

CITY OF WESTMINSTER			
PLANNING APPLICATIONS SUB COMMITTEE	Date 20 December 2022	Classification For General Release	
Report of Director of Place Shaping and Town Planning		Ward(s) involved West End	
Subject of Report	72 Broadwick Street, London, W1F 9QZ,		
Proposal	Flexible alternative use of basement and part ground floor for retail (Class Ea) or restaurant/cafe (Class Eb) purposes or as a live music venue (Sui Generis).		
Agent	Rolfe Judd Planning		
On behalf of	Shaftesbury Plc		
Registered Number	21/03136/FULL	Date amended/ completed	28 November 2022
Date Application Received	13 May 2021		
Historic Building Grade	Unlisted		
Conservation Area	Soho		
Neighbourhood Plan	Soho Neighbourhood Plan		

1. RECOMMENDATION

Grant conditional permission

2. SUMMARY & KEY CONSIDERATIONS

The application relates to basement premises, with a ground floor entrance on Broadwick Street, which have planning permission for use as either a retail shop or restaurant under a 2019 consent for the development of the wider site. This approved development is nearing completion and an Operational Management Plan (OMP) for the restaurant use been approved. The current application proposes the flexible use of the premises for either the approved retail or restaurant uses or as a live music venue. The premises would utilise plant approved, and installed, in association with the approved restaurant use. The scheme has been amended to reduce premises capacity and opening hours and the draft OMP has been updated to provide further details of proposed measures to ameliorate the potential impact of the use.

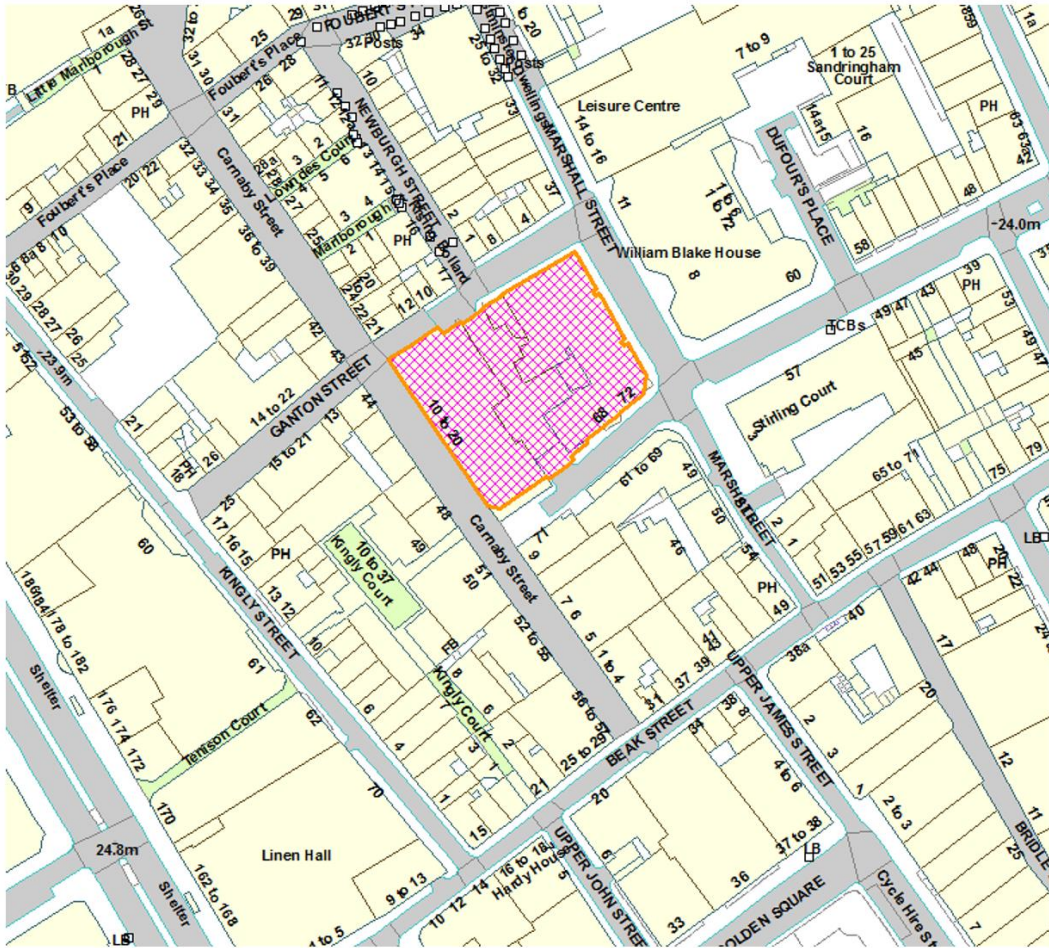
The key issues in this case are:

- *The acceptability of the proposal in land use terms
- *The impact of the proposed uses upon the amenity of neighbouring occupiers
- *The acceptability of the proposals in terms of their impact upon the operation of the highway
- *The impact of the use on the character of the conservation area

Letters of support have been received, welcoming the proposals for a new live music venue Soho. Objections have been received from Ward Councillors (current and ex Members), the local amenity society and local residents, principally on the grounds that the live music venue would adversely affect the amenity of residential properties in the area as a result of increased noise and disturbance, particularly late at night; potential noise transference and vibration through the building structure to neighbouring flat and the safe operation of the highway.

The proposed retail and restaurant uses are considered acceptable in land use and amenity terms, subject to the same restaurant operational controls as previously approved. The proposed music venue is also welcomed in principle in land use terms and, subject to appropriate conditions restricting the capacity and hours of use and a condition requiring the submission of a finalised OMP, it is not considered that this use would have a material impact upon the amenity of neighbouring occupiers. Accordingly the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Broadwick Street entrance



Ganton Street entrance and entrance slope



5. CONSULTATIONS

5.1 Application Consultations

ORIGINAL SUBMISSION AND REVISIONS

COUNCILLOR FISHER

Objection: music venue would adversely affect the amenity of large numbers of neighbouring flats; contrary to local plan policies and the 'agent of change' principle. Unclear how the applicant has met the requirement to demonstrate that the use would be 'low impact' in terms of noise and the arrival/dispersal of customers or can be mitigated. Noise report cannot consider noise from customers entering/exiting venue; use of Ganton Street entrance to protect Broadwick Street residents does not address impact in other streets. Query adequacy of venue staffing levels to manage customers. Applicants need to do more to address policies designed to safeguard residents' amenity .

COUNCILLOR LILLEY

Objection: no need for more clubs or live music venues; use inappropriate next to high residential concentrations; contrary to 'agent of change principle'; increased disturbance/cumulative impact of noise from customers/smokers entering/exiting; potential anti-social behaviour in locations hidden from venue staff; unlikely queuing/waiting will be managed inside the building; customers refused entry likely to loiter outside; reduction in latest opening hours will have little effect, premises should close at 23.00 hours as later open will encourage later drinking. Query track record of the operator.

COUNCILLOR TOALE

Support objections to proposed sui generis uses (now restricted to the music venue) given proximity to large numbers of flats and cumulative impact of entertainment uses; no similar late night uses in the area; use would encroach into a residential area.

EX COUNCILLOR BARNES

Objection: wrong location for use proposed due to restricted nature of east-west roads and proximity of large residential blocks; effective management of access/egress difficult given existing issues with management of the Carnaby Street area.

METROPOLITAN POLICE (DESIGNING OUT CRIME)

Any response to be reported verbally

SOHO SOCIETY

Objection to proposed use as a live music venue (and other uses not now proposed) given proximity to flats, including within the application building. Extension of entertainment uses into this more residential part of Soho should be resisted; similar venues/examples cited are to the west of site; No objection to continuation of Class E uses (2 responses)

ENVIRONMENTAL SERVICES

Holding objection: Uses/operational details in acoustic report do not correlate with those in other documents. Application does not demonstrate that proposed hours of use and music venue capacity would not give rise to public nuisance or adversely affect residents' amenity.

Operational management practices may be sufficient to mitigate the effects of noise from customer dispersal and queuing patrons and to protect the environment of neighbouring occupiers. Updated OMP required to address noise concerns and to include measures regarding complaints handling.

Previous conditions recommended in relation to the approved/proposed restaurant use.

WASTE

Objection: further details required of proposed arrangements for the storage of waste and recyclable materials in accordance with Council requirements

HIGHWAYS

Objection: use of public highway for formalised queuing unacceptable in principle; updated Servicing Management Plan required.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 241 Total No. of replies: 84 (from 53 respondents); No. of objections: 55 (from 24 respondents); Letters of support: 29

Land Use

- Live music venue would enhance the character and function of Soho as a destination for high quality entertainment and live music and accords with local and London Plan policies and would help address the loss of such venues.
- Will revitalise the area's nightlife; provide employment; nurture a new generation of musical talent and help revive a sector disproportionately affected by the pandemic.;
- Area historically characterised by a juxtaposition of late-night entertainment/music uses and other uses
- The pandemic highlighted the social and cultural benefits of live music
- No demand for another venue of this type, particularly in light of the pandemic
- Applicants should be required to implement the approved uses.
- Adverse cumulative impact of entertainment uses; extension of late night uses from Ganton/Street Carnaby to more residential Broadwick Street/Marshall Street area
- Adverse impact on the character of the conservation area; threat to residential/commercial balance of the area
- Many buildings already empty with relevant permissions
- Premature to approve new venue in pandemic when existing venues still closed ;most similar venues in Soho have closed.
- Reduced capacity and hours would make the use unviable.

Amenity

- Amenity of area and neighbouring properties would be adequately safeguarded through imposition of appropriate planning controls

- Unacceptable impact of live music venue (up to 500 customers, opening until 03.00) on health and wellbeing of occupants of neighbouring residential properties; such uses are a deterrent to people living in the city
- Broadwick Street narrow and noise funnels upwards; noise disturbance evident through double-glazed windows; patrons unaware of proximity of neighbouring bedrooms.
- Adverse cumulative impact would exacerbate existing noise problems in the area due to increased number of people in the area; noise from external queues/smokers; noise/disturbance from additional taxis and pedicabs in Broadwick Street/Marshall Street.
- Queuing/entry arrangements inadequate given potential numbers arriving for timed events, unlikely that customer arrivals/queues can be accommodated inside the venue, if outside queuing unsuitable this is the wrong location.
- Potential customer turnover/impact much greater than approved restaurant.
- Increased potential for anti-social behaviour and consequent impact on emergency services and Council resources
- No smoking areas provided
- Noise from music within venue through opening doors/vents; noise from opening/closing doors; no double doors/entrance lobby
- Noise disturbance site servicing: servicing hours should be restricted.
- Opening hours should be limited to 23.00; later opening encourages drinking.
- Staff unable to control street noise, people naturally louder when drinking/leaving venues
- OMP is 'wish list', proposed operational controls could not ameliorate potential nuisance as staff unable to control customers/routes once they have left the premises
- No guarantee applicants will abide by conditions imposed on any planning permission; applicants do not ensure other buildings/premises owned by them are managed in accordance with planning controls.
- Onus should not be on neighbours to monitor activities of customers; 'responsibility lies with applicants under 'agent of change' principle.
- Submissions based on use as a jazz club/mature audience but no guarantee that the nature of the music/target audience will not change.
- OMP describes 'primarily' live performance ,does not rule out the playing of recorded music/DJs
- Reductions in opening hours and premises capacity do not address overcome fundamental concerns about the impact of the use
- Adverse potential impact of approved restaurants
- No objection to restaurant use subject to appropriate controls

Highways

- Late night opening would increase number of cars and taxis; local road restrictions force vehicles to manoeuvre outside flats in Broadwick and Marshall Street; potential obstruction of emergency vehicles
- Increased parking demand
- Parking regulations not enforced in the area to the detriment of pedestrian and highway safety.
- Not possible to service the premises from Broadwick/Carnaby Streets.

Waste

- Use will exacerbate existing waste management problems in the area;

Noise/vibration impact on adjoining buildings

- Original plans inaccurate/proximity of the basement venue to Marshall House unclear;
- Noise and vibration to Marshall House flats through the building structure; insufficient soundproofing information
- Noise/construction impact on foundations of Marshall House/construction noise

Air Quality/Plant noise

- Increased smell nuisance
- Increased pollution from additional traffic/taxis and delivery vehicles
- Hours of plant use should be restricted

Fire safety

- Proposed queuing arrangements would block fire escape routes

Other

- Impact on property values
- Lack of consultation by applicants and the City Council.
- Query whether applicants would pay for the installation of double glazing to neighbouring flats.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

FINAL SUBMISSION**METROPOLITAN POLICE (DESIGNING OUT CRIME OFFICER)**

Objection: use of Ganton Street entrance would provide access to other parts of the building/basement cycle stores; separation should be maintained from existing uses to reduce opportunities for crime; all access/egress should be from Broadwick Street.

SOHO SOCIETY

Objection: final draft OMP does not address concerns about the noise impact of a music venue in an area already affected by late night disturbance. Number of objections shows level of concern; applicant demonstrates a lack of awareness of residents' experience. Until residents notice a sustained improvement in the management of the existing venues/the area, the proposals should be considered to contribute to the existing adverse impact. Comments about the nature of the use envisaged are noted but there is no means of guaranteeing that a different sort of live music operator could not take over the premises.

If the Council is minded to grant permission, the opening should be restricted to the core hours.

LONDON FIRE SERVICE

Any response to be reported verbally

BUILDING CONTROL

Comments regarding means of escape provision. Note that the Fire Strategy is based on a capacity of 256.

LICENSING

Measures can be put in place to achieve the proposed capacity. Evacuation measures for disabled customers would be agreed as part of the premises licence.

HIGHWAYS

No objection subject to conditions including a requirement for an updated Servicing Management Plan.

ENVIRONMENTAL HEALTH

No objection subject to conditions

WASTE PROJECT OFFICER

Details of storage for waste and recyclable materials to be reserved by condition.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. consulted: 416; No of replies: 34 No support: 31 No objections: 7 (1 objection subsequently withdrawn); 3 letters of support

- Reiterate previous objections
- OMP full of ambiguous wording; proposed measures in the latest OMP do not address fundamental objections
- Permission should not be granted until existing issues with other venues /buildings owned by the applicant have been resolved
- Geofencing system does not work, the area is still subject to late night disturbance from taxis and pedicabs
- Supporters re-iterate previous comments regarding the contribution of the proposed music venue to the character and vitality of the area;
- Based upon the revised OMP, target clientele and robust planning controls, the use would not adversely affect residents' amenity
- Existing venue run by the prospective tenant is well managed,
- Applicants have taken residents' concerns seriously in amending the scheme and have also worked hard to address residents' concerns about the operation of the neighbouring venue by actively managing customer departures from that site.

5.2 Applicant's Pre-Application Community Engagement

This application was submitted prior to the adoption of the Early Community Engagement guidance no consultation was carried out by the applicants prior to the submission of the application.

However, the scheme has been revised in response to views and representations received during the course of the application through a reduction in premises capacity and proposed opening hours and the submission of more comprehensive details relating to the proposed use.

The applicants have recently advised that, between 5 and 12 July 2022, they sent letters to 300 residents of Broadwick, Marshall and Carnaby Streets, local Councillors and the local amenity society, informing them that the submitted OMPs had been updated and inviting them to attend drop-in sessions in the proposed venue on 12 and 14 July. These were attended by a total of 13 residents. Residents' reported concerns about the impact of the use reflect those set out in the report.

6. WESTMINSTER'S DEVELOPMENT PLAN

6.1 City Plan 2019-2040 & London 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 Section 38 of the Planning and Compulsory Purchase Act 2004, it comprises the development plan for Westminster in combination with the London Plan, which was adopted by the Mayor of London in March 2021 and, where relevant, neighbourhood plans covering specific parts of the city (see further details in Section 6.2).

As set out in Section 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.

6.2 Neighbourhood Planning

The Soho Neighbourhood Plan includes policies on a range of matters including housing, residential amenity, air quality and climate change, traffic and servicing, green infrastructure, pedestrians and cycling and waste and recycling.

It has been through independent examination and was supported by local residents and businesses in a referendum held on 2 September 2021. It was adopted on 8 October 2021. It therefore forms part of the development plan for Westminster for development within the Soho Neighbourhood Area in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004. Where any matters relevant to the application subject of this report are directly affected by the policies contained within the neighbourhood plan, these are discussed later in this report.

6.3 National Policy & Guidance

The City Plan 2019-2040 policies referred to in the consideration of this application have been examined and have been found to be sound in accordance with tests set out in Paragraph 35 of the NPPF. They are considered to remain consistent with the policies in the NPPF (July 2021) unless stated otherwise.

7. BACKGROUND INFORMATION

7.1 The Application Site

The application relates to part of the basement and ground floor entrances/exits on Broadwick Street and Ganton Street, within a larger development which occupies the street block bounded by Broadwick Street, Carnaby Street, Ganton Street and Marshall Street. This site lies within the Central Activities Zone, (CAZ), the Soho Conservation Area, the Soho Special Policy Area and the West End Retail and Leisure Special Policy Area (WERLSPA) as defined within the City Plan 2021. The site is also located within the Soho Neighbourhood Area as designated in the Soho Neighbourhood Plan (SNP September 2021).

The building, which is unlisted, is in commercial and residential use. An approved development (13 August 2019) for commercial uses on the lower floors and fifteen reconfigured and new flats on the fifth and sixth floors, is nearing completion. This scheme, which was submitted under the address 72 Broadwick Street, included a restaurant or retail use in those parts of the building which are the subject of the current application.

The current application was originally made under the address 74 Broadwick Street, as the part of the site which is the subject of the current application will now be given a separate postal address. However, the application was revised, resubmitted and readvertised under the address 72 Broadwick Street to enable consultees to compare the current proposals with the approved development.

The area is characterised by ground floor commercial uses. There is a mixture of residential (market and social housing) and commercial uses on the upper floors. In addition to the 15 flats on the upper floors of the application building, records indicate that there are 24 flats in Marshall House, which has a frontage on Broadwick Street; 34 Flats in Stirling Court, 3 Marshall Street; 6 flats at 14 Marshall Street; 34 flats at 16 Marshall Street; 72 flats in William Blake House (1-6 Dufour's Place); 15 flats at 7-9 Dufour's Place; 24 flats at Sandringham Court, Dufour's Place and flats at 16-18 and 20 Marshall Street and on the upper floors of 4A Ganton Street, 2 Marlborough Court, 33 and 35 Marshall Street and 24 and 40 Carnaby Street. As well as at 17 Newburgh Street.

The west end of Broadwick Street, adjacent to the Broadwick Street premises entrance, is pedestrianised, with no vehicular access to Carnaby Street. However, this part of Broadwick Street is open to two-way traffic from Marshall Street. There is no vehicular access northwards from Marshall Street to Regent and Great Marlborough Streets.

7.2 Recent Relevant History

13 August 2019: Permission granted for the demolition and rebuilding of fifth and sixth floors and erection of two storey extension above the UKPN substation fronting Marshall Street, in connection with the use of the part basement and ground for restaurant purposes (Class A3), flexible/alternative use of part first floor as either offices (Class B1), or for up to two restaurants (Class A3), continued use of the part basement, part ground, second, third and fourth floors as offices (Class B1) with flexible/alternative use of part ground, part first, second and third floors as gym (Class D2) and the provision of 15 residential flats with external terraces at fifth floor level. External alterations to the whole

building, including new roof profile, facade alterations, shopfront alterations, painting of existing brickwork, creation of office roof terrace at 6th floor level. Installation of a biodiverse roof, along with new plant and photovoltaic panels (RN: 18/10341/FULL).

The approved plant for the development, including the kitchen extract system, is the subject of conditions, governing noise and vibration, but the hours of plant operation are not restricted as the plant would satisfy noise requirements when operating on a 24-hour basis. Other operational conditions imposed including a requirement for self-closing doors to be fitted to the street entrances on Broadwick Street (serving the basement and ground floor restaurant) and Ganton Street (serving the approved first floor restaurants).

26 January 2021 The Council determined that the relocation of the internal wall between the retail and restaurant unit at basement level to increase the basement restaurant floorspace by 55 sqm; the repositioning of the escape corridor and door at basement level; the re arrangement of the residential stair at ground and first floor level; the repositioning of the restaurant stair opening at first floor level and the variation of Condition 9 to increase the permitted restaurant covers by 15 (to 140) constituted a non-material alteration to the permission dated 13 August 2019.

Several applications have been approved to discharge conditions on the original permission:

26 March 2020: Details of the design, construction and insulation of the ventilation system and associated equipment (20/00576/ADFULL)

15 September 2020: Details of a management plan to show how potential antisocial behaviour beneath the Broadwick Street undercroft would be ameliorated (20/024446/ADFULL)

Measures within this management plan include the installation of cameras which cover the entire of the Broadwick Street undercroft; the installation lighting to discourage antisocial behaviour and monitoring of the site by the Carnaby Estate's 24/7 Security Team, based in a Control Room in Kingly Court. The Management Plan confirms that the Security Team undertakes regular patrols across the Estate. In the event of incidents being noted, officers are deployed, and a Police presence is requested, where necessary.

28 April 2022 Approval of a Servicing Management Plan (SMP) for the development (21/07254/FULL). This confirms that servicing the basement and ground floor restaurant would be serviced from Ganton Street. A Traffic Management Order permits access to Ganton Street between 07.00 and 11.00 on Monday to Saturday only and this is enforced using demountable bollards. The SMP confirms that site servicing would take place between 09.00 and 11.00 to minimise servicing congestion and, on occasion, from the general servicing bay on Marshall Street.

For the approved retail use, the SMP states that servicing would generally be from Carnaby Street or Ganton Street between 07.00 and 11.00 or from double yellow lines on Broadwick Street outside these times. These retail servicing arrangements accord with servicing arrangements for the original retail uses on the site.

The SMP confirms that waste collections would take place on Ganton Street between 07.1100, or outside these hours, where operatives have bollard keys. When necessary, the approved SMP confirms that waste may be transferred in covered wheelie bins to the refuse depot in Dufour's Place in time for the 15.30 collection.

The approved drawings for the original development show a glass crusher within the waste storage area.

16 June 2022: An Operational Management Plan for the basement/ground floor restaurant was approved (22/02497/ADFULL).

It is noted that there is a pending application (by Shaftesbury Estate) for the installation of a CCTV camera at 72 Broadwick Street and on another site, replacing an existing camera on the listed building at 46 Broadwick (which is subject to a temporary permission) in order to provide improved security monitoring in the area.

8. THE PROPOSAL

Permission is sought for the flexible/alternative use of the basement and ground floor unit as either a retail shop or restaurant (Class E), as previously approved, or as a live music venue (Sui Generis). The unit measures 393 m2 including a ground floor entrance lobby on Broadwick Street (24 m2). The premises is also served by an entrance corridor/escape onto Ganton Street as well as communal waste and servicing facilities for the wider development, accessed from Ganton Street.

This is a speculative application by Shaftesbury Plc. However, the revised Operational Management Plan (OMP) has been submitted with input from a prospective tenant, Soho Live Studio One, who operate 'The Piano Bar, Soho' in Carlisle Street, and has run the Soho Jazz Festival since 2015.

Information supplied within the latest draft OMP (for the music venue) confirms that, during daytime hours, the venue would be used as a soundproof stage for use in association with professional film and television production and for other music- related activities,

As detailed above, the 2019 permission, which has been implemented, approved a restaurant or retail use in this space. The premises have not been occupied for either purpose, although the approved works to alter and extend the property have been carried out. The applicants have re-applied for the permitted retail/restaurant use so that, in the event that an alternative use is approved and implemented, they could revert back to the approved retail/restaurant uses without the need to seek further permission. Under a flexible use permission, the applicant could switch between the retail/restaurant and music venue use during the ten-year period following the granting of planning permission. Whatever use was in existence on the expiry of this ten-year period would then become the lawful use of the premises.

The current application has been revised to omit other potential uses falling within Class E (offices, day nurse etc) and other alternative entertainment uses including a bar, competitive socialising venue and a comedy club (all Sui Generis uses). The OMP for the proposed music venue has been revised several times to reduce the premises

capacity and opening hours; to omit (subsequent) proposals for formalised queuing on Broadwick Street and within the rear access/means of escape on Ganton Street and to provide more information regarding proposed measures to reduce the potential impact of the proposed music venue. The approved OMP for the restaurant use has been re-submitted in support of the restaurant proposals.

9. DETAILED CONSIDERATIONS

9.1 Land Use

Land Use Overview

The site lies within the CAZ, the Soho Special Policy Area and the WERLSPA (the West End location providing a range of commercial activity including internationally renowned shopping destinations and retail and leisure destinations, including Soho, and numerous tourist attractions). City Plan Policy S1.A sets out Westminster's spatial strategy which seeks to ensure that Westminster will continue to 'grow, thrive and inspire at the heart of London as a world city'. Policy 1 acknowledges the need to balance the competing functions of the CAZ, including those as a retail and leisure destination and home to residential neighbourhoods. The evolution of town centres, including the WERLSPA, is supported to create multifunctional commercial areas to shop, work and socialise. Growth will be delivered by various means, including through commercial-led and mixed-use development to provide significant growth, including in leisure floorspace, alongside new homes.

City Plan policy 2 relates to the intensification of the WERLSPA to deliver an improved retail and leisure experience, a diverse evening and night-time economy and an enhanced cultural offer, while protecting the unique character of central London's distinct and iconic places and heritage assets, including protecting the character and function of areas with clusters of specific uses that have been identified as Special Policy Areas (SPAs), and the wider quality of the built environment.

The supporting text (paragraphs 2.7, 2.9 and 2.10) anticipates that the WERLSPA will absorb much of Westminster's future commercial growth, including the development of retail, food and drink uses and entertainment uses and will protect and support the arts, culture and entertainment offer for, all users, and diversify the food and beverage offer whilst, at the same time, minimising negative impacts on residential neighbourhoods. The West End is recognised as home to the largest evening and night-time economy in the UK, supporting a wealth of cultural, entertainment and leisure uses. To ensure that the area is welcoming and attractive to all communities, the appropriate management and diversification of the evening and night-time economy will be supported by enhancements to its cultural offer e.g., art installations and late-night shopping to help ensure the evening and night-time economy is not dominated by the consumption of alcohol, which can deter others from visiting central London outside of daytime hours. Enhancing the cultural offer will include support for new venues.

City Plan policy 20A requires development within the Soho Special Policy Area to reflect the unique character and function of the area and to demonstrate how it respects, protects and enhances the existing scale and grain of the built environment and the unique mixture of uses present there. Policy 20B includes a list of uses which will be supported, including new live music venues and food, drink and entertainment uses, subject to the consideration of the cumulative impact of new drinking establishments upon the character of Soho's streets and mix

of uses .

Commercial Uses

Under City Plan policy 13, a range of commercial, business and service uses falling within Class E of the Use Classes Order 2020, including shops and restaurants, are supported, in principle, in those parts of the CAZ with a commercial or mixed-use character, including the WERLSPA. Policy 14 supports the intensification of town centres, high streets and the CAZ to provide additional floorspace for main town centre uses, in principle, subject to their impact on townscape and heritage. Proposals are required to enhance and diversify their offer in existing town centres as places to shop, work and spend leisure time, with uses that serve visiting members of the public required at ground floor level. This development is required to be of a scale, type and format that reflects and enhances the role and function of the centre where it is proposed.

The supporting text, paragraph 14.5, 14.6 and 14.7) acknowledges that, to ensure their long-term sustainability, town centres will need to provide a mix of commercial uses to create an environment which increases customer dwell time, whilst also supporting their role as major employment hubs and visitor destinations. It is acknowledged that “.town centre uses such as pubs and drinking establishments, exhibition spaces, cultural and leisure uses, can all help support the future success of these key clusters of commercial activity...”.

The Plan recognises that the WERLSPA, away from the main shopping streets, provides highly diverse land uses, including shops and a variety of entertainment venues. These combine to provide a wealth of attractions that draw in visitors and make a major contribution to London’s world city status. Alongside retail growth, a balanced mix of complementary leisure, entertainment, food and drink and cultural and employment uses is welcomed to help the West End to grow, not only as a global shopping destination, but also as an enhanced leisure and employment destination.

Policy 15 (Visitor Economy) states that the Council will maintain and enhance the attractiveness of Westminster as a visitor destination, balancing the needs of visitors, businesses and local communities, and will support proposals for new arts and cultural uses in designated areas including within the town centre hierarchy and within commercial areas in the CAZ. The City Plan defines ‘predominantly commercial neighbourhoods’ as ‘those areas of the CAZ where the majority of ground floor uses comprise of a range of commercial activity’, as is the case in this part of Soho.

Policy 16 (Food and Drink) also requires proposals for food and drink and entertainment uses to be of a type and size appropriate to their location. The over-concentration of such uses will be further prevented where this could harm residential amenity, the vitality and character of the local area or the diversity that defines the role and function of the town centre. Applications for entertainment uses will need to demonstrate wider benefits for the local community, where appropriate. The definition of entertainment uses within the City Plan glossary includes uses predominantly, or partly used for entertainment purposes including live music venues.

Policy 11B of the Soho Neighbourhood Plan supports the provision of new live music venues, ‘especially if they host live music and provided that they do not have an unacceptable impact on residential amenity.’ The supporting text acknowledges the declining number of live music venues in the area, attributing this to various factors including commercial priorities, safety and

planning restrictions and increasing rent and rates. It accepts that while there are locations where music performance can, and does, take place there is currently a very limited number of dedicated music venues (such as 'Ronnie Scott's' in Frith Street 'Pizza Express Jazz Room' in Dean Street and 'Ain't Nothing but the Blues' in Carnaby Street) remaining in Soho. The Plan recognises live music as part of Soho's history and heritage, and its links with the creative industries, and aims to help reverse the decline in the number of venues offering live musical events where viable commercial proposals for such uses come forward.

The policy summary set out in Section 2 of the SNP in relation to entertainment uses and the night-time economy states:

"Existing music venues and other cultural uses will be protected. The development of new live music venues will be supported provided they are low impact in terms of noise and how the arrival and dispersal of customers is managed. New Class E and some sui generis uses above, below or adjacent to existing residential use must apply the 'agent of change' principle and demonstrate that they will not have adverse impacts on residential amenity, which cannot be mitigated..."

The SNP also acknowledges that the impacts of large numbers of people arriving and leaving such venues could be very disruptive. While the Plan is supportive of carefully considered growth in entertainment and live music, it states that such uses should be promoted as being "primarily viable as an evening activity rather than a late-night activity" on the basis that the late-night economy in general adds a degree of pressure to local services and can have adverse impacts on residential amenity. Consequently, the SNP considers it vital that venues are well regulated and managed, including through an OMP which includes measures for the quiet dispersal of customers. It acknowledges that there may be locations "on the edge of Soho close to major roads or underground/Crossrail stations" where larger units could effectively handle arrivals/departures and/or later hours. While wishing to support the provision of live entertainment as an important part of Soho culture and identity, the SNP aims to prevent, as far as possible, their harmful impacts through appropriate conditions on hours and capacity and other controls. Where food and drink are proposed, it also promotes the use of conditions to restrict deliver/servicing hours, particularly in relation to the movement of uncrushed bottles during the night, in order to protect residential amenity.

Similarly, policy 12 (Food and Drink) of the SNP requires proposals for new food uses, including music venues, which are "contiguous" to residential uses, to comply with the 'agent of change' principle' and to demonstrate that they will not have unacceptable amenity impacts in relation to noise, vibration and odours.

The Mayor's adopted Culture and Night-time Economy SPG (2017), has been cited by the applicants in supported of their proposals, while this document has been superseded by the London Plan 2021, it provides some useful context and acknowledges the pressures on night-time uses over recent years. It confirms that 'London has lost 103 nightclubs and live music venues since 2007, a decline of almost a third... [and ONS] figures show that 1,220 pubs and bars shut between 2001 and 2016 – an average of 76 a year'. It also states that between 2007 and 2015, London lost 35 per cent of its grassroots music venues.... from 136 spaces to just 88 today. Iconic names like the Marquee Club, the 12 Bar Club and Madame JoJo's ' have closed down. In order to address this decline, the Mayor's SPG states that boroughs should encourage provision for night-time activities in order to expand the cultural offer, recognising the importance and contribution of live music venues.

Policy HC5 of the London Plan protects existing cultural uses and venues and supports the development of new cultural venues in town centres and places with good public transport connectivity. To support this, boroughs are encouraged to develop an understanding of the existing cultural offer in their areas, evaluate what is unique or important to residents, workers and visitors and develop policies to protect those cultural assets and community space.

Policy HC6 of the London Plan requires boroughs to develop a vision for the night-time economy, supporting its growth and diversification and requires local development plans to promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, (which includes the West End) and town centres where public transport such as the Night Tube and Night Buses are available in order to build on the Mayor's vision for London as a 24-hour City. The policy encourages the diversification of the range of night-time activities, including extending the opening hours of existing daytime facilities and seeks the protection and support of evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues. However, the policy also requires the boroughs to take account of the cumulative impact of high concentrations of licensed premises on anti-social behaviour, noise pollution, health and wellbeing and other issues for residents and nearby uses and to seek ways to diversify and manage these areas.

Related policies

To ensure that any detrimental impacts on existing users of an area are avoided, City Plan policy 7 requires new development to be neighbourly by protecting, and where appropriate enhancing local environmental quality and protecting and positively responding to local character and the historic environment. In considering development proposals, the Council will take a balanced approach that considers the specific site location and context as well as the merits of the proposals including the consideration of the wider benefits of a scheme against impacts on the surrounding area.

The Plan recognises that factors such as polluted air, excessive smells, poor waste management, noise and strong vibrations are examples of environmental impacts that have an adverse impact on quality of life and health and well-being. Development must prevent unacceptable environmental impacts on existing and new users of building or its neighbours. It confirms that the Council will place the burden on the applicant to ensure mitigation measures are included to safeguard future local amenity and to ensure that development does not cause existing nearby uses from having to curtail their activities.

The Plan (paragraph 7.5) recognises that there are several areas known for particular functions and uses, attracting visitors and businesses e.g., within the Soho SPA, where relevant policies are designed to protect the uses and character of these areas.

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents. Developments must prevent the adverse effects of noise and vibration, with particular attention to minimising noise impacts and preventing noise intrusion to residential developments and sensitive uses, minimising noise from plant and internal activities and from servicing and deliveries. In assessing the impact of development proposals, the Council will apply the 'Agent of change' principle which places the burden on the applicant to mitigate negative environmental impacts and ensures development does not cause existing nearby uses from having to curtail their

activities.

Proposed uses and impact on amenity

In support of their proposals, the applicants have cited the aforementioned development plan policies which promote commercial growth within the CAZ and the WERLSPA and acknowledge the role of food, drink and entertainment uses in supporting Westminster as a place to shop, work and spend leisure time, in enhancing the visitor and night-time economies.

The application was originally supported by a generic OMP for all of the uses proposed, with opening hours from 08.00 until 02.00 the following morning on Monday to Wednesday; until 03.00 the following morning on Thursday to Saturday and until midnight on Sunday, although it was stated that the restaurant use 'would be likely to close earlier'. This document has now been superseded by separate OMPs for the proposed restaurant and music venue.

Restaurant use

The applicant acknowledges that any future restaurant operator will need to carefully consider the management of customers. Respondents, including the Soho Society have raised no objection to the proposed restaurant use subject to appropriate controls although one local resident has expressed concern about the potential impact of the restaurant uses approved as part of wider concerns about various aspects of the approved development on the wider site.

The applicants have now submitted the approved OMP for the approved restaurant use in support of the current restaurant proposals. As previously approved, the proposed restaurant opening hours would be 08.00 - midnight (Mon-Thurs); 08.00 - 00.30 (Fridays and Saturdays) and 08.00 - 23.00 (Sundays and Bank Holidays), with last access to the restaurant one hour before closing time. The restaurant capacity would be for a maximum of 140 customers.

Staff and customer entrance/exit would be on Broadwick Street. The entrance doors will be fitted with a self-closing mechanism and the doors will be managed by a member of staff to ensure they are not fixed/held open and remain closed other than for customer access/egress.

The restaurant will operate a reservations system but will keep some tables free for 'walk in' customers. The ground floor entrance lobby (capacity 20 people) will be used for customers awaiting a table. No external queuing will be permitted.

Other obligations include the presence of front of house staff, and door supervision; staff training in management procedures, security, including the installation of CCTV systems (and links with the Shaftesbury Estate's wider security operation for the area); the operation of a staff and customer smoking policy, the management of customers outside the premises, measures to encourage customers to use public transport or taxis and to order taxis from Regent Street or Great Marlborough Street; the operation and management of a complaints procedure and the provision of a dedicated complaints hotline during opening hours.

Servicing and deliveries will generally take place from Ganton Street between 0700 and 1100 hours. The operator will endeavour to use delivery companies which operate electric vehicles and use delivery trollies with rubber wheels. Restrictions are imposed on the movement of waste or glass within the premises between 23.00 hours and 07.00 hours the following day. Waste management for the original development includes a bottle crusher. A dedicated staff member will oversee servicing and deliveries and liaise with all service providers and suppliers.

The restaurant will utilise the approved restaurant extract and ventilation plant under the original permission.

Subject to previous conditions relating to the approved/proposed restaurant use and a requirement that the proposed restaurant is operated in accordance with the submitted restaurant OMP, the proposed retail and restaurant uses are considered acceptable in land use terms and in terms of their impact upon the environmental quality of the area and the amenity of neighbouring occupiers.

A condition is recommended to restrict the approved (Class E) uses to the retail and restaurant uses applied for to prevent the introduction of alternative Class E uses e.g., offices, a day nursery etc which could introduce a ground floor use which do not serve visiting members of the public or could have additional adverse amenity or highways implications.

Live music venue

The application also involves the flexible/alternative use of the application premises as a live music venue (Sui generis) .

As stated above, the original application was supported by a generic OMP for all of the entertainment uses proposed, with a maximum capacity of 512 customers and opening hours from 08.00 until 02:00 on Monday to Wednesday: until 03:00 on Thursday to Saturday and until midnight on Sundays and Bank Holidays

A separate OMP has been submitted for this use, which has been amended and updated. The finalised draft OMP has been the subject of further consultation. Additional clarifications have since also been provided regarding the nature of the proposed use.

The OMP is based on the premise that the venue would operate as a jazz club with three shows on most days. During daytime hours, the venue would provide a soundproof stage for use in association with professional film and television production (capacity 40) and the building (apart from the ground floor box office) would generally be closed during the day. The daytime use could also include other music related educational/community activities and audiences for productions when, by invitation only, a limited number of members of the public could attend (capacity 80). The example given is use by the National Jazz School.

The applicants have advised that it would not be possible to make any further changes to the OMP without significantly impacting on the viability of the proposed use. Although this is a speculative proposal, the finalised OMP has been drafted in conjunction with a prospective tenant. – who operates premises in Carlisle Street and organises the Soho Jazz Festival. It is important to note that this is not the applicant and permission could not be made personal to them. However, obligations within any approved OMP regarding management issues, hours of use, capacity etc. would apply equally to any prospective tenant. Should any future operator wish to change any material operational details, a further application would be required to amend the OMP and any relevant conditions, as appropriate.

Hours of use and capacity

The premises capacity has been reduced to a maximum of 295 customers. (The submitted fire reports acknowledge that , based on the submitted plans, the maximum capacity would be for 256 customers and that further internal works would be required for the proposed capacity of 295

customers to be achieved in fire safety terms. This is acknowledged by the applicants).

The proposed opening hours are from 9.00 until midnight on Monday and Tuesday; until 01:00 the following morning on Wednesday and Thursday; until 02:00 the following morning on Friday and Saturday (and Sundays before Bank Holidays) and until 23:00 on Sundays and Bank Holidays. Last entry to the music venue would be one hour before closing time.

A maximum capacity 295 customers at any time (including ticket holders and members, by invitation). The venue will operate tracking of tickets/capacity on the doors so capacity can be calculated throughout the duration of the show. A member is not guaranteed entry if the venue is full.

The premises would primarily operate as a sit-down venue for live concerts in a cabaret setting. The late show performance would be a more casual/cabaret type performance than the earlier shows, and it is anticipated that the audience will disperse throughout the show as there is no finale/encore.

The OMP sets out the following performance schedule, details of which have been further clarified by the applicants, who now confirm that there will be no late show on Mondays, Tuesdays or Sundays.

Day	First show	Second show	Third show
Monday	16.45-19.30	20.00-23.00	n/a
Tuesday	16.45-19.30	20.00-23.00	n/a
Wednesday	16.45-19.15	19.45-22.15	22.45-00.30
Thursday	16.45-19.15	19.45-22.25	22.45-00.30
Friday	16.45-19.15	19.45-22.30	23.00 – 01.30
Saturday	16.45-19.15	19.45-22.30	23.00 – 01.30
Sunday	14.00-16.45	17.00-20.30	n/a

The applicants have advised that:

“The above sets out the times that people would be expected to arrive for the first and second shows. The third (later) show would expect people to arrive FROM the start time indicated, as this is more of a ‘come and go’ cabaret style show and doesn’t have a fixed performance time.”

They consider that the 30 minutes between the end of one performance and the start of the next (except for the Sunday daytime shows) would provide sufficient time for patrons to leave and enter the premises without causing any dispersal issues. They have also advised that the actual performance times would also be slightly shorter than the allocated show slots, which would give ‘further flexibility’

These revised arrangements should be incorporated within an updated OMP, which would be secured by condition.

Venue access/exit:

Daytime access/egress and entry to the early shows and main shows will be via Broadwick Street. Egress from these shows is via both Broadwick Street and Ganton Street. All access to the venue will be via Ganton Street after 23.00 hours. No egress will be permitted via Broadwick Street after midnight and signage will be displayed to reinforce this. (These terminal hours for

the use of the Broadwick Street entrance are the same as or earlier than the terminal hours for the approved restaurant use, which would use Broadwick Street as the sole entrance/exit, except on Sundays when the restaurant would close at 23.00). The proposed use of the Broadwick Street entrance until midnight on Sundays is considered reasonable given the proposed management arrangements, although it is noted that no final Sunday show is now proposed. The hours of use of these entrances/exit would also be secured by condition. .

There will be no formal external queuing. Due to the ticketed nature of events and the interval between performances, it is anticipated that there will be limited dwell time at the entrances. The internal ground floor lobby (Broadwick Street) can accommodate up to 20 customers. The basement lobby area can also act as a holding area (capacity 80)

Tickets will be scanned to ensure a speedy entry process. Customers will be notified via email/SMS upon purchasing their tickets of the access procedures etc .

Noise

The OMP confirms that no amplified music from within the premises will be audible outside the premises or through the building structure and this would be the subject of conditions. Signage, and noise monitors will be placed at exit points to remind customers that there are residents in the vicinity. The venue operator will provide an annual report of these monitor readings to any party on request.

Performers' Equipment Delivery and Removal

The majority of the equipment required for performances will be supplied and already installed within the premises. However, it is anticipated that, for some performances, specialist equipment may be required to be delivered and removed from the venue. This equipment will be delivered via Ganton Street in accordance with the general servicing arrangements and vehicles will depart as soon as practicable. The removal of equipment after an evening performance will be completed the following day in accordance with the servicing hours. Drivers will be requested to switch off engines and complete the tasks as quietly as possible to reduce disturbance to residents.

Other proposed measures within the OMP relating to security/monitoring of the site area, to discourage loitering; door supervision, the installation of self-closing doors to the Broadwick Street entrance; the presence of staff to greet customers and to monitor building entrances; the provision of adequate staff training in all management procedures; the operation of a smoking policy; measures regarding travel to and departure from the premises, including directions to taxis on Regent Street and Great Marlborough Street (the premises will not order customer taxis); servicing hours, deliveries and the movement of waste and bottles within the building; the installation of CCTV and links with the applicant's wider security systems for the area and the implementation of complaints procedures. These measures reflect those in the approved restaurant OMP.

It is noted that the music venue OMP also includes an obligation that any external areas used for queueing will be cleaned daily. However, no external queuing is now proposed and this needs to be amended in the updated OMP.

Letters of Support

The Council has received numerous letters of support for the proposed music venue. (Objectors have noted that many of the scheme's supporters appear to reside outside of Soho/London.

Concern has also been expressed that many letters of support were submitted on the same day, although this is not unusual and could, for example, be as a consequence of people being made aware of the application when attending another live music performance). Supporters include musicians, local business and property owners and the Soho Business Alliance. Many support the introduction of a new jazz music venue and consider that customers attending jazz performances would be likely to be 'more mature' patrons who would be more likely to be respectful to neighbouring residents and unlikely to be involved in any form of anti-social behaviour. Others welcome the introduction of a new venue run by an established operator (the team behind the "Piano Bar, Soho",) as this venue is well run and contributes to the musical/cultural life of the area. They consider the proposed use to be markedly different in character from many other mainstream bars and other venues, where the focus is on alcohol consumption.

Supporters consider this to be a well thought out application and that the use would enhance the historic character and function of Soho as a destination for high quality entertainment, particularly music, and will revitalise the area's nightlife, provide employment for professional musicians and venue staff, nurture a new generation of musical talent and help revive a sector disproportionately affected by the pandemic. They refer to policies within local development plans and the London Plan which support the provision of live music venues. They consider that the use would encourage a diversification of uses in the area (more recently characterised by new bars, gyms and restaurant chains) and would help reverse the decline in the number of dedicated live music venues. Others make the point that the area has historically been characterised by a juxtaposition of late-night entertainment and other uses and consider that the amenity of the area and neighbouring properties, including flats in the vicinity of the site, would be adequately safeguarded through imposition of appropriate planning conditions, licensing regulations and the robust management controls proposed.

More recently, letters of support have been received on similar grounds from current and former local residents (one of whom has withdrawn their previous objection). One local resident considers that the applicants have taken residents' initial concerns seriously e.g., by significantly reducing the proposed capacity and that they have worked hard to address concerns about getting customers of the neighbouring venue (cited by objectors) into their taxis and way from the area.

Letters of objection

A similar number of objections has been received from local residents, (primarily from Marshall House, Stirling Court and Dufour's Place), with multiple letters from several objectors. Objections have also been received from the Ward Councillors (former and current), and from the Soho Society on the grounds that the proposals would have a material adverse impact upon the environmental quality of the area and the amenity of neighbouring residential properties contrary to local plan policies relating to the introduction of new entertainment and food and drink uses and policies design to safeguard the amenity of neighbouring residential properties.

Some objectors consider that the developer should be required to implement the approved restaurant or retail use and consider that the current proposals to introduce a different use to be 'underhand'. It is not unusual for a developer to secure permission for one use and to subsequently seek permission for alternative uses in order to introduce more flexibility and increase the 'marketability'. The applicants are at liberty to apply for a number of different uses, the acceptability of which will be considered on their merits. The City Council cannot require an applicant to implement an approved use

The original application was submitted during the pandemic and some respondents considered that it would be premature to approve a new venue when existing venues were still closed. Others believe that, following the pandemic, the Council should not be granting permission for large-capacity uses. Although most venues have re-opened, the potential effects of Covid19, or similar, would not be a reason for withholding planning permission. Any future operator would be required by any relevant Government restrictions in place at the time.

Lack of demand and viability of proposed use

A number of objectors contend that there is no need for a new venue in this location, that there is plenty of choice in the area for late night entertainment and that the area has reached saturation point for nightlife/entertainment uses. One objector has referred to the existence of 'many empty buildings with the relevant permission in place' It is unclear to which premises the objector is referring to, as none are identified, but it is acknowledged that any such alternative sites might not meet the operational requirements of the applicant or prospective tenant(s). Others contend that there is unlikely to be demand for a jazz club, similar venues have folded for economic reasons, and that the use would be unviable or that future operators are unlikely to abide by proposed controls e.g., restrictions on capacity.

Evidence submitted in support of the application and, local development plans, including the SNP, and the London Plan all acknowledge that there are few live music venues in the area, and support their introduction in land use terms. The likely level of demand for particular use, and commercial viability, are matters of judgement for the applicant and are not reasons to withhold planning permission. While this is a speculative application, which is not unusual, the latest OMP has been drafted in conjunction with a potential operator. The applicants have confirmed that the revised hours/capacity represent the 'minimum' which would make the venue commercially/operationally but that no further changes could be accommodated without affecting the venue's ability to operate.

Any proposed planning conditions, and the measures detailed within any approved OMP, would have to be complied with by any future operator and any material changes proposed would require further planning approval. There is no reason to believe that any future operator would not abide by conditions imposed, and permission could not be withheld on these grounds. Any reported breaches of the permission would be investigated by the Planning Enforcement Team.

Nature of the proposed use

One objector has referred to the use of the premises as a 'nightclub with live music'. Others, including the Soho Society, make the point that there is no guarantee that the venue would operate as a jazz club, targeting older audiences, and that the premises could change to a venue for different type of music/younger audiences at any time, including as a 'raucous nightclub club' with increased noise levels. However, a live music venue is a separate sui generis use, and permission would be required for the use of the premises as a nightclub or any materially different form of entertainment use.

One objector notes that the OMP refers to 'primarily' live performances, on the basis that this would not rule out performances by DJs or recorded music. The inclusion of the phrase 'primarily' is considered likely to be a reference to the proposed daytime use of the premises for music production and other uses. Providing that the premises were adequately soundproofed, and internal noise levels controlled, it is not considered that occasional 'non live' performance would have a material impact on neighbours' amenity. However, the primary proposed use is as

a 'live music venue' and the submitted OMP includes proposals for three live music performances on most days. Any permission would be subject to a condition requiring the OMP to be complied with and any proposed material change to the OMP would require further planning approval as would the principal use of the premises as anything other than a 'live music venue'.

Several objectors have referred to proposals to extend the premises and increase the site capacity or to the potential future expansion of the premises within the basement of adjacent retail units. The current application does not include amendments to increase the size of the premises or capacity beyond what was originally proposed.

One respondent has expressed concern that the OMP includes some ambiguous wording e.g., 'likely', 'unlikely', 'predominantly'. Some similar wording has previously been omitted from the draft and replaced by more robust phrasing. An OMP is intended to be a day-to-day management framework which will give both the operator and third parties certainty over what has been permitted. However, it is also acknowledged that applicants will include such wording to cover 'one off' or very occasional events/operational emergencies so that they are not in immediate breach of the terms of any approved OMP in these emergency situations. The wording of the draft OMP is considered to cover such eventualities but any finalised OMP should be drafted to remove potential ambiguities as far as possible.

Impact on the character of the area

A number of objectors contend that there is no need for a new venue in this location, as there is plenty of choice in the area for late night entertainment and the area has reached saturation point for nightlife/entertainment uses. Objectors consider that the development would upset the residential and commercial balance in the area. Other objections refer to the impact of the proposed use upon the character of the conservation area.

As set out above, Soho has, historically, been associated with the arts and live music uses, and the reintroduction of such uses, and the diversification of the night-time economy, is encouraged by the London Plan and local plan policies. The proposal is for a specific type of entertainment use, which is encouraged in principle. This part of the site was previously in retail use and has extant permission for a restaurant use – a different form of entertainment use. Consequently, the balance of commercial and residential uses would be unaffected by the introduction of an alternative commercial use on the site. In these circumstances, it is not considered that the use would have an adverse impact upon the character or balance of residential and commercial uses in the area and these objections cannot be supported.

Impact of the use/amenity

The site is located in an area which includes several high-density residential developments including Marshall House, Stirling Court, William Blake House, Dufour's Place, including two blocks of social housing which contain many young families, and the fifteen new/reconfigured flats on the fifth/sixth floors of the application premises. In addition, there are residential uses at 16-18 and 20 Marshall Street and on the upper floors in Ganton Street. Objectors consider that the proposed introduction of a late-night live music venue is unacceptable in this context or, whilst supporting the principle of the use, consider this to be the wrong location. One respondent has commented that the proposed customer turnover/capacity would be markedly different in character and impact from the approved restaurant. Others consider that opening should be limited to 23.00 as an evening, rather than a late night, venue would discourage drinkers. However, as detailed above, the applicants have advised that the opening hours could

not be further reduced.

Objectors note that the venues cited by the applicants as examples of similar uses in the area, are located in a busier location to the west of the site and that the proposals would encroach onto the more 'residential Broadwick Street/Marshall Street axis'. Others refer to the impact of other late-night uses in the area and consider that the scheme would have an adverse cumulative impact on the amenity of neighbouring residential properties contrary to development plan policies. Objectors also refer to the impact of a further licensed premises in high stress zone, although there is extant permission for up to three restaurants on the wider site, one of which would potentially be replaced by the proposed music venue.

The Soho Society has recently reiterated its earlier objections and considers that the revised OMP does not address its concerns about the potential for additional noise nuisance in this 'strongly residential' location, which is already affected by late night activity. The Society disagrees with the view of some supporters of the scheme that late night noise is part of the areas character and heritage and believe that there has been a marked increase in noise nuisance in more recent years. They consider that the applicants have shown a lack of awareness of residents' experience, demonstrated by the number and strength of objections received. Until residents themselves can acknowledge that there has been a sustained improvement in their amenity and the environmental quality of the area, the Society considers that the proposals would only 'make a bad situation worse'.

The Society also refers to the SNPs policies regarding new live music venues which, while supportive of new venues, states that this type of use is 'primarily viable as an evening activity rather than a late-night activity'. Notwithstanding their fundamental objection, they believe that any permission should restrict premises opening to Core Licensing Hours as later opening would be unacceptable in this location. The Council's Statement of Licensing Policy (effective from October 2021) designates entertainment stress areas (including the application site) and sets out the Core Hours Policy (HRS1) for various uses including 'music and dance venues' (10.00 to 23.30 on Monday-Thursday. 10.00 to midnight on Friday and Saturday and noon to 22.30 on Sundays and noon to midnight on Sundays immediately prior to a bank holiday). Applications for uses outside these hours will be considered on their merits, subject to other relevant licensing policies, which include policies relating to combined uses and venues where the primary function is for performances in front of a live audience, including concert halls. However, it is important to note that these policies relate exclusively to Licensing decisions. Planning and Licensing are distinct and separate regulatory regimes, each with its own specific statutory considerations and policy considerations. While the November 2016 City Plan included a specific policy relating to stress areas, and the previously saved UDP policies referenced core hours, the current Westminster City Plan 2019-2040 does not include such policies or references.

One respondent has referred to the potential adverse impact on the open entrance to the Samaritans office, which is set within a rear courtyard with gated access next to the Marshall Street entrance to Marshall House. This facility operates between 09.00 and 21.00 hours and it is not considered that this use would be materially affected by the proposals, particularly late-night activities.

Premises access/use and management of entrances and external areas

Objectors have expressed concern that the late-night use of the Ganton Street entrance/exit is not mandatory. The use of the site entrances has been clarified within the updated OMP which confirms that all access to the venue will be via Ganton Street after 23.00 hours and that no

egress will be permitted via Broadwick Street after midnight. (As detailed above, the proposed hours of use of the Broadwick Street exit are the same as that for the restaurant use, except for Sundays when the exit would be in use until midnight instead of 23.00 hours). An objection has been received on the grounds that directing late night activity to Ganton Street, to safeguard the amenity of flats in Broadwick Street, does not take account of amenity impact on properties to the north of the site, although it is noted that few comments have been received from occupants in this location.

Objectors have expressed concern regarding noise disturbance from large number of customers queuing outside the premises, particularly beneath the Broadwick Street undercroft, and have queried whether waiting customers can be accommodated inside the building considering that, if the location is not suitable for external queuing, this is not the 'right' premises. There are also concerns that the 'fragmented' entrance arrangements detailed in the OMP are likely to confuse customers, (it is assumed that this objection is concerned with the potential formation of queues) and that the proposed ticketing arrangements are 'not reassuring'. Others have expressed concern about the adequacy of management of the access/exit and believe that the proposed access arrangements are inadequate given the potential numbers arriving for timed events. Objections have been received relating to potential noise outbreak from the venue via opening doors and noise from opening/closing doors, and the absence of an entrance lobby.

Formalised queuing beneath the Broadwick Street undercroft (and within the rear access slope) is no longer proposed due to officers' concerns regarding highway obstruction. The finalised draft OMP confirms that no queuing will be permitted outside the premises. and that customers will be ushered quickly into the venue and will wait either in the ground floor lobby area, or in the basement bar/holding area. The approved 2019 permission reserved details of an OMP for the management of the Broadwick Street undercroft, and this has been approved in relation to the wider development. There are also pending proposals to introduce CCTV cameras on the building to improve the monitoring of the area.

The Broadwick Street entrance would be fitted with self-closing doors, and this would be secured by condition. The entrance would be supervised to ensure that they are not held open. The Ganton Street entrance comprises the street entrance and a long ramp leading the rear access to the venue, which is located towards the centre of the street block. Both entrances would be managed by security staff who would be responsible for ensuring that noise levels are kept to a minimum. The OMP confirms that adequate staff numbers would be employed to manage the premises and the precise numbers of door staff are often a condition of the Premises Licence. While the comment regarding the absence of double doors/entrance lobbies is noted, self-closing doors are proposed and given the aforementioned proposals for the management of this entrance, it is not considered that the absence of an entrance lobby would have a material impact neighbours' amenity. It is likely that the creation of a lobby within the Broadwick Street entrance would reduce the available holding space inside the entrance.

The proposed ticketing arrangements have been formulated in conjunction with an existing venue operator and it is therefore assumed that the arrangements would be 'workable'. The access arrangements for each show will be confirmed when tickets are sold. Given the period of time allocated between shows, it is considered that there will be ample time for customers to enter/leave the premises without queues forming.

Objectors have also raised concerns about noise disturbance from smokers outside the premises and note that no dedicated smoking area is proposed and no policy, beyond asking

customers not to smoke near the entrance doors (which are the same measures detailed in the approved restaurant OMP). There is no private external area which could serve as a customer smoking area, and it would not be acceptable to dedicate a private smoking area on the public highway. . In this busy central location, it is not considered that occasional smokers from this venue are likely to have any greater impact on the amenity of the area than smokers outside other commercial premises in the area. The approved management OMP for the undercroft details the applicant's proposals for enhanced CCTV monitoring and security patrols around the site, which would identify issues with smokers outside the premises. One respondent has queried how customers who have been 'barred' from the venue would be prevented from re-entering the premises with returning smokers and considers that the proposals have not been 'properly thought out'. It is considered that any such situation could be effectively managed by experienced door staff and does not need to form part of the OMP.

Traffic noise and disturbance

Marshall House residents state that noise disturbance in Broadwick Street, caused by customers leaving various late-night venues and by taxis and pedicabs, is exacerbated by the fact that the street is relatively narrow and that noise, funnelled upwards between the buildings, is evident even when the double-glazed windows to bedrooms and living rooms are closed. One objector has queried whether the applicant would be willing to pay for the installation of double glazing for other potentially affected residential properties, but this is not proposed and could not reasonably be required.

Many objectors consider that local road restrictions contribute to noise levels. The western end of Broadwick Street (where there is no vehicular access onto pedestrianised Carnaby Street) is open to two-way traffic. Additionally, there is no vehicular access northwards from Marshall Street, towards the more commercial Great Marlborough and Regent Streets so that all traffic is channelled southwards from Marshall Street. Consequently, vehicles manoeuvre at the 'closed' ends of Broadwick Street and Marshall Street, immediately outside of objectors' flats, reportedly frequently double-parking with engines running, lights and loud music playing. As there is more limited access to public transport available after midnight, objectors consider that the proposed use is likely to attract more private vehicles/taxis to the area. Some respondents consider that all premises access/egress should be via Ganton Street, to prevent a log jam of taxis at the closed end of Broadwick Street. Others consider that late-night use of the Ganton Street entrance/exit would do little to alleviate noise issues as taxis are still likely to pick up from Broadwick Street as staff can do little to control customer routes once they have left the venue.

While the submitted OMP states that customers will be directed towards Regent Street and Great Marlborough Street to hail cabs or order taxis ordered on a mobile 'apps', objectors believe that they would be extremely unlikely to walk the longer distances to these more wider commercial streets, which are open to two way traffic, but will expect to be picked up from the nearest roadside points on Marshall Street or Broadwick Street., adding to the numbers of manoeuvring vehicles.

Objectors have referred to similar assurances to those made in the OMP regarding taxi 'pick up' points made by the operators of a nightclub at 15-21 Ganton Street – a building which is owned by the applicants. This use operates until 03.00. One objector has referred to a use being approved in in 2008 subject to a requirement that departing customers would be directed to Regent Street. However, available planning records do not show a planning permission for a basement nightclub use, although this use would appear to be longstanding. The current premises licence (2018) does not include any such requirements (but does include conditions

requiring the taxi order point to be fully manned, door supervisors to undertake patrols outside of the premises, and for staff to require patrons to leave the premises quietly and for any car company used by the premises to require vehicles to park legally and not obstruct the highway).

Objectors advise that customers from this venue pick up taxis at the north end of Marshall Street. One resident has provided a log of reported disturbances associated with the operation of the same (named) venue and footage of taxis in Marshall Street to demonstrate that, in practice, venue staff do not have any real control over customer behaviour once they have left a venue or do not operate venue protocols. On this basis, objectors have 'no faith that the applicant will abide by any conditions imposed or proposed by them in relation to current scheme'. They consider the OMP to be little more than a 'wish list and consider that it should not fall to local residents to monitor the behaviour of the future customers and that permission should not be granted until existing issues with other venues on the Estate are resolved.

Although objectors' concerns about the OMP being a 'wish list' are noted, the SNP confirms that applicants would be expected to submit such a document in support of an application for a new entertainment use. There is no other means by which they can demonstrate their intentions in advance of the premises opening or demonstrate that the venue would be 'low impact'. In these circumstances, it would not be reasonable to withhold permission on the basis that applicants/tenants would not abide by the measures set out within any approved OMP.

In response to specific concerns about the impact of taxis in the area, the applicants have also been in discussion with the main taxi 'app' operators. The applicants have confirmed that a 'geofencing' system was introduced in the summer which prevents people from ordering taxis from the street on Marshall Street and the adjacent sections of Broadwick and Lexington Streets. In addition to this, Carnaby Security now patrol the area at least twice per hour throughout the night, tackling any issues which they encounter. Alongside this, the applicants have confirmed that Shaftesbury's late-night venues take their dispersal responsibilities seriously and will encourage people to leave existing premises via alternative routes as well as providing marshals to ensure that customers leaving premises in residential areas do so quietly.

Two local residents have reported a recent improvement (one verbally and one in withdrawing their previous objection). However, other local residents contend that the geofencing system 'does not work' and that the area is still subject to late night/early morning noise disturbance from taxis and pedicabs. It is noted that measures undertaken by third parties such as the taxis companies are ultimately beyond the applicant's control, and they cannot guarantee that the cab companies would agree to retain 'geofencing' in the longer term (although pick-ups from Great Marlborough and Regent Street would certainly be less problematic in terms of the amount of manoeuvring involved). Notwithstanding this, the applicant's attempts to resolve premises management issues raised by the objectors are acknowledged and, subject to the proposed management controls, it is not considered that the introduction of an alternative entertainment use on this busy central location would have a material impact on residents' amenities or local environmental quality when compared with the approved scheme and existing levels of night-time activity in the area.

Impact of deliveries/servicing

Objections have been received regarding potential noise disturbance and pollution from servicing of the premises, including noise from servicing trollies and vehicle engines and from the movement of glass bottles, particularly in the early hours of the morning. Respondents consider that servicing hours should be restricted to avoid this time.

In accordance with the approved OMP for the restaurant use, site servicing will take place from Ganton Street, which provides access to the communal servicing and waste areas on the wider site, between 0700 and 11.00 hours each day, in accordance with local restrictions, Occasional/emergency loading may also take place from an on-street loading bay in Marshall Street, the use of which is unrestricted. The submitted draft OMP also includes obligations to prevent the movement of waste/bottles, which would be audible outside the premises, between 23.00 and 07.00 hours. The approved development includes a glass crusher within the waste storage area. The OMP also confirms that the operator will engage with suppliers who use electric vehicles and that goods will be transferred using trollies with rubber wheels to reduce the potential noise impact. In these circumstances, it is not considered that site servicing would have a material impact upon the amenity of neighbouring occupiers when compared with the approved restaurant use.

The Council's Environmental Services Officer made a holding objection to the original application on the grounds that that the original submission proposing a mixture of entertainment uses, with a maximum capacity of 512 customers, with a latest terminal hours of 03.00 hours, did not address how the use would be managed to prevent unacceptable disturbance to occupants of neighbouring properties, particularly residential buildings in the vicinity of the site. Subsequent comments were made regarding incremental changes to the scheme.

The ESO has reviewed the revised application and has raised no objection to the proposals subject to conditions, considering that the proposed measures set out within the latest OMP strike a reasonable balance between the operational needs of the business and the need to safeguard the amenity of neighbouring occupiers, particularly residents. (It is noted that part of their response erroneously refers to the bar, competitive socialising and comedy club uses which have been withdrawn from the application) .

With regards to the submitted OMP, the ESO has recommended that after a period of following the first occupation of the premises as a music venue, the applicants should be required to submit a monitoring report to the Council (following appropriate consultation with local residents and other occupiers in the vicinity of the premises) to demonstrate the effectiveness of the OMP and setting out details of any remedial measures proposed to address any issues identified. The Council would not ordinarily impose such a condition on a planning permission, having assessed the likely effectiveness of an OMP before making any decision to grant permission for a use. The proposed condition has the effect of a granting a temporary planning permission, and requiring the agreement of third parties, it is unlikely that any operator would commit to investing in the property on this basis. It is considered that any issues identified after the commencement of the use, could be satisfactorily resolved under the complaints procedure detailed in the OMP.

Anti-social behaviour

Objections have also been received on the grounds that the proposed music venue use would exacerbate existing problems with anti-social and criminal behaviour (street fouling, vandalism, drug dealing etc.) in the area. Whilst these concerns are noted, it is not considered that the proposed use has any more or less potential to be associated with this type of behaviour than any other entertainment use, and it would be difficult to attribute any such behaviour to customers of the proposed music venue. Consequently, objections received on these grounds could not be supported. Again, it is noted that the Metropolitan Police Designing Out Crime

Officer has not expressed any concerns regarding the principle of the proposed use.

9.2 Environment & Sustainability

This application is for a change of use only and is not considered to raise any additional energy/sustainability issues when compared with the approved scheme, which is near completion.

9.3 Townscape, Design & Heritage Impact

No external alterations are proposed.

9.4 Residential Amenity

The general impact of the proposed use in relation to noise generated outside the premises is discussed in section 8 above.

Noise & Vibration and Air Quality

Policy 33 of the City Plan requires that development proposals do not have an adverse impact upon the amenity and local environment of existing and future residents and to prevent the adverse effects of noise and vibration, including from plant operation and internal activities and from odours.

Objections have been received on the grounds that the proposals would result in increased smell nuisance, although the source of this potential nuisance is not specified, and potential noise outbreak through building vents. It is not considered that the development, which will utilise the approved ventilation/extract system for the restaurant would have a material impact on levels of smell nuisance or increase the potential for noise outbreak though the ventilation system when compared with the approved use/scheme. It would be in the applicant's best interest to ensure that the amenity of occupants of flats on the upper floors of the building would be protected in this regard. However, a condition is recommended to prevent noise from within the premises being audible outside the premises.

One objector has requested that plant associated with the use should not be permitted to operate after 01.00. However, the development would utilise the plant that has been installed in association with the approved use. Information submitted in supports of the original application demonstrated that the plant would operate in accordance with standard plant noise conditions during both daytime and night-time hours (between 23.00 hours and 07.00 the following morning) and it was not therefore necessary to restrict the hours of plant operation. Consequently, the operation of the plant during the later opening hours proposed would have an adverse impact upon the amenity of neighbouring properties, including the flats with the original development.

A further objection had been received on the grounds that the proposals would have an adverse impact on local air quality as a result of increased traffic including taxis and servicing vehicles. Again, it is not considered that the proposal is likely to have any more significant impact on local air quality than the approved uses as it is likely that any taxis serving the venue will already be operating in the area. As detailed above, the OMP confirms that the operator will seek to engage with delivery companies which use electric vehicles .

Noise transference/vibration impact on neighbouring flats

Several occupants of Marshall House flats have objected to the application on the basis of the potential impact on their properties due to operational noise and vibration through the building structure. One objector originally expressed concern that the submitted plans were inaccurate and/or that the proximity of Marshall House to the proposed venue was unclear, although these concerns appear to have been satisfied following clarification by the applicants.

The basement of the proposed venue is located partly beneath the application building and partly beneath the Broadwick Street carriageway. Its southern perimeter wall sits, approximately at the centre point of the pavement lights (which are filled in) on the southern Broadwick Street pavement. The plant room for the wider 72 Broadwick Street development lies to the south of ground floor of Marshall House is in commercial use at this point, with the flats located at first floor and above.

The application is accompanied by an Acoustic Report and supplementary statements which assess potential noise breakout from the restaurant or live music venue uses in relation to the residential units located on the fifth floor of the application site and in Marshall House. The report includes a proposed form of words to be included in a tenant's handbook relation to the control of noise and vibration from the premises, including from internal activities and the use of mechanical services to the Marshall House flats. It requires that there is no disturbance created, that noise levels do not exceed the criteria agreed between the landlord and tenants and sets out maximum noise level, with separate levels for mechanical services and internal activities in relation to neighbouring uses. It also includes requirements in relation to vibrations from mechanical services in relation to 'internal occupied areas' but does not include any reference to vibration from internal activities.

The report confirms that there is potential for noise/vibration transference from the venue to the upper floors of the application building and to Marshall House and anticipates that there would be a similar noise path to flats on the first floor of Marshall House as to the upper floors of the application site, but with 'slightly greater sound insulation than within the same building'.

The report states that the dominant noise path from a basement music venue to these residential premises is 'more likely to be a flanking path from the slab separating the basement and ground and through the core/façade structures' which it understands to be 'generally concrete based'. The report confirms that a 'box-in box ceiling with independent wall lining, attached by acoustic hangers on structural elements, would be required as a minimum to minimise transmission through this flanking path'.

With the aim of demonstrating that the premises are suitable for the proposed use, the report includes an outline calculation of noise transmission through the ceiling of the proposed music venue through the concrete structures on the upper floors of the building and to Marshall House and includes details of an example ceiling construction for a 'box in box' construction. The report includes details of typical sound reduction achieved by the proposed mitigation measures including the 'box in box construction' (formed in sound resistant plasterboard with a higher density core which is designed for use where greater levels of sound insulation area required), and the installation of independent wall linings, with recommendations for the number of insulating layers. Based upon this construction, and resulting noise mitigation, the report details proposed noise limiting levels, based on the potential impact on the fifth-floor flats within the application building, but this is based on the assumption that the venue would be occupied as a lower volume live music venue e.g., 'acoustic music/jazz DJ'.

In the event that the venue is occupied as a 'more onerous' music venue, the report concludes that acceptable internal noise levels in neighbouring properties 'may be achievable' with further mitigation measures such as 'improvements to the mass barrier ceiling and independent wall linings or even a full masonry box-in box construction'. No details of potential noise levels or of these potential additional measures, or noise mitigation properties, are provided.

The report recommends that once the tenants have fitted out the venue, sound insulation testing should be undertaken to determine noise limiting levels so that the requirements of the tenant's handbook and planning requirements are adhered to.' The applicants contend that subject to appropriate noise attenuation measures, the proposal will not have any adverse impact on any noise-sensitive receptors and would comply with policy 33.

The application assumes that a decibel limit would be set for the proposed music venue. Such controls, including the use of sound limiters, would generally be considered as part of an application for a premises licence.

Objectors have acknowledged this design proposal but state that the concrete frame structure of Marshall House is already particularly prone to vibration noise transfer, with any drilling or vibration that occurs anywhere in that building being felt throughout. They are concerned that the submission does not confirm how basement columns, which are to be attenuated, are to be isolated from the ground floor slab or provide construction details of the wall between the venue and the adjacent plant room beneath Marshall House, or details of specific soundproofing measures to this wall.

The Council's Environmental Services Officer has considered the submitted reports and supplementary information regarding potential noise transference/vibration through the building structure. They have raised no objection to the proposal, subject to conditions requiring the submission of details of digital sound limiting devices. However, the condition recommends that these measures are assessed in consultation with 'local residents and other occupiers in premises in the vicinity'. The City Council would normally rely upon the advice of its own Environmental Services Officers, with expertise in acoustic issues, to assess this technical information.

Standard conditions are proposed relating to noise and vibration from the proposed venue to neighbouring properties, The ESO has also recommended further conditions requiring the submission of the design specification for the separating walls between the proposed venue and residential habitable spaces and a condition requiring the approval of sound insulation measures and a Noise Assessment Report which demonstrates that the proposed mitigation measures will ensure that the noise climate of residents in adjoining buildings is acceptable.

It is noted that the application and noise assessment are based upon a 'lesser' requirement for sound insulation, which the applicants state would be required if the venue was to be used as a jazz venue. However, the City Council would not be able to control the type of music played in a venue. However, any of the details reserved by condition will be required to demonstrate requirements relating to the noise and vibration impact on neighbouring properties can be complied with. An additional condition is recommended requiring the submission of a post commissioning report to demonstrate that the conditions can be complied with, prior to the commencement of the use. Should the nature of the operation change from that detailed in these reports (e.g., the type of music/sound level) to an extent that the noise and vibration

conditions would not be complied with, a further application to discharge the reserved details would be required, supplying updated details of enhanced sound attenuation etc. to demonstrate that there would be no breach of these conditions.

Subject to the conditions proposed, and the approval of the reserved matters prior to the commencement of the use, it is not considered that objections on the grounds of potential noise vibration to neighbouring building through the building structure could be supported.

One objector has requested that any plant associated with the use should not be permitted to operate after 01.00 (which is earlier than the proposed music venue opening hours). The proposed uses would utilise the restaurant plant approved as part of the original development, which has been installed. The noise report submitted in support of the original development conformed that this plant would operate in accordance with standard noise conditions during both daytime and night-time hours (23.00 to 07.00) and, consequently, it was not necessary to impose an hours of use condition. In these circumstances, the operation of the plant during the later opening hours now proposed would not have an adverse impact upon neighbours' amenities and a restriction on the hours of plant operation could not justifiably be imposed,

Other objectors have referred to the extension of the basement and the impact of basement building work on the neighbouring building. However, the current application does not involve a basement extension and works would solely be related to the fitting out and soundproofing of the premises and would not be the subject of a condition relating to the hours of building work.

9.5 Transportation, Accessibility & Servicing

Objectors consider that, given public transport availability is reduced after midnight, that the use is likely to attract additional private vehicles/taxis to the area, resulting in increased congestion , potential obstruction of emergency vehicles and increased parking demand. They also state that parking regulations are not enforced in the area and that the illegal occupation of Respark bays and cars parked illegally makes road crossing difficult to the detriment of pedestrian and highway safety.

Respondents are also concerned that the narrow width of local roads/dead ends, with no turning spaces, makes site servicing difficult.

Highway impact/Parking

The Highways Officer has considered the final draft Operational Management Plan and considers that the omission of proposals for formalised queuing on Broadwick Street and the proposals to create significant intervals between proposed show times is likely to reduce the numbers of people arriving/departing at the venue at the same time, ameliorating the potential for localised congestion, including on the footway. The revised proposals are therefore acceptable in terms of City Plan policy 28 which seeks to ensure developments does not adversely impact on available space for the free flow of pedestrian traffic.

It is accepted that the proposed music venue use is likely to generate an increase in the number of taxis/private hire vehicles in the area but, given the times between the end of one show and the start of the next, it is considered that this impact will be minimised. In these circumstances, and subject to a cap on the maximum capacity (currently 295 customers) the Highways Officer considers that although there may be higher levels of activity around the site at different times, this will not have a detrimental impact on the operation or safety of the highway, which would

include access for emergency vehicles. .

Additionally, with arrangements for 'geoblocking' in place, and measures in the OMP to direct departing customers to Regent Street and Great Marlborough Street, it is not considered that there would be any significant increase in the potential for localised congestion when compared with the likely impact of the approved restaurant use and traffic associated with other uses in the area.

The site is within a Controlled Parking Zone and anyone driving to the site will be subject to parking controls. It is considered that the impact of the proposed use on local parking demand will be minimal, and, in this regard, the proposals is considered to comply with City Plan 27 and objections relating to increased parking demand cannot be supported. Any private vehicles arriving in the vicinity of the site would be subject to local parking restrictions. The enforcement of local parking restrictions is beyond the applicant's control and could not justifiably form the basis of a recommendation for refusal.

Cycling and cycle storage

Policy 25 of the City Plan requires development to provide adequate storage in accordance with cycle parking standards set out in the London Plan.

Basement cycle stores for the residential and commercial uses within the development have already been provided as part of the approved scheme and would be used in association with the approved/proposed restaurant use and the music venue.

Servicing and Waste & Recycling Storage

City Plan policy 29 requires new developments to provide on-site servicing, where practical, as deliveries and goods left on the highway can result obstruct pedestrian movement and delivery vehicles stopping on the highway, leading to localised congestion.

Objections have been received relating to the potential impact on servicing of the development from Broadwick or Marshall Street, given the narrow width and roads ways and the impact of local road obstructions/bollards which stop through traffic.

The principle of on-street servicing in relation to the wider development has already been accepted and remains acceptable in relation to the current proposals. Site servicing for the proposed restaurant and music venue uses will take place from Ganton Street, as part of communally managed facilities for the development. Any 'emergency' servicing outside of these hours would utilise the general servicing bay on Marshall Street. The hours of use of this bay are unrestricted.

The application is accompanied by an updated Servicing Management Plan (SMP) which includes servicing arrangement for the proposed music venue. However, the Highways Officer has noted that details within this latest SMP are not wholly consistent with those in the approved SMP for the original development (21/07254/ADFULL), a document that was approved before the latest SMP was submitted. In these circumstances, the Highway Officer has requested a condition requiring the submission of a revised SMP which ensures consistency between the approved SMP for the original development and new documents. This would be secured by condition.

Servicing for the proposed retail use would take placed form Ganton Street or Carnaby Street at

these same times or from double yellow lines in Broadwick Street in accordance with the servicing of the original retail use on this part of the site. These arrangements accord with those in the approved SMP

City Plan policy 37 requires developments to provide adequate facilities for the storage of waste and recyclable materials. One respondent has commented that commercial occupiers in the area deposit rubbish on the street and that waste management protocols are not enforced by the applicants. They are concerned that the proposals would exacerbate existing waste management problems and would result in waste being placed on the highway, and that waste would be trundled along the streets to the local waste depot.

The occasional transfer of waste to Dufour's Place (in time for a 15.30 collection) is approved as part of the SMP for the original development. The waste would be transferred in covered wheelie bins. It is not considered that this activity, would have any additional adverse impact on local amenity in relation to the proposed use, and would further ensure that no waste is removed from the site as quickly as possible.

The application confirms that refuse and waste will be stored within the ground floor communal commercial store, and collection will accord with the approved arrangements set out in the Waste Management Plan of the original development.

The submitted plans do not include the necessary information regarding proposals for the storage of waste and recyclable materials for the proposed uses in accordance with Council requirements, (showing bin capacities and bins marked for general waste, food waste, waste oil, recycling etc). The Project Officer (Waste) has agreed to a condition to reserve these details, as requested by the applicants. As the wider development includes communal waste storage facilities, and it is considered that there is adequate space to provide these facilities, this is considered acceptable. A condition is recommended stating that waste shall not be stored on the highway.

One objection has been received on the grounds of increased litter generation. The nature of this litter is not specified but given the uses proposed, it is not considered that the scheme would have a material impact on litter generation in the area.

9.5 Economy including Employment & Skills

Whilst the development is of insufficient scale to require an employment and skills plan, it will contribute positively to the local economy during the fit-out phase through the generation of increased opportunities for local employment and procurement and will lead to increased spending in existing nearby shops and services and other town centre uses.

9.6 Other Considerations

Fire safety/and access

The premises would be served by the Broadwick Street entrance, which would provide stair access to the basement, (there is currently a temporary scaffold stair in this location) and the Ganton Street entrance/exit, where a slope leads from the basement up to the ground level entrance gate. The slope provides also provides a means of escape from the venue and access to basement level cycle stores within the development.

The 2019 application was supported by a Fire Strategy for the original development. In support of the current application, the applicants have submitted updated reports to include the proposed use. One involved the use of the rear entrance slop for formalised queuing. While one respondent expressed concern regarding the use of the rear slope for formalised queuing and for general access/egress, this is no longer proposed although the report concluded that this queuing system would not compromise the safety of building occupants.

The scheme has subsequently been further amended now proposes that the rear entrance would be used for general daytime and late-night access to the building. The applicants consider that the use of this entrance would be acceptable in fire safety terms. It would be supervised by venue staff at all times that the entrance is in use and any customers within the entrance when an alarm sounded would be able to exit the building before any customers inside the venue made their way onto the exit slope. The Broadwick Street entrance could also be used as a means of escape in case of emergency.

However, due to officers' concerns about access and means of escape issues, particularly given the proposed capacity of 295 customers, the applicants have revisited fire safety/and access issues. The application has been further revised to include a platform lift within the front entrance lobby, which will provide level access to the basement during normal use. As requested by the applicants, details of this lift would be reserved by a condition which would require the lift to be installed prior to the commencement of the proposed uses.

The Addendum Fire Report, relating the use of the basement as a music venue, has been assessed by the Council's Building Control and Licensing Officers. They note that the Addendum Fire Strategy limits the premises capacity to 256 people and that, although a platform lift is now proposed within the front entrance, the alternative means of escape is via Ganton Street, a route which contains steps, which might be problematic for wheelchair users. In this case, a robust disabled customer evacuation plan (evac chairs) would be required to ensure that there are appropriate evacuation arrangements for disabled customers. This would normally be required as part of the premises licence where there are stairs or ramps exceeding the maximum gradient requirement for normal use.

The Licensing Officer has also confirmed that although the inward opening nature of the exit doors would limit the premises capacity, potential solutions, including linking the doors to the operation of a fire alarm, to ensure that they would be open before customers reached them, would then permit the venue to accommodate slightly more than the proposed capacity.

In response to these comments, the applicants have confirmed that the exit doors to Broadwick Street would open outwards in the event of a fire alarm activation. To Ganton Street, the outer gate would be open when the venue is in operation. The inner gate opens in direction of travel. While they acknowledge that the Fire Strategy is based on a design which provides for the escape of 256 people, they have referred to the Fire Strategy Addendum which confirms that this could be improved by the incoming tenant e.g., through the addition of a circulation stair between the basement and ground floors (which would replace the existing temporary scaffold stair) and appropriate fire separation between the accommodation and the stair. As the existing stairs are temporary, they cannot be considered as a 'permanent' stair within the Fire Strategy, which therefore refers to the installation of a 'potential' stair. When the layout designs are finalised by the future occupier, they will install a permanent stair. Its design – size, orientation etc- will determine whether the stair can also be recognised as an escape route or not. On this

basis, the applicants consider that the proposed maximum capacity can be achieved subject to the approval of the tenant's final layouts by the enforcing authorities (Building Control and the Fire Authority).

The applicants have also confirmed that any incoming tenant will provide a disabled egress method statement / management plan for dealing with the internal steps. This would be required when the tenant submits a Building Regulations application for the fit out works and, as advised by the Licensing Officer would be part of the consideration of the licensing application.

As, based on the current layouts, the Fire Report limits the capacity to 256, an Informative is recommended to advise the applicant that the premises cannot achieve the proposed customer capacity of 295 customers (live music venue) unless and until the appropriate permission have been obtained from the relevant authorities.

Whilst concerns about the potential conflict arising from the use of this entrance and access to the basement cycle stores are noted, the applicants consider that the use of the entrance is unlikely to compromise the use of the space by commercial occupiers (as it would generally be in use after office hours) and would not have a material adverse impact upon the amenity of future occupants of new flats on the upper floors of the building as access to the cycle stores would be effectively managed by venue staff supervising the rear entrance. While it is considered that there is occasional potential for some conflict, it is noted that these flats are currently vacant and that any future residents would be aware of the situation and the application could not reasonably be recommended for refusal on these grounds.

Consultation

One objector has expressed concern that residents were not notified of scheme amendments and were reliant upon neighbours to alert them to proposed changes. Various documents, which were received incrementally, were uploaded onto the Council's website but further consultations were not carried out until other outstanding information received or documents further amended. It appeared that some local residents monitored the website and viewed some of these initial documents, some submitting additional comments at that time, and may have notified their neighbours of the proposed changes at that time. However, a full re-consultation was undertaken in relation to final draft OMPs.

Crime and security

The Metropolitan Police Designing Out Crime Officer (DOCO) has objected to the application (based on the latest draft OMP). While they have no objection to the proposed use, in principle, they have expressed concern regarding the use of the Ganton Street fire exit for late night access and egress. While they accept that the appointed Fire Consultant considers the use of this route to be acceptable (based on previous proposed use of the fire exit slope for queuing within the premises, they consider that the use of this access route, which also provides access to the residential and cycle stores within the development, would leave residents vulnerable to theft. They consider that all access/egress to the venue should be via the Broadwick Street entrance to avoid any potential conflict between the residential and commercial uses.

Whilst noting the DOCOs concerns, the applicants contend that cycle store will not be accessible to anybody other than those who live or work in the building. When in use in association with the proposed music venue, the rear entrance/exit will be fully manned, and customers will be directed straight up the ramp to Ganton Street. In the 'unlikely' event that a customer did slip past security staff, they would need to navigate a set of fob-accessed security

doors before they could enter any other part of the building, and two sets of fob-accessed doors before they could enter the cycle store. The building also benefits from CCTV and alarm systems which further mitigate this risk. The applicants have suggested that the DOCOs security concerns should be incorporated into an informative on any decision, and that the applicant could look to increase the security of the internal doors accordingly, outside of the planning process. Given that the rear entrance will be fully supervised when in use, and the existing site layout and security arrangements, and as it is in the applicant's interest to ensure that their building is fully secure, this approach is considered reasonable.

One objector has expressed concern about the potential impact of the proposed use upon the safety of female residents of area returning home late at night. While these concerns are noted, it is not considered that any incidents relating to general safety of local residents are likely to be attributable to the current proposals or that permission could be withheld on such grounds.

Adverse impact on property values

Objections have been received on the grounds that the development would have an adverse impact on local property values. This is not a material planning consideration and permission could not be withheld on this basis.

9.7 Environmental Impact Assessment

The proposed development is not of sufficient scale or impact to require an Environmental Impact Assessment.

9.8 Planning Obligations & Pre-Commencement Conditions

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

10. Conclusion

As set out in the main body of this report, the proposed retail and restaurant uses have been previously approved and are considered acceptable in land use and amenity terms, subject to previous conditions.

The applicants, and supporters of the scheme, consider that the basement unit lends itself well to the proposed music venue use and that the use would support the West End's, nationally important, night-time economy which has seen an economic downturn as a result of the pandemic. They contend that the proposals would add to a greater diversification of uses within Soho, would attract a wider range of visitors and add vibrancy to the area which already is characterised by a mixture of commercial and residential uses. They support a proposed use which is not focused upon alcohol consumption and, with 'sensible' operational management practices in place, contend that the operator will be able to mitigate against any potential amenity impacts. They believe that measures within the OMP e.g. the provision of ample time for customers to enter/exit between performances and to finish refreshments at a leisurely pace, would avoid a situation where the venue empties out en-masse, and would ameliorate any potential impact upon the surrounding area.

Strong objections have also been received on the grounds that the proposed music venue would have a significant adverse impact, and an adverse cumulative impact in association with similar uses in the area, upon the amenity of neighbouring residential properties. Objectors are concerned that, notwithstanding the management obligations set down in the OMP, in practice,

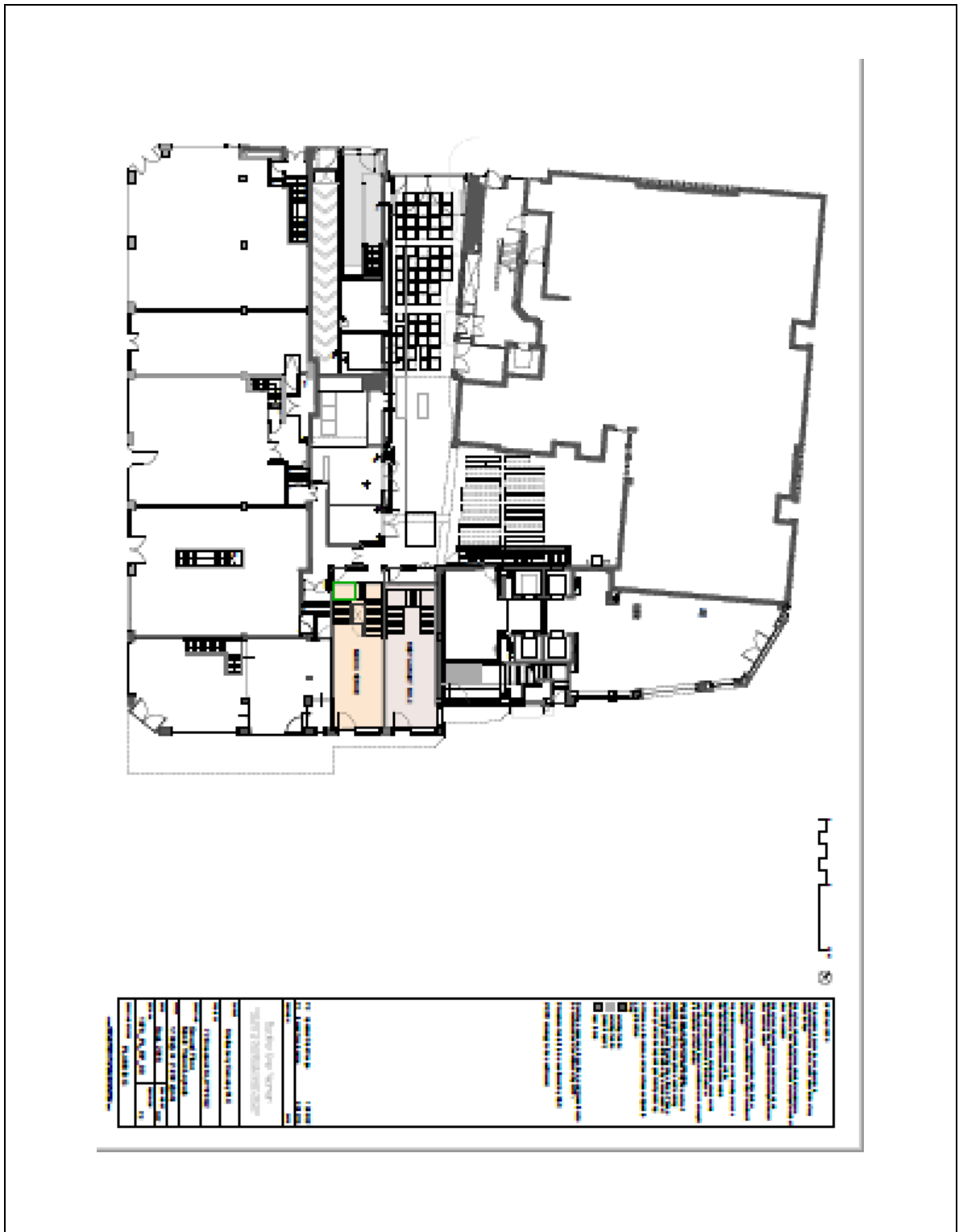
the venue operator will have little control over the actions of its customers once they have left the premises. They firmly believe that it should not fall upon local residents to monitor the actions of future customers and consider that the applicant does not ensure that similar venues on their other sites are properly managed. The Soho Society considers that until local residents can see a marked improvement in the management of entertainment uses in the area, that the proposed use as a music venue must be considered unacceptable.

Development plan policies require applicants to demonstrate that a proposed use will not adversely impact upon the amenity of existing uses and the proposed uses are supported in land use terms subject to this caveat. Policies require proposals for entertainment uses demonstrate that the use will be 'low impact' and the only way that this can be done is through the submission of an OMP. Notwithstanding objectors' concerns, it must be assumed that an operator will adhere to proposed measures within the OMP and would comply with conditions imposed on any planning permission, which must be reasonable, enforceable and related to the development. It is unclear what other substantive, operational controls the applicants could be required to put within an OMP in order to provide any additional assurances about the impact of the proposed use. The proposed operational measures are considered to strike an acceptable balance between the need to safeguard residents' amenity and the operator's requirements. In these circumstances, on balance, it is not considered that the use would have a material impact upon the amenity of neighbouring residents, the operation of the highways or the character of the conservation area and the application is therefore recommended for approval.

(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: MIKE WALTON BY EMAIL AT mwalton@westminster.gov.uk.

Proposed ground floor plan



DRAFT DECISION LETTER

Address: 72 Broadwick Street, London, W1F 9QZ,

Proposal: Flexible alternative use of basement and part ground floor for retail (Class Ea) or restaurant/cafe (Class Eb) purposes or as a live music venue (Sui Generis).
(Revision: finalised Operational Management Plans for the music venue and restaurant)

Reference: 21/03136/FULL

Plan Nos: 1076_PL_RP_/00 REV P2, B1 REV P2; Restaurant Operational Management Plan received 16 July 2022.

Case Officer: Sara Spurrier

Direct Tel. No. 020 7641
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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 In the event that a restaurant use is implemented, you must not operate a delivery service or permit a delivery service to be operated or operate a food or drink takeaway service, even as part of an ancillary 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)

3 If you provide a bar and bar seating, it must not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals. (C05GA)

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)

4 In the event that the restaurant use is implemented, customers shall not be permitted on the premises:

before 0800 or after midnight on Monday to Thursday
before 0800 or after 00.30 the following morning on Fridays and Saturdays and
before 08.00 or after 23.00 on Sundays and Bank Holidays

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

5 You must not allow more than 140 customers in the restaurant at any one time.

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)

6 The use of the premises as a restaurant or live music venue must not commence until self-closing doors have been fitted to the Broadwick Street entrance and the doors must not be fixed or held open except in an emergency or for maintenance purposes and shall be maintained at all times that the premises are in use as a restaurant or live music venue.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

7 In the event that the restaurant use is implemented, it should not be amalgamated with any other restaurant use on the site to create a large restaurant 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)

8 In the event that the restaurant use is implemented, you must carry out the measures included in your management plan received 16 June 2022 at all times that the restaurant is in use (C05KA)

Reason:

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

9 You must hang all doors or gates so that they do not open over or across the road or pavement except in case of emergency.

Reason:

In the interests of public safety and to avoid blocking the road as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021). (R24AD)

10 In the event that the live music use hereby approved (sui generis) is not implemented, you can only use the property for retail or restaurant purposes within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended September 2020 (or any equivalent class in any order that may replace it).

Reason:

In accordance with the submitted application and because we cannot grant planning permission for unrestricted use within Class E because it would harm the character and function of the Central Activities Zone, the amenity of neighbouring occupiers and an adverse impact on the local highway network and contrary to Policy 4, 14, 33 and 29 of the City Plan 2019 – 2040 (April 2021).

11 You must apply to us for approval of details of how waste is to be stored on site and how materials for recycling will be stored separately. You must not start work on this part of the development until we have approved in writing what you have sent us. You must then provide the waste and recycling storage prior to occupation of the development as

- i) a retail unit
- ii) a restaurant or
- iii) a live music venue use

until we have approved details of the refuse/recycling storage arrangement for these uses and thereafter permanently retain the stores according to these details. You must clearly mark the stores and make them available at all times to everyone occupying the premises. No waste shall be stored on the highway.

Reason:

To protect the environment and provide suitable storage for waste and materials for recycling as set out in Policies 7 and 37 of the City Plan 2019 - 2040 (April 2021). (R14CD)

12 Prior to the occupation of the premises you must apply to us for approval of a Servicing Management Plan Management Plan for the retail, restaurant and music venue uses hereby approved.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in Policy 29 of the City Plan 2019 - 2040 (April 2021). (R23AD)

13 In the event that the music venue use is implemented, you must not allow more than 295 customers into the premises at any one time.

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)

14 In the event that the music use is implemented, customers shall not be permitted on the premise except between:

9.00-00:00 (midnight) Monday and Tuesday
9.00-01:00 the following morning on Wednesday and Thursday
9.00-02:00 the following morning on Friday and Saturday (and Sundays before Bank Holidays)
9.00-23:00 on Sundays and Bank Holidays.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

15 In the event that the music venue use is implemented, all access to the premises will be via the Ganton Street entrance after 23.00 hours and no egress will be permitted via the Broadwick Street entrance after 00.00 (midnight) other than in the case of emergency.

Reason:

To protect neighbouring residents from noise nuisance, as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R13ED)

16 You must apply to us for approval of detailed drawings and full particulars of the platform lift within the Broadwick Street entrance.

You must not start any work on this part of the development until we have approved what you have sent us. You must then carry out the work according to these approved detailed drawings and particulars prior to the commencement of the use and permanently maintain the platform lift in working order at all times that the premises are in use.

Reason:

In accordance with the submitted application and to ensure that there is reasonable access for people with disabilities as set out in Policy 38 of the City Plan 2019 - 2040 (April 2021).

17 No live or recorded music shall be played within the premises that is audible outside of the premises.

Reason:

To protect the environment of people in neighbouring properties as set out in Policies 7, 16 and 33 of the City Plan 2019 - 2040 (April 2021). (R12AD)

18 (1) Where noise emitted from the proposed internal activity in the development will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the internal activity within the uses hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm,, and shall be representative of the activity operating at its noisiest.

(2) Where noise emitted from the proposed internal activity in the development will contain tones or will be intermittent, the 'A' weighted sound pressure level from the

internal activity within the uses hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the permitted hours of use. The activity-specific noise level should be expressed as LAeqTm, and shall be representative of the activity operating at its noisiest.

(3) Following completion of the development, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report including a proposed fixed noise level for written approval by the City Council. Your submission of a noise report must include:

- (a) The location of most affected noise sensitive receptor location and the most affected window of it;
- (b) Distances between the application premises and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (c) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (a) above (or a suitable representative position), at times when background noise is at its lowest during the permitted hours of use. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (d) The lowest existing LA90, 15 mins measurement recorded under (c) above;
- (e) Measurement evidence and any calculations demonstrating that the activity complies with the planning condition;
- (f) The proposed maximum noise level to be emitted by the activity. (C47AC)

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels and as set out in Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022), so that the noise environment of people in noise sensitive receptors is protected, including the intrusiveness of tonal and impulsive sounds, and by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.(R47AC)

19 The design and structure of the building shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night. Inside bedrooms 45 dB LAm_{ax} is not to be exceeded more than 15 times per night-time from sources other than emergency sirens. (C49BB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

20 You must apply to us for approval of sound insulation measures and a Noise Assessment Report to demonstrate that the residential units will comply with the Council's noise criteria set out in Condition(s) 19 of this permission. You must not start work on this part of the development until we have approved in writing what you have sent us. You must then carry out the work according to the details approved prior to the commencement of the use of the premises as a live music venue and thereafter retain and maintain them at all times that the premises are in this use.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from the development, as set out Policies 7 and 33 of the City Plan 2019 – 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

21 In the event that the premises are occupied as a live music venue, where any live music or music played through a Public Address system, or similar system, this must incorporate a digital sound limiting device and the operational panel of the noise limiter shall be secured by key or password/passcode, or access similarly restricted, so that only persons with management responsibility for the venue have access to it.

You must apply to us for approval of details of these devices and sound levels, provided by a suitably qualified acoustic engineer, to demonstrate that the use would comply with the requirements of Condition 19. You must not start work on this part of the development until we have approved in writing what you have sent us. You must then carry out the work according to the approved details before the use as a live music venue commences and the sound limiters must be maintained in accordance with the details approved at all times that the premises are in use as a live music venue.

No additional sound generating equipment shall be used on the premises which is not routed through the approved sound limiter device.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

22 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.2m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property. (C48AB)

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 – 2040 (April 2021) and the Environmental Supplementary Planning Document

(February 2022) (R49BB)

23 In the event that the use as a live music venue is implemented, the design of the separating walls to the premises shall be such that the received values in residential habitable spaces, from all activities within the premise (including noise from music and all other activities) shall be 10 dB below levels without the music or venue activities operating, at the quietest times of the day and night measured over a period of 5 minutes and in the indices of Leq and LFM_{ax} in the octave bands of 63 Hz and 125 Hz.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022).

24 You must not commence the use as a live music venue (other than to carry out the surveys required by this condition) until you have carried out and sent us a post-commissioning noise/vibration survey and we have approved the details of the survey in writing. The post-commissioning noise/vibration survey must demonstrate that the use complies with the criteria set out in condition(s) 17, 18, 19, 20, 21 and 22 of this permission.

Reason:

To ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development, as set out Policies 7 and 33 of the City Plan 2019 - 2040 (April 2021) and the Environmental Supplementary Planning Document (February 2022). (R49BB)

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 Under Part 3, Class V of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the premises can change between the retail and restaurant (Class E) or live music venue uses (Sui generis) uses we have approved for 10 years without further planning permission. However, the actual use 10 years after the date of this permission will become the authorised use, so you will then need to apply for permission for any further change.

3 You may need to get separate permission under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 if you want to put up an advertisement at the property. (I03AA)

4 You are advised to contact the Metropolitan Police Designing Out Crime Officer with regard the provision of increased security to internal doors within the building basement of the building with particular reference to the doors to the basement cycle store.

5. It is noted that your submitted Fire Assessment is currently based upon a maximum capacity of 256 customers unless further modifications are made to the internal layout. You must secure all relevant permissions from the Fire Authority and District Surveyor to prior to opening the premises to the customer capacity proposed (295 customers) in the live music venue.

6. You may need separate licensing approval for the restaurant and live music venue. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission.
(161AB)

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.