Street, London NW1 0LT**

- Appeal A is made by Emre Kubilay. Appeal B is made by Redcourt Limited. Both appeals are made under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: EN18/0327) issued by the Council of the London Borough of Camden on 19 December 2018.
  - The breach of planning control alleged in the notice is "the installation of a recessed shopfront with bi-folding doors".
  - The requirements of the notice are as follows: -
    - "1) Remove the recessed shopfront and bi-folding doors and make good on any damage caused; and
    - 2) Reinstall a shopfront to replicate the design, position and opening method of the previous shopfront as shown on drawing A101 (Pre-existing plan and front elevation) See Appendix 1".
  - The period for compliance with these requirements is three months.
  - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f). Appeal B is proceeding on the grounds set out in section 174(2)(e), (f) and (g). Since Appeal A includes ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
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### **Appeal B: application for costs**

1. The appellants' application for costs against the Council is dealt with by a separate decision.

### **Appeals decisions**

*Appeal A: Ref: APP/X5210/C/19/3221268*

2. The appeal is allowed on ground (a), the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the installation of a recessed shopfront with bi-folding doors at 82 Camden High Street, London NW1 0LT.
3. The appeal made on ground (f) no longer falls to be considered.

*Appeal B: Ref: APP/X5210/C/19/3221184*

4. The appeal made on ground (e) is dismissed.
-

5. The appeal made on ground (f) and the appeal made on ground (g) no longer fall to be considered.

### **Reasons for the appeal decisions**

#### *Appeal B: ground (e) and the validity of the enforcement notice*

6. Section 172(2) requires a copy of the enforcement notice to be served on the owner and occupier of the land to which the notice relates and on any other person having an interest in the land, being an interest which, in the opinion of the Council, is materially affected by the notice. In the present case, the Council's list of persons served shows that this requirement has been complied with. The appellants were served as the owners of the freehold of the land.
7. Section 173 requires an enforcement notice to state the matters which appear to the Council to constitute the breach of planning control and to specify the steps which are to be taken. These steps may include the restoration of a building to its condition before the breach took place. The notice must also specify the precise boundaries of the land to which it relates, whether by reference to a plan or otherwise.
8. These requirements have been met in the present case, since the notice states what is the breach, specifies the steps to be taken and identifies the land by its address and by reference to the plan attached to the notice. It was the intention of the Council to attach to the notice a copy of the drawing A101 referred to in Requirement 2, but the Appendix 1 was omitted in error. No-one can, however, be in any doubt that the notice requires elements of the shopfront to be restored to their previous condition as shown on the drawing referred to. The drawing is readily available and it is not essential to attach a copy of it to the notice.
9. The appeal on ground (e) and the challenge to the validity of the notice have both failed.

#### *Appeal A: ground (a)*

10. The main issue in deciding whether planning permission should be granted concerns the effect the shopfront has on the street scene and the Camden Town Conservation Area.
11. In reaching my conclusions on ground (a), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The Conservation Area Appraisal and Management Strategy identifies this part of Camden High Street as a commercial area with single-storey shops occupying what were originally front gardens. The document notes that shopfronts here "have been replaced or altered periodically, resulting in little uniformity". It states that "many more recently constructed shopfronts contribute to the eclectic and often distinctive character of the area". However, the shopfront shown on the drawing referred to in the notice did not do this. It had no historic or conservation significance. The original pilasters had been retained, however, as they have been in the new shop front.
12. The basis of the Council's opposition to the new shop front is that it creates "a void in the streetscene" that disrupts "the flow and appearance of the street and Conservation Area" and that "A recessed shopfront with bi-folding doors is

not part of the character of this part of Camden High Street". The Council also point to the advice in Camden Planning Guidance Design CPG1, which states:

"Folding shopfronts are not generally acceptable, particularly those on historic buildings such as listed buildings and those in Conservation Areas. When open, they erode the appearance of the shopfront, creating a visual void, and can increase disturbance to neighbouring properties, particularly in the case of food and drink premises. When closed they appear as a row of doors rather than a shopfront. This creates a heavier appearance than a shopfront mullion and reduces the area of glass in the shopfront."

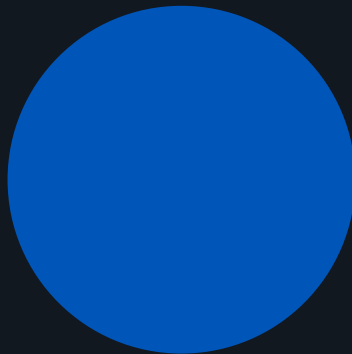
13. As a result, the Council maintain that the new shop front is contrary to Policies D1, D2 and D3 of the Camden Local Plan. Policy D1 deals with the design of development and sets out a list of criteria, which include the protection of heritage assets and the street frontage. Policy D2 contains measures for the preservation of conservation areas. Policy D3 deals with shopfronts; it indicates that a high standard of design will be expected in new shopfronts and lists the matters that will be considered. These matters include: the design of the shopfront, including its details and materials; the 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; and the general characteristics of shopfronts in the area. I have taken all these matters into account.
14. My assessment of the new shopfront differs very much from that of the Council. I do not consider that, when open, the shopfront creates "a void in the streetscene": instead, it appears as an invitation to enter and make use of the facilities on offer, and it therefore makes a contribution to the vitality of the commercial frontage. When closed, the shopfront does not "appear as a row of doors": its design, and the materials used, are high-quality and appropriate to their setting within the street and the conservation area. This is a busy commercial frontage with many food and drink outlets and the nearest residents would not in my opinion experience a loss of amenity when the doors were open.
15. I agree with the Council that a recessed shopfront with bi-folding doors is not part of the character of this part of Camden High Street but, as the Conservation Area Appraisal and Management Strategy points out, shopfronts here have been replaced or altered periodically, resulting in little uniformity. In my view, the new shopfront should be treated as another shopfront that contributes to "the eclectic and often distinctive character" of the conservation area and the street scene. As such, it makes a positive contribution to the character and appearance of the conservation area and the street scene, and is not in conflict with Policies D1, D2 and D3 of the Local Plan.
16. For the reasons set out above, Appeal A has succeeded on ground (a) and planning permission has been granted for the new shopfront. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are needed.

*Appeal A: ground (f) and Appeal B: grounds (f) & (g)*

17. Since Appeal A has succeeded on ground (a), planning permission has been granted and the enforcement notice has been quashed. Grounds (f) and (g) therefore no longer fall to be considered.

*D.A.Hainsworth*

INSPECTOR



**Firstplan Ltd**  
Broadwall House  
21 Broadwall  
London, SE1 9PL

T: 020 3096 7000  
[www.firstplan.co.uk](http://www.firstplan.co.uk)