

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 8 February 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved St James's	
Subject of Report	21 The Market, Covent Garden, London,		
Proposal	Addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant.		
Agent	FIMA Architecture and Planning Ltd		
On behalf of	FIMA Architecture and Planning Ltd		
Registered Number	21/06621/FULL	Date amended/ completed	27 September 2021
Date Application Received	27 September 2021		
Historic Building Grade	II*		
Conservation Area	Covent Garden		

1. RECOMMENDATION

Grant conditional permission.

2. SUMMARY

The application relates to an external area located outside the Covent Garden Market Building, which is a Grade II* listed building located within the Covent Garden Conservation Area.

Planning permission is sought for the installation of a new external bar and a pizza oven within the existing area for outdoor seating in connection with the existing restaurant at 21 The Market.

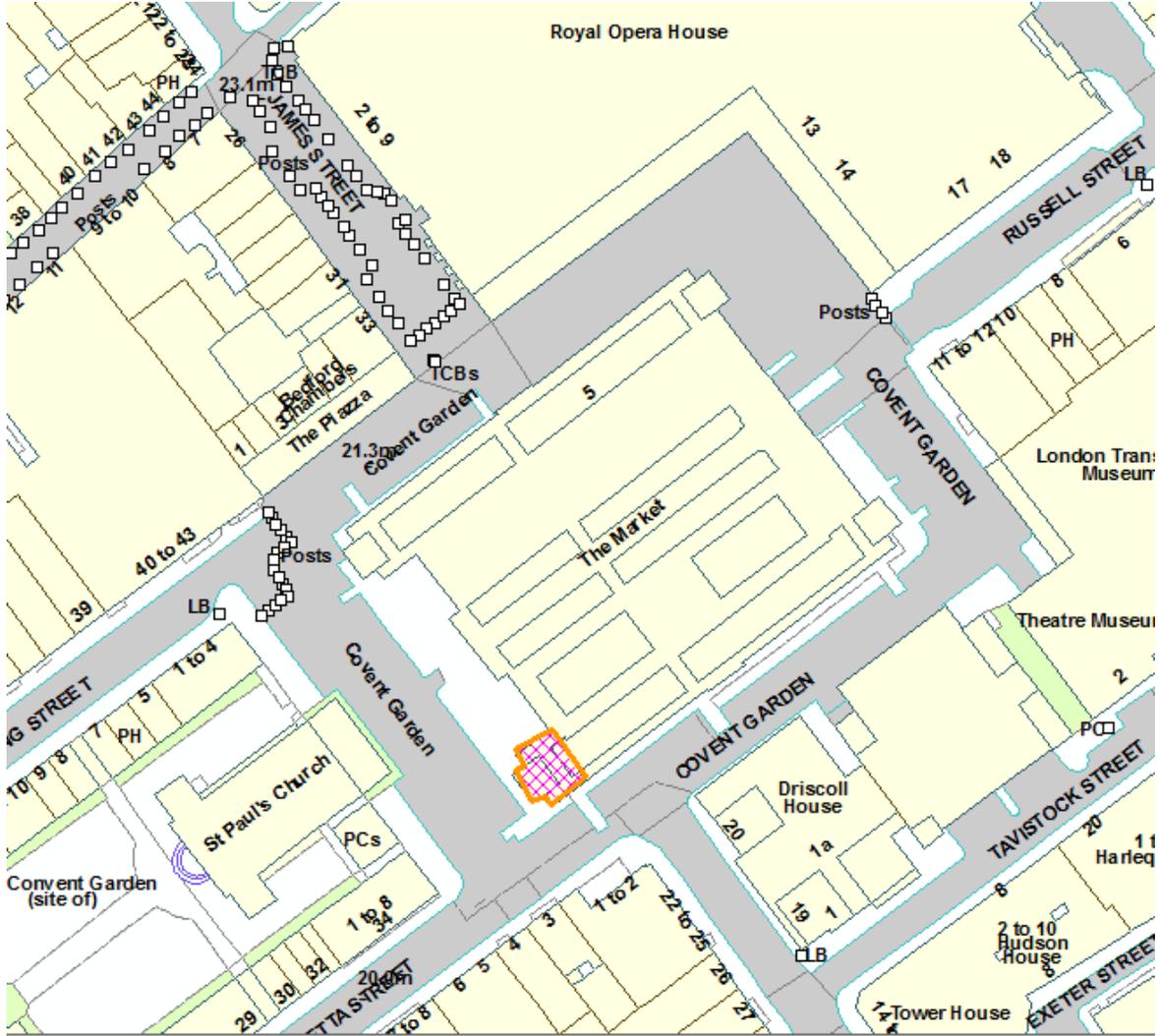
The Covent Garden Area Trust and the Covent Garden Community Association raise strong objection on design grounds, including the impact of the proposals on the setting of the Market building and on the appearance and function of the Piazza.

The key issues in this case are:

- The impact on the setting of the Grade II* listed Market Building, the impact on the quality and heritage value of the open space of the Covent Garden Piazza and on the townscape generally; and
- The impact on the function of the highway.

While the placement of such items would not normally be considered acceptable in such a sensitive location, given the economic challenges created by the COVID-19 pandemic, the proposals are recommended for approval for a temporary one year period.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Existing outdoor seating area



Western side of the Market

5. CONSULTATIONS

COVENT GARDEN AREA TRUST:

28 October 2021

Objection due to concern about the increase in applications of this type in particular as COVID-19 restrictions have been lifted. Concerns about the cumulative impact on the setting of the Grade II* Market building and appearance and function of the Piazza.

The Trust refers to a committee report for application 20/03048/FULL which clearly states that as long-term installation the placement of such items would not normally be considered acceptable in such a sensitive location.

The Trust also refers to the forthcoming Covent Garden Public Realm Framework document which states that whilst bars or serveries may have been justifiable in the context of the COVID-19 restrictions on internal hospitality operations, these facilities are no longer seen to be acceptable or necessary.

The Trust has no objection to the principle of al-fresco dining served from existing indoor units but is opposed to the creation of large outdoor kitchens. The scale of the proposal is disproportionate to the size and operation of the unit and the external dining area can be served from inside without external service area or oven.

The Trust considers that the application fails to assess the visual impact of such installation on the setting of the Market Building, the Piazza and the surrounding listed buildings and there are concerns that the items will cause harm. There is concern that was introduced it will be difficult to remove these installations and there be a continued erosion of the character of the Piazza and the damage to the setting of the Market Building. The proposals are contrary to Policy 39 of the City Plan (2019-2040), Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraph 192 of the NPPF.

14 January 2022

Reiterate their objections due to fear that this would lead to a host of similar applications even after restrictions had been lifted have been proven. It would seem unreasonable and inappropriate to be offering even a temporary permission for such a highly impactful proposal. Furthermore, no business case has been provided in support of this application. These external kitchens are large and visually intrusive; they remain in-situ 24/7 and are not cleared away at the end of a working day. It is the Trust's assertion that the piazza must not be seen as an extension of a unit's internal commercial space, and if a business cannot operate within the unit it has taken on, it is clearly occupying the wrong premises.

A temporary permission for such a highly impactful proposal when there are no restrictions on indoor hospitality would inevitably set a dangerous precedent and lead to other units seeking to renew the temporary permissions they gained during restrictions or to make new applications.

These outdoor serveries and kitchens are entirely inappropriate within the setting of the piazza and have had a dramatically detrimental effect on the character and appearance of Covent Garden which needs to be carefully controlled.

COVENT GARDEN COMMUNITY ASSOCIATION

Objects due to the proliferation of outside utilised within the market area creating visual clutter and detracting from the historic market buildings themselves.

The Covid emergency situation is now easing as can be seen from the numbers of people who have returned to Piazza and there is not such a great need for outdoor seating as there was. The unit benefits from consideration inside area and the substantial kitchen can provide Pizza. The Association does not consider that a Pizza oven will necessarily promote the area as there is evidence that tourism is returning and it will not enhance the special architectural and historic interest of the listed building. There is a likelihood of unpleasant smells and may attract take-away causing rubbish issues. The Association also points out that the unit plays DJ-style music on outside speakers which causes a nuisance.

HIGHWAYS PLANNING

It is on an area of land, at least partially, that is public highway, albeit not public highway that is maintained by the Council. The tables and chairs that are currently there have been there for many years and were the subject of a CLEUD application in 2017 (17/05216/CLEUD) and there are no conditions that therefore requiring the furniture to be put away at night, so in effect the land cannot be used by pedestrians. The idea of a permanent structure is not liked given that it could be considered to be highway, but given the above it is difficult to justify a refusal on highway grounds.

ENVIRONMENTAL HEALTH:

An electric pizza oven will produce much less fumes and it may be possible to place it with the table and chairs without it causing nuisance. However whether it causes nuisance may depend on if the site is completely surrounded, if openable windows are immediately above, how often it will be operating etc

I understand in this case the pizza oven is to be placed in the Covent Garden Market Square and the immediate above premises will be the restaurant operating the oven.

I believe therefore it is unlikely to cause nuisance to other parties and can be permitted. An informative should be attached advising that it may still be subject to enforcement action by Environmental Health if odour nuisance results from how it is being operated.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 92

Total No. of replies: 0

No. of objections: 0

No. in support: 0

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

21 The Market is located on the south west corner of the Covent Garden Market Building, which is a Grade II* listed building in the Covent Garden Conservation Area. It fronts the Covent Garden Piazza to the west and Henrietta Street to the south. The site is within the Covent Garden Conservation Area and the West End Stress Area.

The unit occupies the basement to first floors, with the basement and first floors being considerably larger than the ground floor. Entrances are at ground floor level, onto the Piazza, and at basement level into the south well of The Market building. The unit is a restaurant and bar. In 2017, Westminster City Council issued a certificate of lawful development (existing) confirming the use of two areas of the Piazza directly of the north and west of 21 The Market for the placing of external seating, in connection with the existing restaurant/bar use of the unit, is lawful because of the length of time it had been there.

The umbrellas and servery benefit from planning permission in 2012. The screen with planters have been introduced more recently and were not part of the certificate application and do not benefit from planning permission.

6.2 Recent Relevant History

In August 2017, the City Council granted a certificate of lawfulness for the use of two areas of The Piazza adjacent to 21 The Market for the placing of external seating in connection with Class A3/ A4 use of the unit (RN: 17/05216/CLEUD).

In September 2012, the City Council granted planning permission and listed building consent for the erection of external servery and umbrellas and minor internal works. (RNs: 12/03733/FULL and 12/03734/LBC).

In July 2011, the City Council granted planning permission and listed building consent for the installation of four fixed umbrellas to south western terrace with associated works (RNs: 11/02944/FULL and 11/02945/LBC).

In May 2003, the City Council refused listed building consent for alterations to pavement flagstones to facilitate service connections, in connection with the siting of an external servery barrow for a period of nine months in any one year (RN: 02/03874/LBC) on the grounds of effect of the service connections in facilitating the permanent siting of the servery at this location, the alterations to the flagstones would harm the setting and special architectural and historical interest of this Grade II* listed building and the setting of adjacent listed buildings. The subsequent appeal was dismissed.

7. THE PROPOSAL

This application relates to an area of The Piazza directly to the west of 21 The Market. Permission is sought for the addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant.

The existing external seating in this area will be decreased from 46 to 34 to accommodate the pizza oven and pizza preparation bar. The supporting documents explain that the objective of the scheme is to support the use of the outdoor seating area as the restaurant has been economically affected by the Covid-19 pandemic.

Upon officers' concerns, the agent has confirmed the proposed items would be installed for one year only and then permanently removed.

8. DETAILED CONSIDERATIONS

8.1 Land Use

City Plan Policy 43 deals with commerce in the public realm. The policy supports outdoor seating that can help sustain businesses by adding to their offer.

The proposed pizza bar preparation area and a pizza oven would be temporary (one year) and they are proposed in a context of post-pandemic recovery. The restaurant and retail industry in central London has been greatly affected by a fall in visitor numbers. The existing occupier of the unit seeks to animate its outdoor seating for a temporary period to help it attract customers during the post-pandemic recovery.

Central government messaging and recent temporary changes to planning legislation have sought to encourage an approach which stimulates the economy, to help mitigate the economic impact of the Covid-19 pandemic. Notably, this has involved promoting measures which enable town and city centres to 're-open' and attract visitors. The City Council has also worked hard to be flexible and help businesses coming out of the Covid pandemic, granting more generous permissions for alfresco provision until the latter part of 2022 – including notably in the Covent Garden area.

The Covent Garden Area Trust and the Covent Garden Area Trust contend Covid-19 restrictions are easing and tourists are returning to the Piazza so there is no justification for the installation of such items on economic grounds.

The installation of external cooking equipment and food preparation areas for long periods within the public realm would conflict with City Plan Policy 43 which seeks to resist permanent or semi-permanent structures being placed within the public realm. However, in this instance the installation is proposed as a temporary measure to help support the existing business. While restrictions have eased as the amenity societies note, the effects of the pandemic emergency are still being felt by businesses – helping their economic recovery post-Covid remains important therefore. Further, given the proposed cooking equipment would be located within an existing permanent outdoor seating area, it is considered that a flexible approach in this instance is appropriate. Permitting the proposals for one year would allow for the permission to end at the same time as the other al-fresco permissions allowed within Westminster and the Covent Garden Area.

The Covent Garden Community Association is also concerned that the new installation will be used for take-away purposes. It is understood that the bar/preparation area and pizza oven will be for users of the outdoor seating area only. And a condition is recommended to ensure this is the case and that takeaway provision is not allowed.

8.2 Townscape and Design

The Market Building is a Grade II* listed building and within in the Covent Garden Conservation Area. In addition to the placing of a pizza oven and pizza bar counter associated works are proposed involving the installation of a new manhole with services running below the existing cobbles and pavement covers under the Piazza itself. The application also proposals to retain the existing parasols, screens and planters within the area.

The main design consideration is the impact of the retention of the parasols and enclosing screens with planters and the proposed placement of the bar/preparation area and pizza oven on the setting of the Grade II* listed Covent Garden Market Building and on the character and appearance of this part of the Covent Garden Conservation Area. The bar, pizza oven and planters with screens would remain in place at night. Following discussions with officers, the applicant has confirmed that the items would be installed for one year only and would then be permanently removed from the outdoor seating area and confirm their agreement to any permission granted being conditioned to expire at a similar time to other temporary allowances approved nearby.

Visually, the impact upon the setting of the Market Building principally arises from views approaching from Henrietta Street and from vantage points at the western end of the Piazza. There are parasols covering tables and chairs which already impact on the appreciation of the elevation of the south-west pavilion lodge and its inner facing balconied colonnade. The existing parasols and planters with attached glazed screens which cover and enclose the existing approved seating area benefit from permission and were not covered by the 2017 Lawful Development Certificate. These elements have therefore been included in this application.

Legislation

The key legislative requirements in respect to designated heritage assets are as follows: Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that "In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 66 of the same Act requires that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

Section 72 of the same Act requires that "In the exercise, with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Furthermore Chapters 12 and 16 of the NPPF require great weight be placed on design quality and the preservation of designated heritage assets including their setting. Chapter 16 of the NPPF clarifies that harmful proposals should only be approved where

the harm caused would be clearly outweighed by the public benefits of the scheme, taking into account the statutory duty to have special regard or pay special attention, as relevant. This should also take into account the relative significance of the affected asset and the severity of the harm caused.

Considerations

The Covent Garden Area Trust and the Covent Garden Community Association have strongly objected on a number of grounds relating to design, including the impact of the proposals on the setting of the Market Building and on the appearance and function of the Piazza. The Trust has expressed concern about the cumulative impact of similar proposals and fear that it will not be possible to remove the installations when the temporary allowances end. The Trust encourages a comprehensive approach to be taken to such applications, given the harmful impact arising and potential for proliferation.

Officers fully appreciate that there must be a balance between preserving the open public space of the Piazza, space for street performance and al fresco dining, whilst avoiding blocking views to the listed Central Market buildings with ad hoc structures. The screens with planters included here are not a traditional element of outdoor seating provision and are harmful to the listed building. However being of a modest height comprising glazed panels set within planters, it represents an approach which has recently been approved for a temporary period at Sushi Samba at 35 The Market (RN: 20/03408/FULL) on the east side of the Market Building, and are would be acceptable for a one year period. The proposed bar/preparation structure and pizza oven are clearly not traditional elements of outdoor seating provision and if allowed permanently would significantly affect the setting of the heritage assets and represent a marked departure from the al fresco offer which the City Council has been consulting upon. Although having no physical impact on historic fabric, the siting of an external bar and pizza oven upon the Piazza in such close proximity to the Market Building is considered to lead to less than substantial harm to the relevant designated heritage assets, however the proposal's temporary one year duration is considered to be an important mitigating factor.

Central government messaging and recent temporary changes to planning legislation had sought to encourage an approach which stimulates the economy, as a consequence of the impact of the Covid-19 pandemic, notably promoting measures which enable town and city centres to 're-open' and attract visitors. As such the City Council has worked hard to be flexible and help businesses coming out of the Covid pandemic, granting more generous permissions for alfresco provision until the latter part of 2022. Allowing the proposals for a longer or on a permanent basis would not fall within the scope of the economic recovery, representing harm to the setting of the Grade II* listed Market building and to the Covent Garden Conservation Area in the form of incongruous and continued visual clutter which would not be necessary to allow the business to continue trading. The proposals are not considered to be acceptable as a long-term presence within such a sensitive location.

Whilst their external presence would be permanent for the duration of any permission granted, the items are themselves demountable and removable and so their impact on the Piazza, setting of the Grade II* listed Market Building and upon the character and appearance of the conservation area is reversible and would be restricted to the one

year duration sought. While the placement of such items would not be acceptable as a long term presence within such a sensitive location, for a temporary period of one year their impact would be more minimal. Overall, the proposal would cause 'less than substantial harm' to these heritage assets, but because it would be temporary, it would be at the low end of the 'less than substantial' spectrum.

Conclusions

In allowing the proposals for a temporary one year period, the harm caused to the setting of the Grade II* listed Market building and the Covent Garden Conservation Area in the form of these incongruous items of visual clutter would remain a temporary impact and would be offset by the public benefits of supporting the post-pandemic economic recovery of this existing business in the wake of these unprecedented times. The concerns from the Trust about the potential difficulty in removing such installations when introduced are noted, but it is accepted that the proposed items are clearly intended as temporary measures to stimulate the economic recovery of the existing restaurant and permission can be conditioned so as to restrict the duration of their presence accordingly.

As such, whilst being mindful of policies 38, 39, 40 and 43 of the City Plan, given the public benefits that would be delivered, which comprise supporting an existing business in post-Covid-19 economic recovery, the proposal is considered acceptable in terms of its impact on the designated heritage asset(s) for a temporary one year period. Therefore, the recommendation to grant conditional permission is compliant with the requirements of the NPPF and the statutory duties of the Planning (Listed Buildings and Conservation Areas) Act 1990.

It should be noted that as a long-term installation in the Piazza, the proposals would cause a higher degree of 'less than substantial' harm and it is likely it would be considered to be unjustifiable when considered against the benefits. Such a proposal would have an unacceptable impact on the setting of this important building, the townscape qualities of the Piazza and the Covent Garden Conservation Area.

8.3 Residential Amenity

The City Council places high priority on protecting residential amenity with Policies 7, 33 and 38. Those policies require that developments are neighbourly by protecting the local environmental quality from negative impacts. The nearest residential properties in this case are located in Henrietta Street (approximately 20m).

The site is located in a busy central London location, and the new items will only be used in connection with the existing outdoor seating area. It would not likely generate additional noise nuisance over the existing arrangement. A condition is recommended to prevent the use the installations when the outdoor seating is not in use and another requires details of how the items will be secured outside the operating hours.

With regards to impacts on local environmental quality, as raised by the Covent Garden Community Association, an electric pizza oven is proposed which would produce minimal fumes (particularly as compared to a gas or wood oven). Given the electric pizza oven will be placed in the Covent Garden Market Square and the premise immediately above it will be the restaurant operating the oven, it is not considered that it will cause a

nuisance in terms of odour but an informative is recommended to advise that enforcement action by Environmental Health were a nuisance to arise.

It is noted that the Covent Garden Community Association points out disturbance from music played through speakers. While no complaints to the Council's Environmental Health team can be found, a condition is recommended to ensure that music is not played externally within the installation of items.

For the reasons set out above the proposal is considered acceptable in amenity terms and to comply with policies 7, 33 and 38 of the City Plan.

8.4 Transportation/Parking

The Highways Planning Manager has been consulted and whilst the installation of permanent items on the highways is regrettable, given they are within an outdoor seating area which is lawful and there is no planning control requiring the existing furniture to be removed outside the operating hours it is not considered reasonable to resist the proposals on highways grounds in this instance because the new items are temporary.

8.5 Economic Considerations

The impact of the COVID-19 pandemic is a material consideration and, as set out earlier in the report, the proposal would allow the business to continue trading which is an economic benefit.

8.6 Access

The access to the unit and external seating area is not affected by the proposal.

8.7 Westminster City Plan

The City Plan 2019-2040 was adopted at Full Council on 21 April 2021. The policies in the City Plan 2019-2040 are consistent with national policy as set out in the National Planning Policy Framework (NPPF) (July 2021) and should be afforded full weight in accordance with paragraph 219 of the NPPF. Therefore, in accordance with s.38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan adopted in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 8.9). As set out in s.38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 49 of the NPPF, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.8 Neighbourhood Plans

Not applicable.

8.9 London Plan

This application raises no strategic issues.

8.10 National Policy/Guidance Considerations

The City Plan 2019 - 2040 (April 2021) policies referred to in the consideration of this application are considered to be consistent with the NPPF 2019 unless stated otherwise.

8.11 Planning Obligations

Planning obligations are not relevant in the determination of this application.

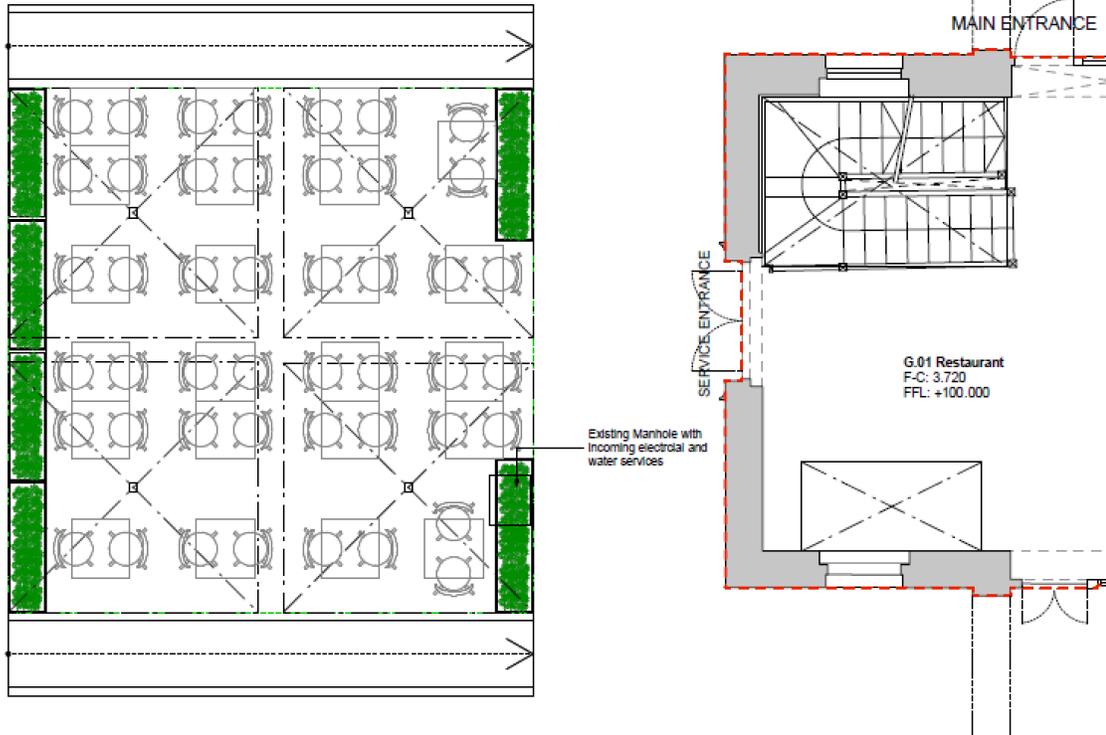
8.12 Environmental Impact Assessment

Not required for a development of this scale.

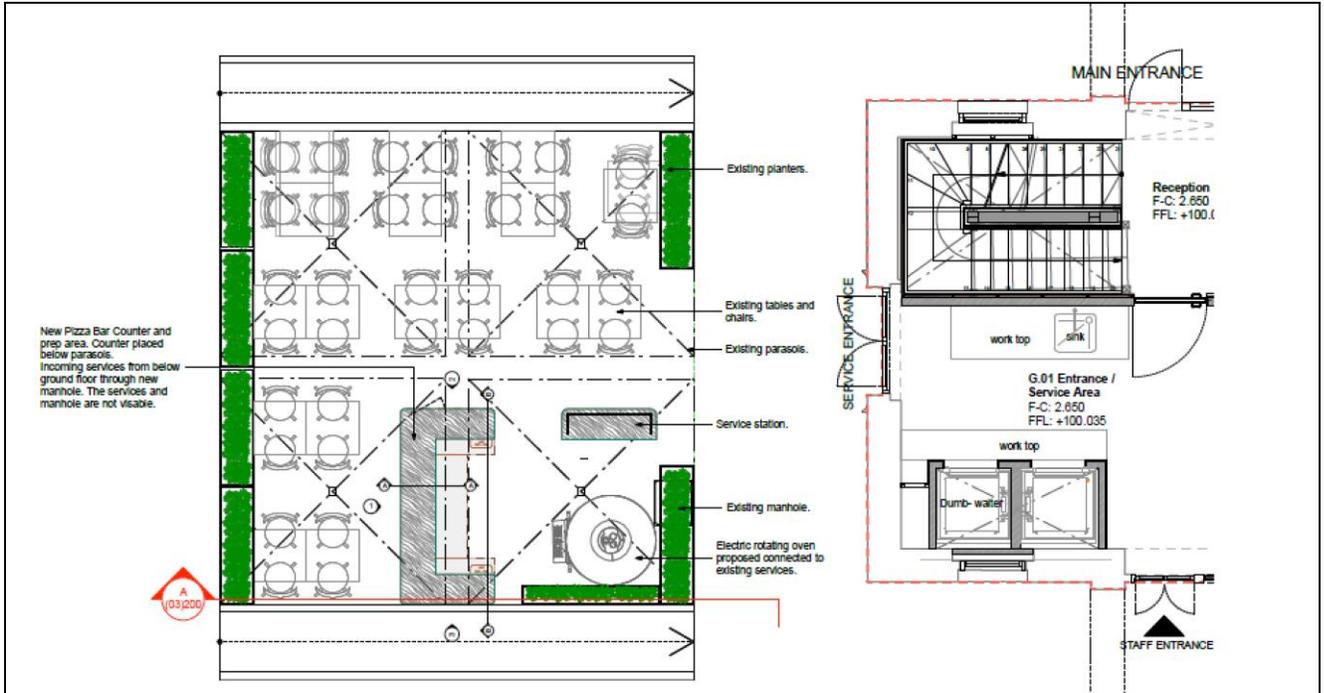
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JOSHUA HOWITT BY EMAIL AT jhowitt@westminster.gov.uk

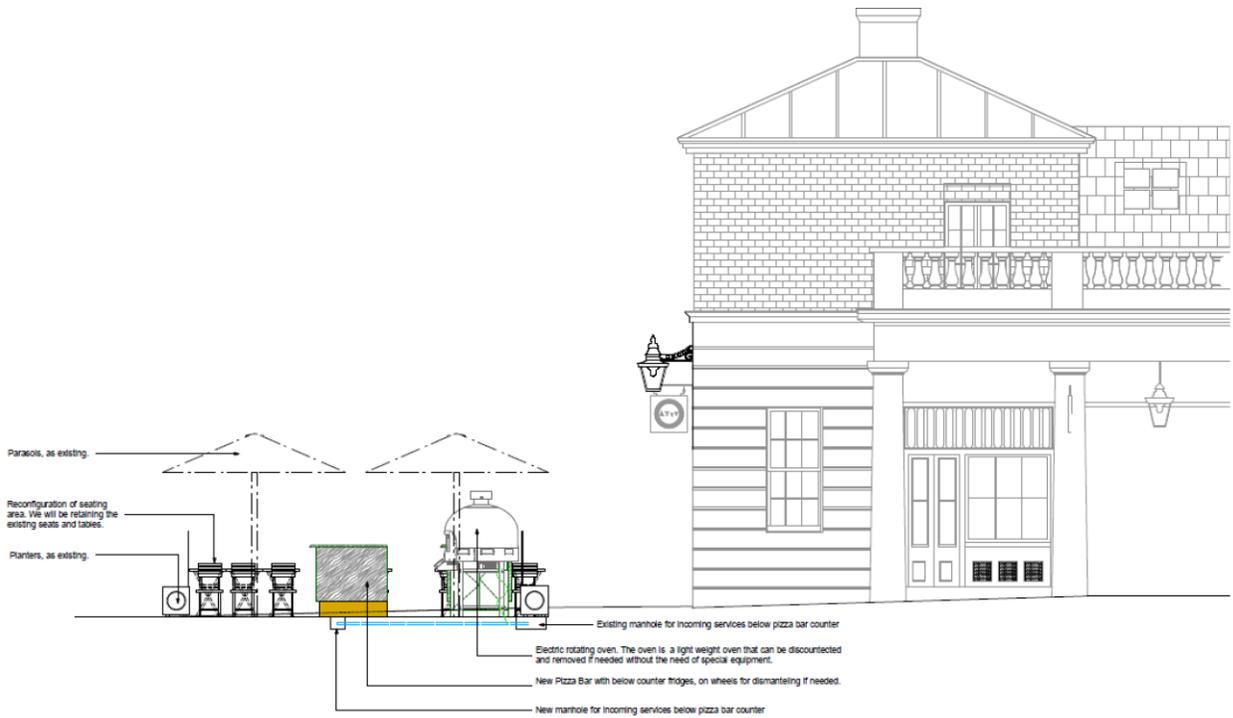
9. KEY DRAWINGS



Existing plan



Proposed plan



Proposed section

DRAFT DECISION LETTER

Address: 21 The Market, Covent Garden, London,

Proposal: Addition of a new external bar and pizza oven located in the existing south side demised external seating of restaurant.

Reference: 21/06621/FULL

Plan Nos: 2101(00)001; 2101(01)001 rev. A; 2101(02)001 rev. A; 2101(02)200 rev. A; 2101(02)700 rev. A; 2101(50)001; one un-numbered photograph of the site; email from agent dated 18 November 2021.

Case Officer: Aurore Manceau

Direct Tel. No. 07866038763

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 The bar/pizza preparation station and the pizza oven must only be used when the outdoor seating is in use.

Reason:

To protect neighbouring residents from noise and disturbance as set out Policies 7, 33 and 43 of the City Plan 2019 - 2040 (April 2021). (R25BE)

- 3 The bar/pizza preparation station, the pizza oven and the planters with screens can only be installed for a period of 1 year from the date of this decision. You must then remove those items from the highway.

Reason:

Allowing the proposals on a permanent basis would cause harm to the setting of the Grade II* Covent Garden Market Building, compromise the quality and heritage value of the open space of the Covent Garden Piazza and cause harm to the appearance of the townscape generally and would fail to maintain or improve (preserve or enhance) the Covent Garden Conservation Area, which would not meet Policies 34, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

- 4 You must make good the works to the Piazza and reinstate the cobbles in their existing

arrangement after 1 year from the date of this decision on the removal of the bar/pizza preparation station, bar, and planters with screens hereby approved.

Reason:

To make sure that the appearance of the area is suitable and that it contributes to the character and appearance of this part of the Covent Garden Conservation Area. This is as set out in Policies 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021). (R26BF)

- 5 You must apply to us for approval of details of the following parts of the development:

- Out of hours bar and pizza covering and method to make secure.

You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work according to these details. (C26DB)

Reason:

To make sure that the appearance of the area is suitable and that it contributes to the character and appearance of this part of the Covent Garden Conservation Area, to protect neighbouring residents from noise and disturbance and in the interests of public safety. This is as set out in Policies 7, 25, 33, 38, 39, 40 and 43 of the City Plan 2019 - 2040 (April 2021).

- 6 You must not sell any take-away food or drink from the bar/preparation pizza station hereby approved even as an ancillary part of the primary restaurant/bar use.

Reason:

To make sure that the use will not cause nuisance for people in the area. This is as set out Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R05GC)

- 7 You must not play live or recorded music within the altered external seating area.

Reason:

To protect the environment of people in neighbouring properties, as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021). (R13BD)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the City Plan 2019 - 2040 (April 2021), neighbourhood plan (where relevant), supplementary planning documents, the

London Plan (March 2021), planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

- 2 Please note that the electric pizza oven may still be subject to enforcement action by Environmental Health if odour nuisance results from how it is being operated.
- 3 The proposed drawing shows the installation of an internal dumb waiter, you must get listed building consent for any work inside the building.

It is a criminal offence to carry out work on a listed building without our consent. Please remind your client, consultants, contractors and subcontractors of the terms and conditions of this consent.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.