

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	27B The Market, Covent Garden, London, WC2E 8RD		
Proposal	Use of 3 areas of public highway measuring 7.1m x 7.1m, 7.3m x 8.9m and 6.3m x 8.8m for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases and new services below existing cobbles, installation of external service station, placement of waiter stations, external alterations to existing window in south elevation, and associated works.		
Agent	Gerald Eve		
On behalf of	Nana CG limited		
Registered Number	21/03975/FULL	Date amended/ completed	15 June 2021
Date Application Received	15 June 2021		
Historic Building Grade	II*		
Conservation Area	Covent Garden		

1. RECOMMENDATION

Refuse permission.

2. SUMMARY

The application relates to external areas to the south-east corner of 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 use of three areas of the Piazza in front of the south-east corner lodge pavilion of the Market Building for the placing of tables, chairs, parasols, an external bar area, service stations, screens and planters, as well as new services below the existing cobbles and pavement covers under the Piazza itself. The service/waiter station and tables and chairs will be stored within the external bar outside of opening hours (fully covered and locked), with the planters and any excess tables and chairs stored internally at ground floor level.

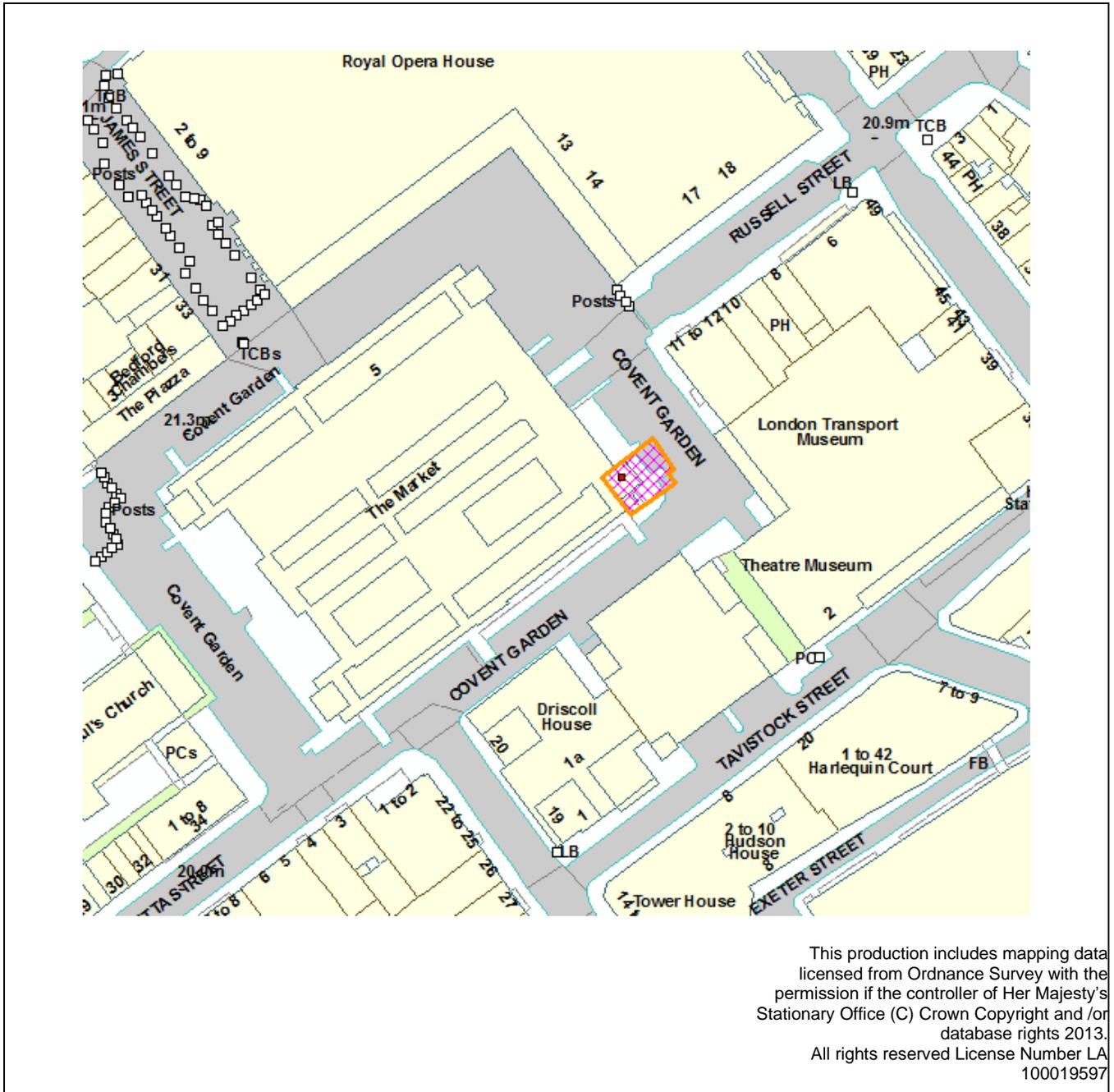
The Covent Garden Area Trust and the Covent Garden Community Association raise strong objections on design grounds, including the impact of the proposals on the setting of the Market building and the erosion of its character and the appearance and function of the Piazza.

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.

The placement of such items on a permanent basis is not considered acceptable in such a sensitive location, the proposals are recommended for refusal on design, heritage and highways grounds.

3. LOCATION PLAN



4. PHOTOGRAPHS



Southern side of the unit 27B



Eastern side of the Market



Southern side of the Unit 27B



South east Piazza out of hours layout



Proposed visual

5. CONSULTATIONS

COVENT GARDEN AREA TRUST :

The Trust objects on the grounds of the cumulative impacts of such proposals on the setting of the Market Buildings and the appearance and function of the Piazza. It is not considered that sufficient justification has been submitted for the scale of works proposed.

The Trust considers that the current proposals would represent a further intensification and completely dominate this corner of the east Piazza and block views of the south eastern corner pavilion of the listed market building and the Heritage statement fails to assess the visual impact of the proposals. The Trust refers to the established practice, the Piazza should be capable of being cleared of all furniture and other equipment. The Trust is concerned by the proliferation of proposals of this nature to extend commercial activities from within the Market building into the open Piazza and does not believe the imposition of a temporary consent will serve to mitigate the cumulative adverse impacts of the proposals on the setting of the Market and the openness of the Piazza. The concern is that once introduced, it will be difficult to remove these installations and the impacts on the setting of the Market will be irreversible. The Trust believes that these proposals are therefore contrary to Policy 39 of the City Plan, Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Paragraph 192 of the NPPF which states that applications should sustain or enhance the significance of heritage assets.

The Trust requests amendments to the scheme including the removal of the external service station and states that unless a comprehensive approach is taken to the treatment of external seating areas within the piazza more generally there will be a continued erosion of its character and damage to the setting of the Market Building.

COVENT GARDEN COMMUNITY ASSOCIATION:

The organisation objects to the establishment of facilities to service the customers on the outside space, they consider that the unit should be sufficient to service the customers and the proposal should be downscaled as the purpose must suit the unit. This impacts pedestrian movement and the views of the Listed Building. The association also points out that the current occupier plays loud music in the evening causing disturbance.

HIGHWAYS PLANNING MANAGER:

The application is unacceptable in highway terms. Because of the permanent nature of the furniture, the proposal would have the effect of extinguishing the public's right to use and enjoy this part of the public highway – these rights should be protected.

WASTE PROJECT OFFICER:

Objects the drawings are not in line with the Council's requirements.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 87
Total No. of replies: 1
No. of objections: 0
No. in support: 1

One letter of support from the freeholder of the Market Building received highlighting the following points:

- the application is not located on public highway so the operation of the highway is not affected;
- the constraints of the unit due to its limited size that does not provide internal seating and the impact of the weather on the external seating has caused operational difficulty had caused successive business failures;
- without outside seating the unit will be vacant, it has already been vacant for four of the past five years;
- the proposed layout reflects the longstanding areas of seating associated with the unit, the ramp and pathways through are not hindered;
- the proposed furniture is in line with their strategy;
- the service station will not negatively impact on the listed building and is comparable to similar installation around the Market Building;
- the pandemic economic impact; and
- suggestion of a 5 years permission.

PRESS ADVERTISEMENT / SITE NOTICE:

Yes

6. BACKGROUND INFORMATION

6.1 The Application Site

27B The Market is located on the south eastern side of the Covent Garden Market Building, which is a Grade II* listed building in the Covent Garden Conservation Area, the Central Activities Zone and the West End Stress Area.

The ground floor unit is currently occupied by the restaurant 'NaNa'. The unit is approximately 30 sqm and it is only accessible by the staff as it is fully occupied by the kitchen and service equipment. The operation of the restaurant relies entirely on the outdoor seating. Permission was granted in 2000 for the installation of additional tables and chairs outside the unit so a total of 60 covers has been approved between the hours of 0800 to 2300. Outside of these times, a condition ensured the tables and chairs were removed from the highway outside of these times.

6.2 Recent Relevant History

On 14 December 2000, the City Council granted planning permission for the placing of additional tables and chairs outside Unit 27b (RN: 99/11351/FULL). The permission was subject to a condition, identified as No.7, preventing the installation of umbrellas, gas burners, planters, serveries, kiosks or other structures; and a condition, identified as No.8, requiring that design of the tables and chairs hereby permitted shall be in accordance with the Covent Garden Area Trusts Environmental Study.

On 21 December 2007, the City Council refused listed building consent for the replacement of an existing window with openable sliding sash window.

On 14 December 2021, the City Council granted listed building consent for external alterations to existing window in south elevation, new signage, internal alterations associated with the installation of new kitchen and associated works.

7. THE PROPOSAL

The application relates to areas outside of 27B The Market. Planning permission is sought for the use of three areas of the Piazza in front of the south-east corner of the Market Building for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases, an external bar and waiter stations with the installation of new services below the existing cobbles and alteration to the existing window.

The waiter stations, tables, chairs, planters and windscreens will be stored away outside the operating hours but the serving station/bar and umbrellas will remain on the highway at all times.

The supporting documents note the external seating provide the only seating for the unit. The proposed scheme aims to protect the customers from the weather conditions so the outdoor seating can be used all year round.

The umbrellas, bar and tables and chairs have already been installed on the highway, without the benefit of planning permission.

8. DETAILED CONSIDERATIONS

8.1 Land Use

This application seeks permission for outdoor furniture in connection with 27B The Market. Planning history shows that the unit is in a restaurant use and therefore falls within the Use Class E.

The existing drawings submitted in support of this application show that the number and type of outdoor furniture is not in line with the 2000 permission. However, given the long history it is recognised that the principle of using the adjoining areas to the south east corner of the Market for al-fresco dining is acceptable and has extant permission (the 2000 permission allows the use indefinitely, subject to a number of conditions).

The proposed scheme will increase the customer capacity by 48 covers (from 60 to 108) over the 2000 permitted arrangement. It will also introduce an external bar on the Piazza. The scheme will intensify the existing restaurant use. By providing all year-round protection against the weather, installing a permanent furniture on the highway and introducing a bar. It appears that it is proposed to create a simulacrum of an internal dining experience on the Piazza rather than respond to the seasonal demands for al-fresco dining.

It is recognised that the use of the highway for tables and chairs in connection with eating and drinking establishments can provide opportunities for visitors, residents and workers to experience and contribute to the vibrancy and character of an area. In line with City Plan Policy 43 part D, the Council permits tables and chairs where they are safe, where a convenient pedestrian environment is maintained and where no unreasonable harm to local residential amenity. These issues are set out in further detail further below.

The main justification for the scheme is the fact that the operation of the unit relies entirely on the outdoor seating. However, this operation is due to the size of the unit (30 sqm approximately) which was known by the operator, therefore this cannot be considered to be a reason to overweight the harm detailed in sections 8.2 and 8.4 of this report.

The letter of support states that without outside seating the unit will be vacant, however the unit already benefits from planning permission for outdoor seating – so they may continue under that extant permission. In addition, the letter mentions that the unit has already been vacant for four of the past five years. However, Google images from August 2017 and September 2018 indicates that the unit was in use and no evidence has been submitted to show a lack of interest for the unit. The support letter also points out the pandemic economic impact; whilst it is understood that the retail and entertainment industry in central London has been significantly impacted by the pandemic, it is clear that the proposal is not a short-term measure to support recovery but a long-term strategy.

8.2 Townscape and Design

Visually, the impact upon the setting of the Market Building principally arises from views approaching from Russell Street and from vantage points at the east and south east ends of the Piazza. Currently, five large parasols covering tables and chairs and an external bar detract from the appreciation of the building. Neither the parasols nor bar have planning permission. It is proposed to retain the parasols, the bar and an even greater number of tables and chairs and also to introduce planters, screens and waiter stations to this part of the Piazza. The impact is therefore from both the retention of the existing parasols, tables and chairs, the placement of the bar, the waiter station and the enclosing screens and planters upon the Piazza and the effect of the intensification of furniture.

The service station/bar and the parasols would not be removed at night, but rather would be consolidated externally which would involve the waiter stations and some tables and chairs being stored inside the bar, with the remainder of the tables and chairs, screens planters to be stored elsewhere by the freeholder. The applicant has provided a proposed drawing showing the out of hours appearance confirming the outdoor furniture's permanent external presence.

The main design considerations are the impact of the proposals on the setting of the Grade II* listed Covent Garden Market Building, the quality and heritage value of the open space of the Covent Garden Piazza and its townscape qualities, and on the character and appearance of this part of the Covent Garden Conservation Area.

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 raised strong objections on design grounds, including the impact of the proposals on the erosion of the character and damage to the setting of the Market building and to the openness of the Piazza. The scale of the proposed furniture is considered disproportionate of the size and operation of this small unit and they consider that the external area could be served from the inside, without the additional external structure. The Trust refers to the established practice which requires the Piazza to be capable of being cleared of all furniture and other equipment at the end of trading. The Trust further comments that the amenity societies are concerned with the proliferation of such proposals that even a temporary permission would not resolve and the erosion of the character of the Piazza.

The Trust considers that the current proposals would represent a further intensification of the use of the Piazza, completely dominating this corner of the east Piazza and blocking views of the south eastern corner pavilion of the listed market building. The Heritage statement fails to assess the visual impact of the proposals. The Trust is concerned by the proliferation of proposals of this nature which extend commercial activities from within the Market building into the open Piazza and does not believe the imposition of a temporary consent will serve to mitigate the cumulative adverse impacts arising on the setting of the Market and the openness of the Piazza. The concern is that once introduced, it will be difficult to remove these installations and the impacts on the setting of the Market will be irreversible. The Trust considers the proposals to be contrary to Policy 39 of the City Plan, Sections 16, 66 and 72 of the Planning (Listed

Buildings and Conservation Areas) Act 1990, and Paragraph 192 of the NPPF which requiring applications to sustain or enhance the significance of heritage assets.

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. Indeed, access and clear space around Market Building as public space, and views into and through and into the depth of the market should be protected. The appreciation of the south eastern pavilion and adjacent colonnades of the Market Building would be significantly impaired permanently by virtue of the use of this area of the Piazza for the placing of the tables, seating, bar, parasols and planters and screens enclosing this part of the Piazza. Although having no physical impact on historic fabric, the siting of such a significant setup upon the Piazza in such close proximity to the Market Building significantly affects its setting. The eastern and southern (and western) sides of the Piazza have historically been used to accommodate outdoor seating but the permissions always required for all outdoor furniture to be removed outside the operating hours and did not impinge upon pedestrian flow by impinge of the Piazza at its south eastern pinch point.

The Piazza is much more important than just a strategic retail destination, being one of the most iconic, historic and visited open spaces in London. Policy 34 of the City Plan seeks to protect the city's open spaces, and considers at para 34.5 that, 'development on open space must be essential and clearly ancillary to maintaining or enhancing the values of the open space.' The proposals are neither essential nor clearly ancillary to the maintenance or enhancement of this space, and indeed would undoubtedly serve to detract from these values by effectively permanently privatising this public space.

Moreover, the proposed bar structure is not a traditional element of outdoor seating provision and would permanently anchor this alfresco offer. The screens due to their size and solid appearance are similarly not considered appropriate outdoor furniture and are not a traditional element of outdoor seating provision. They would appear, along with the umbrellas, to form a weather-proof enclosure to the outdoor area which would serve to recreate more of an internal experience than genuine alfresco one.

The letter of support from the freeholder mentions that the serving station is comparable to similar installation around the Market building. It is noted at Unit 35 on the north-east corner of the building a permission has been granted for the use of an area of public highway measuring 6.5m x 10.5m for the placing of 26 tables, 52 chairs, 10 stools, 13 planters, 2 parasols, external bar area, service station and associated works including installation of new services below existing cobbles and pavement cover in connection with Sushi Samba at 35 The Market (RN: 20/03408/FULL). However, the permission was only for 2 years and only justified by need to stimulate the economy during the immediate post COVID-19 recovery period and the report clearly stated that the placement of such items would not normally be considered acceptable in such a sensitive location. It is therefore not considered that this temporary permission is a justification to allow a similar but permanent arrangement outside this unit.

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 as detailed in the land section of this report would not fall within the scope of the economic recovery as the supporting document clearly shows that is a long term strategy which would result in harm to the setting of the Grade II* listed Market building and to the Covent Garden Conservation Area in the form of severe and constant visual clutter which would not be necessary to allow the business to continue trading on the external space for dining. The proposals are not considered to be acceptable as a long-term presence within such a sensitive location.

Conclusions

The harm to the setting of the grade II* listed Market Building and to the Covent Garden Conservation Area that would result from the proposals is 'less than substantial'. Because it would be a permanent presence and because of the importance and sensitivity of this location as set out above, the harm is considered to be within the middle range of the 'less than substantial' harm spectrum. Paragraph 196 of the National Planning Policy Framework (NPPF) states that where a proposal would lead to less than substantial harm to the significance of a heritage asset(s), this harm should be weighed against the public benefits of the proposal. In this instance, the potential economic benefits cited by the applicant in terms of allowing an all-year-round alfresco dining offer for this small unit would not offset the multiple harms arising from the appearance and permanency of the outdoor furniture on this corner of the Piazza. This is particularly the case given permission is sought for the structures to be in place permanently, and therefore long after the pandemic emergency and recovery is over (which has been to justification to allow similar arrangements elsewhere). In addition, alfresco dining without the harmful elements proposed in this application is able to continue and therefore the vibrancy of the area, and other benefits to the local economy, that his use can give rise to would not be eliminated by a decision to refuse consent for this application.

The application is therefore contrary to relevant local and national policies, in particular Policies 34, 38, 39 and 40 of the City Plan 2019-2040, and paragraph 196 of the NPPF. Permission should therefore be refused. In making this recommendation consideration has been had to the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, notably Section 72 and the requirements set out in Chapters 12 and 16 of the NPPF.

8.3 Residential Amenity

The City Council places high priority on protecting residential amenity with Policies 7 and 33. Those policies require that developments are neighbourly by protecting the local environmental quality from negative impacts.

The Council's GIS system shows that the nearest residential properties are located in Russell Street (approximately 50m) and to the south of the Market (Driscoll House). The 2000 permission allows for the tables and chairs from 0800 to 2300 every day. The proposed hours of operation are to be from 0800 to 2300 Monday to Saturday and 1000 and 2200 on Sundays. As the site is located in a busy central London location these

hours are not unreasonable, and had the proposals been otherwise acceptable a condition could secure the hours of operation.

It is noted that the Covent Garden Community Association points out that the current occupier plays loud music in the evening causing disturbance and that 2 complaints for noise disturbance were registered with the Council in July and August 2020 for music being played. However, had the application been otherwise acceptable a condition could have been attached to prevent this.

The proposal involves a greater number of seating and the introduction of an external bar. However, had the application been otherwise acceptable, a condition could have secured a detailed operational management plan to manage this intensification appropriately.

8.4 Transportation/Parking

The Highways Planning Manager recommends the application be refused as it would not be appropriate to allow a permanent scheme. The officer confirms that there is no objection in principle to tables and chairs as temporary furniture that can be removed from the highway outside of operational hours on the areas shown (as has already been approved); but because of the installation of permanent physical structure on what is considered highway, by virtue of having been open and passable for many years, is contrary to the Council policies.

City Plan Policy 25 B states that development must prioritise and improve the pedestrian environment and Policy 28 A states the Council will resist the loss of highway land.

The Piazza is owned and maintained by Capital and Counties and the applicant states that it has been used for tables and chairs for approximately 25 years and does not form part of the public highway. However, the Highways Planning Manager notes that the highway is often in the ownership of adjoining landowners but that if pedestrians have passed over an area for a long period without restriction, then that land is considered part of the public highway under the Highways Act 1980.

While tables and chairs have been placed on this highway for a significant period, they were granted subject to a condition that they are removed at night and it is understood that the tables, chairs and other items were not (until relatively recently) left outside in breach of that condition. As such, the area in question was open and passable land to the public (albeit not necessarily on a 24-hour basis) and so rights to use it have accrued and it is highway. Highway areas can be expressly granted (dedicated) to the public by the landowner; obtained by compulsory purchase; or obtained by long use – and it is the long use which the Highway Planning Managers considers having occurred here.

The primary function of the highway is the free and unobstructed movement of the highway users. This includes pedestrians, motorists and cyclists. Secondary functions can be considered those that relate to the primary function (e.g. parking of vehicles, provision of cycle parking, and bus stop facilities). Tertiary functions of the highway are those that need not occur on the highway and include table and chairs and queuing space for premises. Therefore, the priority is given to pedestrian movements.

The Highways Planning Manager notes that tables and chairs permissions are normally granted on the basis that the relevant items are taken in at night and are normally only granted for a temporary period, which means that the highway could be retrieved at a later date should the Council decide it was no longer appropriate to allow it to be used for commercial purposes. While in this case there is an extant permission which allow tables and chairs to be placed on the highway during the day, this application proposes to keep items outside on the Piazza permanently. Such an arrangement would not protect the highway for highway users – it would also require a ‘stopping up’ order or highway licence to install.

Accordingly, it is considered that the installation of permanent items on the highway do not comply with Policies 25 B or 28 A of the City Plan or with the Westminster Way and the “Guidelines for the placing of Tables and Chairs on the highway” Supplementary Planning Guidance.

Waste

While the Waste Project Officer objects as the waste and recycling storage have not been adequately identified on the submitted drawings, had the application been otherwise acceptable a condition could have ensured acceptable arrangements be made.

8.5 Economic Considerations

The impact of the COVID-19 pandemic is a material consideration, the proposed scheme is part of a long-term strategy for the current occupier it is not a temporary measure to support economic recovery. The refusal of the permission would not prevent the occupier to use the public highway for outdoor seating as there is already a permission.

8.6 Access

The unit will only be accessed by the staff and the access to the outdoor seating will remain as existing. The existing ramp is unobstructed.

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 to this site.

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.

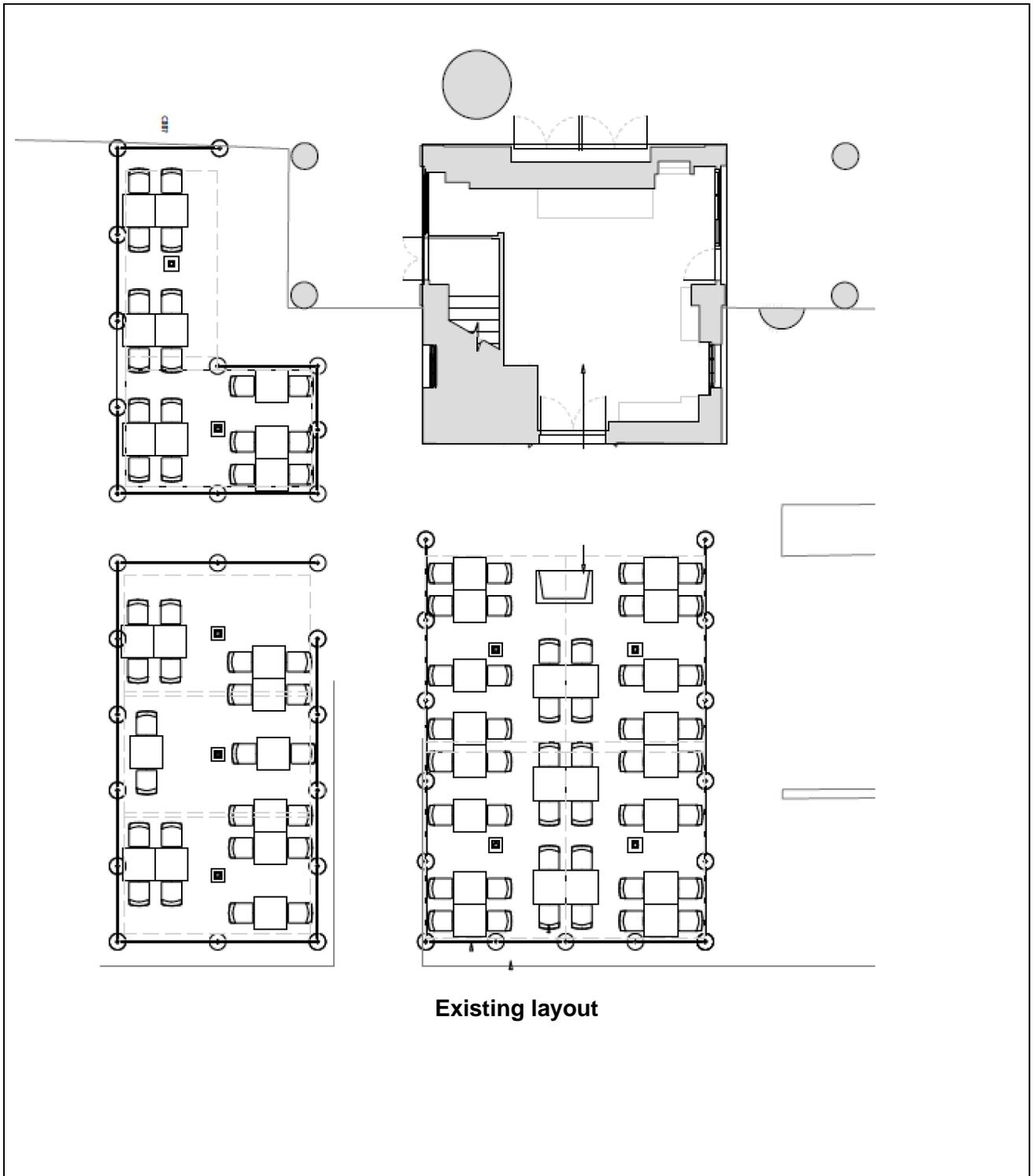
8.12 Environmental Impact Assessment

Not required for a development of this scale.

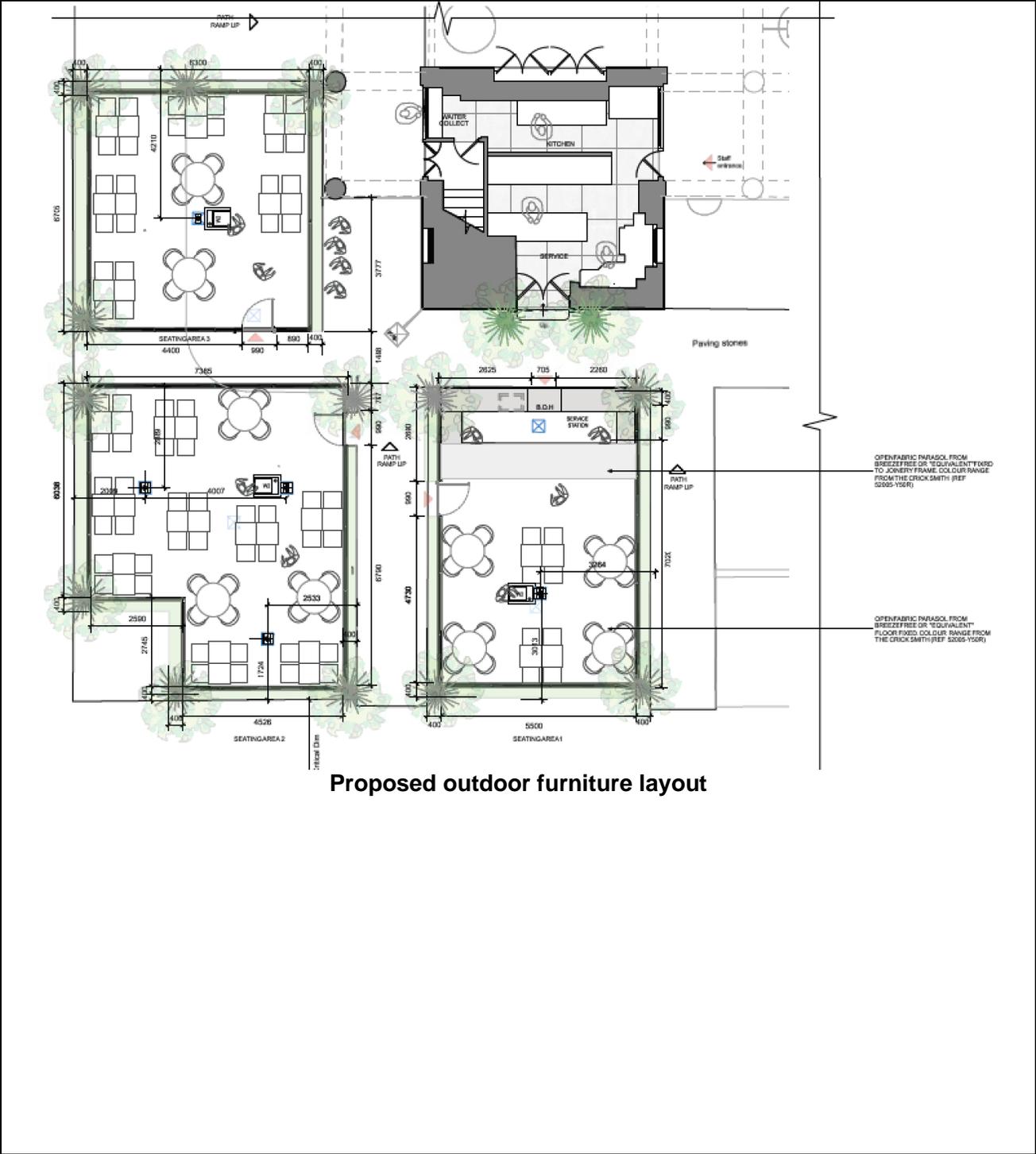
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

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

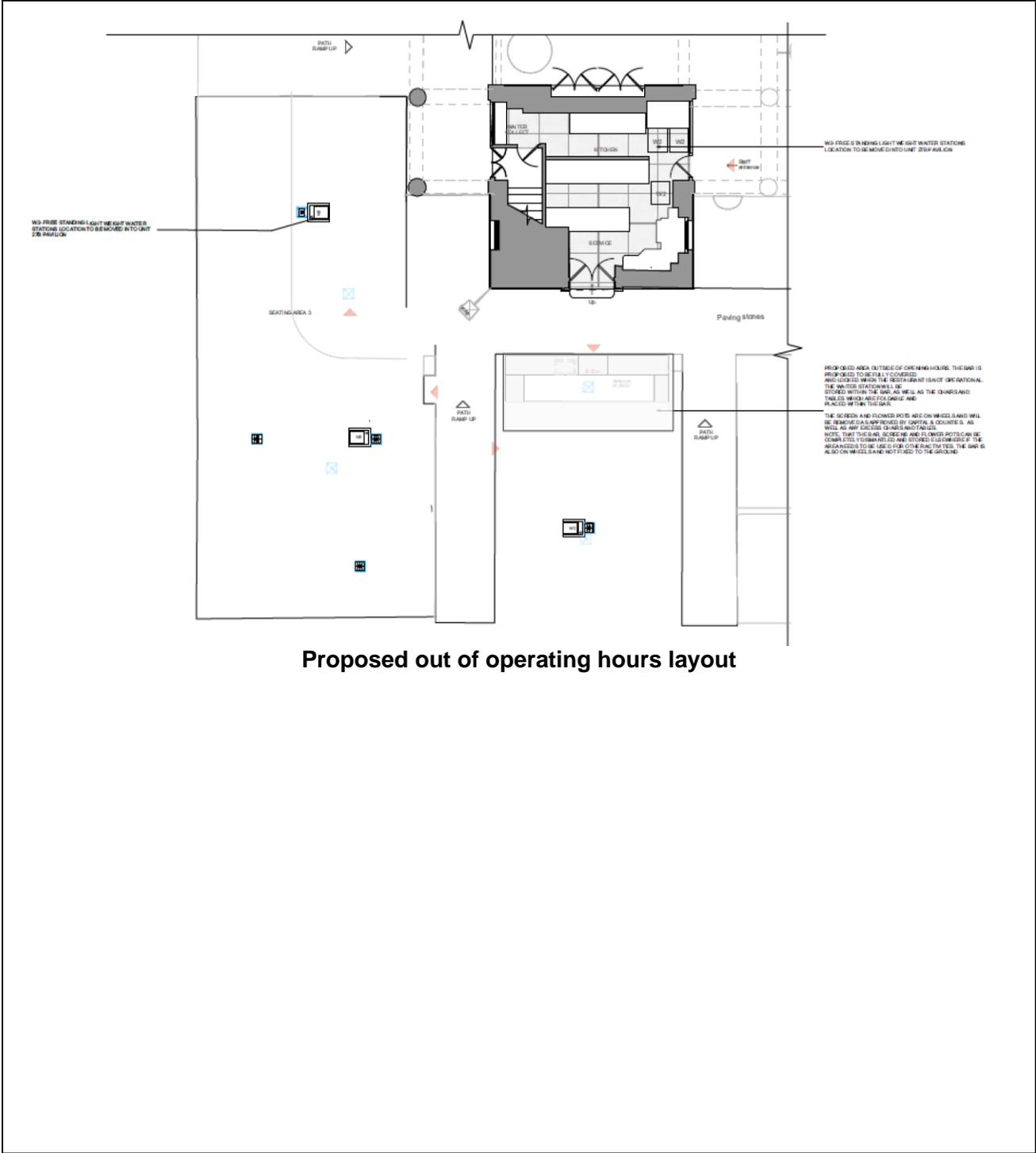
9. KEY DRAWINGS



Existing layout



Proposed outdoor furniture layout



Proposed out of operating hours layout



Proposed East elevation



Proposed South elevation

DRAFT DECISION LETTER

Address: 27B The Market, Covent Garden, London, WC2E 8RD

Proposal: Use of 3 areas of public highway measuring 8.6m x 5.65m, 7.3m x 8.7m and 6.8m x 6.4m for the placing of 108 chairs, 24 tables, planters, windscreens, 5 parasol bases and new services below existing cobbles, installation of external service station, placement of waiter stations, external alterations to existing window in south elevation, and associated works.

Reference: 21/03975/FULL

Plan Nos: 191202-700 P1; 191202-701 P1; 191202-702 P1; 191202-703 P1; 191202-704 P1; 191202-705 P1; 191202-706 P1; 191202-710 P1; 191202-711 P1; 191202-712 P1; 191202-713 P2; 191213-720 P1; 191202-721 P1; 191202-722 P1; 191202-726 P1; 191202-727 P1; 191202-728 P1; 191202-729 P1; 191202-780 P1; 191202-781 P1,

For information only: Design and access statement; Heritage statement.

Case Officer: Aurore Manceau

Direct Tel. No. 07866038763

Recommended Condition(s) and Reason(s)**Reason:**

Because of the cumulative size, location, nature and permanency of the furniture, the proposals would harm the setting of the Grade II* listed 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. The proposals would also fail to maintain or improve (preserve or enhance) the character and appearance of the Covent Garden Conservation Area. This would not meet Policies 34, 38, 39 and 40 of the City Plan 2019 - 2040 (April 2021).

Reason:

Because of the permanent nature of the furniture, the proposal would have the effect of extinguishing the public's right to use and enjoy this part of the public highway. The area in question is, and is intended to remain, public highway and Section 130 (1) of the Highways Act 1980 states that "It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority". This would not meet Policies 25 (B) and 28 (A) of the City Plan 2019 - 2040 (April 2021).

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 so far as

practicable. 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, 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 the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, further guidance was offered to the applicant by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Ministry of Housing, Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable. , , Required amendments:, -remove all permanent items from the scheme; and , -remove glazed screens from the scheme,

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.

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