

Delegated Report		Analysis sheet	Expiry Date:	30/11/2020
		N/A	Consultation Expiry Date:	06/12/2020
Officer			Application Number(s)	
Nora-Andreea Constantinescu			2020/4550/P	
Application Address			Drawing Numbers	
183 Drury Lane London WC2B 5QF			See draft decision notice.	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Change of use of basement and ground floors from tattoo studio (Sui-Generis) to take-away (Sui-Generis), to include extractor flue to side elevation.				
Recommendation(s):		Refuse planning permission		
Application Type:		Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	16	No. of objections	16
Summary of consultation responses:	<p>Site notices were posted on site on 06/11/2020 and expired on 30/11/2020. Press notices were advertised from 12/11/2020 and expired on 06/12/2020.</p> <p>Objections in relation to the proposed development were received from neighbouring occupiers at nos. 182A Drury Lane, 8 Parker Street, 17 Tavistock Cambers, 4 Stukeley Street, Flat 5 Goldsmith Court Stukeley Street, on the following grounds:</p> <ul style="list-style-type: none"> • Extract flue next to front door will pollute with smells and chemicals • Extract flue close to windows of bedrooms and living room will restrict opening windows • Antisocial behaviour • Rubbish and packaging will attract mice and rats • Delivery drivers will cause noise pollution and impact pedestrian flows • Close proximity to primary school St Josephs, impacts on health • Design of the extract flue is crude and out of keeping with the host building. • No indication where the air intake fan will be located. • Poor details in relation to sound insulation to the flat above • Contrary to policy as it would result in three consecutive premises in non-retail use • Large proliferation of take-away premises in the area <p>A petition from residents at Goldsmith Court Stukeley Street flat nos. 1, 3, 5, 6, 8, 9, 10, 12, 13, 14, 15 has been submitted which raises the following concerns in relation to the proposals:</p> <ul style="list-style-type: none"> • It will cause disruption and disturbance due to noise • Increase in antisocial behaviour 					
Covent Garden Community Association (CGCA)	<p>CGCA have objected to the proposed scheme on the following grounds:</p> <ul style="list-style-type: none"> • Proposal is for a take-away not restaurant • Close proximity to primary school St. Joseph impact on health • Extraction system has negative impact on surrounding buildings, occupiers and the immediate area • In the event that a replacement extraction system is accepted, fuller plans are required and following conditions to be attached: <ul style="list-style-type: none"> • Machinery, plant or equipment and ducting shall be mounted with anti-vibration isolators. • Cleaning schedule and/or maintenance contract for the intake, extract and odour control systems • All equipment turned off outside the opening hours, and not 					

exceed 9am to 10pm each day.

- No odour from the premises to cause public nuisance

**The Covent Garden
Housing Co-op**

The Covent Garden Housing Co-op has objected to the proposed scheme on the following grounds:

- Increase in antisocial behaviour
- No parking available for delivery cars/scooters
- Goldsmith Court – block with high concentration of elderly and disabled residents – their health wellbeing would be affected
- Increase in street rubbish and food packaging

Site Description

The application site is located on the northern side of Drury Lane on the junction with Stukeley Street. The building has two storeys and basement level and it is currently occupied at the ground floor and basement by a Tattoo Parlour and the upper floor is in residential use.

The building lies within Seven Dials (Covent Garden) Conservation Area and it is considered a positive contributor as well nos. 182 and 181.

Relevant History

Relevant planning records at the application site:

2010/4133/P - Change of use from retail (Class A1) to tattoo studio (Sui Generis) at basement and ground floor level. – **Granted 21/09/2010**

Relevant planning records at the neighbouring sites:

2009/5376/P – 186 Drury Lane - Retention of existing use as a cafe/restaurant (Class A3) at ground and basement levels and retention of existing extract flue to south flank facing wall at rear of the property. – Refused 14/09/2010

RfR1: The loss of a retail unit (Class A1) and its replacement with a restaurant use (Class A3) would fail to contribute to local character, function, vitality and viability and in particular would detract from the mix of uses in the area.

RfR2: The retention of the extract flue is considered to be detrimental to the amenities of the adjoining occupiers by virtue of loss of outlook and noise and disturbance from its operation and maintenance. It also fails to either preserve or enhance the character or appearance of the conservation area.

Appeal Decision dated 15 February 2021 allowed the change of use (RfR1) but dismissed the extract flue (RfR2).

Relevant policies

National Planning Policy Framework 2021

London Plan 2021

London Borough of Camden Local Plan 2017

DM1 Delivery and monitoring
A1 Managing the impact of development
A4 Noise and vibration
D1 Design
D2 Heritage
TC2 Camden's centres and other shopping areas
TC4 Town centre uses
T1 Prioritising walking, cycling and public transport
T2 Parking and car-free development
T4 Sustainable movement of goods and materials
DM1 Delivery and monitoring

Camden Supplementary Planning Guidance 2021

CPG Town centres and retail
CPG Design
CPG Amenity
CPG Transport
CPG Health and Wellbeing

Covent Garden (Seven Dials) Conservation Area Appraisal.

Assessment

1. Proposal

The applicant seeks planning consent for change of use of basement and ground floors from tattoo studio (Sui-Generis) to take-away (Sui-Generis). The proposal would include the installation of an extractor flue to side elevation, with a width of 0.4m, depth 0.29m, height 4.35m, projecting from 2.6m above ground level.

2. Considerations

The main issues for consideration area:

- The principle of development
- and the effect of the proposal on the retail function, vitality, and viability of the Covent Garden Specialist Shopping area;
- The effect of the proposal on the living conditions of the occupiers of neighbouring residential dwellings with particular regard to noise and odour;
- The effect of the proposal on the health of the local community;
- The effect of the proposal on the character and appearance of the conservation area;
- Other matters.

3. The principle of development and the effect of the proposal on the retail function, vitality, and viability of the Covent Garden Specialist Shopping area

The application site lies within Covent Garden Town Centre and within the Central Activity Zone as defined in CPG Town Centres and Retail 2021. Covent Garden is an internationally significant shopping and entertainment destination and a major attractor of tourists. The area performs a specialist fashion retailing role with a high proportion of independent retailers. The area has a fine grain of development with mostly smaller sized shop premises. It has almost 60% of shopfronts in A1 shop use, among the highest proportions in Camden's shopping streets. Policies TC2 and TC4 aim to ensure the vitality and vibrancy of the shopping centre is maintained by future development.

The application site is located within a peripheral part of the Covent Garden shopping area which is characterised by shops serving a more local catchment comprising hotels, businesses and residential uses in the area. It is at the end of a terrace extending from no. 174 that is designated as secondary frontage. The CPG Town Centres and Retail does not set any minimum threshold for retail units in the secondary frontages of the Covent Garden Specialist Shopping Area. Also the previous occupied use of the unit would not have been considered a retail use under the former A1 Use Class which policies TC2 and TC4 primarily aim to protect. Therefore the change from the current use to a use outside of either former A1 or the Class E uses that have superseded it, is not considered harmful to the retail function or character of the specialist shopping area as a whole.

The proposed use as a hot food takeaway would formerly have been classed as an A5 use and as such considered acceptable in principle for location in a shopping centre subject to its specific impacts on the balance of uses in the area and effects on the amenities of any neighbouring residential uses in particular. The new Use Classes Order has subsumed most of the former A-Class uses along with

business (former B1) and health and beauty treatments (formerly part of the D1 use class) under a single use class, namely Class E. Local Planning Authorities therefore now have less ability to distinguish between the relative impacts of these uses in exercising their development management functions; however class A5 (hot food takeaways) along with A4 (drinking establishments) have now been deemed as Sui-Generis uses and control is therefore retained over these. The impacts of the proposal on the amenities of the specialist shopping area and its residents in particular are therefore considered in the following section.

4. The effect of proposal on the living conditions of the occupiers of neighbouring residential dwellings with particular regard to noise and odour

The first floor level of the application site is in residential occupation, as well as most of the upper floors of the properties within the terrace row the application site is part of. Similarly, the upper floors of the terrace along to the north of the site are in residential occupation and this includes Goldsmith Court, a five-storey block of flats, which sits to the north of the application site at a distance of approximately 4.5m. As such, residential occupation surrounds the site in very close proximity and would nevertheless be impacted by the proposed takeaway use proposed.

In recognition of the dense, fine grain mix of uses in the area and potential harm that may be caused by the increased presence of food, drink and entertainment uses to the amenities of residential uses in particular, CPG Town Centres and Retail takes the same restrictive approach within primary and secondary frontages alike to control such uses in the Covent Garden Specialist Retail Area. Maximum proportions of former A3, A4 and A5 Class use combined in each individual frontage is set at 25% and no more than 2 consecutive non retail uses, with a maximum of 100sqm for food, drink and entertainment uses.

	Application site Frontage	Current Use within Use Class e Order	Old Use within Use Class Order
1	No. 183	Sui-generis – tattoo	Sui-generis / Proposed A5
2	No. 182	Class E – café	A1
3	No. 181	Class E – escape room	A1
4	No. 180	Class E – beauty salon	A1
5	No. 178-179	Class E – shop	A1
6	No. 177	Class E – hairdresser	A1
7	No. 176 (A3)	Class E – restaurant	A3
8	No. 175	Class E - shop	A1
9	No. 174	Class E – shop	A1
	Total at application site frontage	77.77% Class E / A1 11.11% Class E / A1 (café) 11.11% Class E / A3 11.11% Sui-generis/ A5 (app site)	6 x A1 (retail); 1 x A1 (café) ; 1 x A3; 1 x sui-generis (app site)

Fig. 1 – Summary of properties and their use within the application (secondary) frontage along the street based on latest Council's retail survey 2019-2020 and street view images.

Within the application frontage which comprises 9 units within Nos. 174-183, Class E uses within former A3 and A4 Use Classes and the proposed Sui-generis take-away (previous A5 Class use) would make up 33% of the frontage. This would exceed the maximum threshold of the area guidance.

Furthermore the CPG goes on to state that the Council will also take into account the number and mix of uses adjacent and opposite premises in assessing applications.

Within close proximity to the site (along 160m of Drury Lane), within 30 properties, including the application site, there are 53.33% premises in retail use (formerly A1), and 30% in food, drink and entertainment (formerly A3/ A4). As the application site is not currently in retail use, the proposal would not result in the loss of a protected use within the town centre; however, the proposed take-away use would add to the food, drink and entertainment uses along this stretch of Drury Lane, which would result in harm to the mix and balance of uses in the area and to the residential amenity due to the dense built form and fine-grained mix of uses as detailed in the next section below.

It is noted that neighbours have raised concerns in relation to the overconcentration of food, drink and take-away uses; however, there are no planning records for take-away (previous A5 class use) along Drury Lane. Since March 2020, the Government has granted permission for pubs and restaurants to operate as takeaways, as part of Coronavirus Pandemic response. This permission is ongoing until 23 March 2022, and the use must stop before that date. As such, it is likely that the existing food and drink premises operate as take-aways under the government new regulations which were already commenced during the life of this application.

Policy A1 of the Local Plan seeks to protect the quality of life of occupiers and neighbours. The factors to consider include: noise and nuisance from comings and goings, including those from motorised vehicles, noise and vibration levels from plant equipment, odour, fumes and dust. Policy A4 also seeks to ensure that noise and vibration is controlled and managed. The policy notes that the Council will not grant planning permission for development likely to generate unacceptable noise and vibration impacts, and will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity.

The application is accompanied by a Noise Impact Assessment, in relation to the proposed kitchen extractor system. The background noise survey as part of the assessment, was conducted over an approximate 1hr period in the evening (21:15-22:30) of 8th of April 2021. The proposed openings hours are across the full week, and therefore the Council's environmental health officers do not consider that the survey is representative of the hours that the proposal would mainly operate.

Furthermore, the assessment has taken into account the noise guidelines of the Noise Policy Statement for England, National Planning Policy Framework (NPPF), Planning Practice Guidance on Noise, BS4142:2014; however, it failed to consider the criteria as set out in policy A4 of Camden Local Plan 2017.

Based on the unrepresentative survey, the assessment indicates that the proposed extract system would generate -1dB below the background noise levels, which does not comply with -10dB below background and 15dB below background if the noise is tonal, as set out in Camden Local Plan policy A4 criteria. As such, it is considered that the noise from the proposed extract would result in harm to residential amenity at nos. 183 above the application site, and residential properties at the upper floors of no. 184 opposite the site along Stukeley Street, and the application will be refused on these grounds.

The odour risk from the proposed kitchen facility was classified as high, and mitigation measures have been proposed suitable for this category, such as grease filtration system, carbon filtration, odour neutralisation. If the application was otherwise considered to be acceptable, a suitable planning condition could ensure that the mitigation measures were installed prior to the first use of the premises, and permanently retained thereafter.

Local residents have stressed the existing issues of anti-social behaviour already experienced in the area, given the central London location and specific urban grain, with narrow Stukeley Street adjacent to the application site to the north and wide large steps to enter Travelodge in front of the premises. Take-away uses by their nature have potential to generate disruption and disturbance to the local residential amenity, due to the number of comings and goings and type of delivery and collection vehicles potentially associated with these.

The proposed opening hours differ within the documents provided by the applicant. The opening times set out in the application form are Monday – Friday: 10:00 – 22:00; Saturday: 10:00 – 23:00; Sunday: 11:00 – 22:00. As the proposed use of takeaway would extend late into the evening, this would attract people at the premises late at night, when residents would expect to enjoy more peace and quiet. This would cause significantly more noise and disturbance to the residents of neighbouring properties than transient passers-by. The noise generated from the customers and delivery drivers arriving and departing from the ground floor premises, talking and congregating in groups on the pavement outside, on narrow Stukeley Street or the steps of Travelodge, would cause unacceptable harm to the amenity and safety of the residents above and in immediate vicinity.

Within a dense urban grain such as on Drury Lane, the proposed use has the potential to worsen the existing issues of anti-social behaviour and generate significant harm to the residential amenity. Given the existing provision food, drink and entertainment uses within the close vicinity of the site (e.g, The White Hart Pub (no. 191), Kanghai Pocha restaurant (no. 176)), and the comings and goings associated with this type of uses, the cumulative noise and disturbance to be generated as a result of the proposed use, would result in harm to the residential amenity and to the mix and balance of uses in the area. As such, this would constitute a reason for refusal.

In relation to waste management, a waste and recycling plan was provided which includes basic information about the way the waste would be stored within the premises and outside it on collection days. This is not considered sufficient to demonstrate how litter and food debris would be managed on and off site, during the operation of the use and after closing hours. Given the nature of the proposed use, the potential of litter and food debris to harm the neighbouring amenity is high. As such, it is considered the proposed use would result in harm to the residential amenity due to the litter and food debris associated with it, and would constitute a reason for refusal.

5. The effect of the proposal on the health of the local community

Policy TC4 states that the Council will consider the health impacts of the development of new hot food take away in the borough. Furthermore, policy E9 D (Retail, markets and hot food takeaways) of London Plan 2021 states that development proposals containing A5 (hot food takeaway) uses should not be permitted where these are within 400 metres walking distance from the entrances and exists of an existing or proposed primary or secondary school.

St Josephs Primary School sits at 160m distance from the application site (2 min walking distance). Given this very close proximity, it is considered that the proposed use which includes provision of fast food take-away, would be contrary to the aims and objectives of policy TC4 and E9, and could threaten public health by promoting an obesogenic environment, and therefore the application will be refused on these grounds.

6. The effect of the proposal on the character and appearance of the conservation area

The application site lies within the Convent Garden (Seven Dials) Conservation Area, wherein the Council has a statutory duty, under section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The proposed external change subject to the proposed change of use would be a new flue extract on the elevation along Stukeley Street. The extract due to its dimensions, scale and prominent position on the street elevation of the building, would appear as an incongruous addition which would detract from the character and appearance of the area. As identified above, there are several premises used for food, drink and entertainment within the area, however, no flues or other ventilation/extract systems are visible from the public realm in such a prominent location as proposed.

The application property is considered to make a positive contribution to the conservation area and

given the statutory duty to ensure that any development would preserve or enhance the character of the host building and wider Covent Garden conservation area, it is considered that the proposed extract flue would not preserve, nor enhance, but rather harm this character. The proposals would be therefore refused on those grounds.

7. Other matters

In terms of transport, policy T1 promotes sustainable transport by prioritising walking, cycling and public transport. Policy T2 seeks to limit the availability of parking; and Policy T4 promotes the sustainable movement of goods and materials and seeks to minimise the movement of goods and materials by road.

Given the Central London location, the site is easily accessible by public transport, with a PTAL rating of 6b. The site does not have any off-street parking and none is proposed, which is acceptable.

A Servicing and Customer Management Plan has been submitted, however this does not include any details about deliveries, or servicing of the premises. Without the adequate information the officers cannot assess if the proposals would result in harm to the neighbouring amenity. In the event that the proposals were acceptable, a detailed servicing and customer management plan would have been secured by condition.

8. Recommendation

Refuse planning permission.