

Address:	279 Gray's Inn Road London WC1X 8QF	
Application Number:	2010/5239/P	Officer: Jonathan Markwell
Ward:	Kings Cross	
Date Received:	30/09/2010	
Proposal: Retrospective change of use from offices (Class B1a) at ground and basement levels to a Cafe (Class A3) and alterations to rear elevation extract duct.		
Drawing Numbers: Site Location Plan 01; 279 Gray's Inn Road (Original floor plans); 3305 02; 3305 03; 3305 03 Rev A; Noise Impact Assessment Ref 4323.NIA.01.		
RECOMMENDATION SUMMARY: Grant Planning Permission and Warn of Enforcement Action		
Applicant:	Agent:	
Madeira Patisserie LTD. 279 Gray's Inn Road London WC1X 8QF	C.Pittordou+CO 32 The Enterprise Centre Cranborne Road Potters Bar EN6 3DQ	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	B1 Business		75m ²
Proposed	A3 Restaurants and Cafes		75m ²

OFFICERS' REPORT

Reason for Referral to Committee: The application involves the creation of Class A3 use [Clause 3 (iv)].

1. SITE

- 1.1 The application site relates to a mid-terrace building located on the west side of Gray's Inn Road between the junctions with St Chad's Street (to the north) and Argyle Street (to the south) and opposite the junction with Britannia Street (to the east). Gray's Inn Road is a wide, busy street of one-way northbound traffic connecting King's Cross with Clerkenwell and Holborn to the south.
- 1.2 The building dates from the early 19th century and is five storeys in height, including a basement floor level and recently constructed mansard roof addition (see relevant history below). The building is in use as three self-contained flats on the upper floors, with the lawful use of the basement and ground floors being Class B1a offices. This part of Gray's Inn Road is characterised by a mix of predominantly

retail, restaurant and café, office and residential uses, with residential only at upper floor level.

- 1.3 The application site building is located within King's Cross Conservation Area. It is identified as a building which makes a positive contribution to the character and appearance of the conservation area. It is also located within the Central London Area but outside of a designated town, neighbourhood or local centre. The nearest designated centre (King's Cross) is 90m to the north-west of the application site on Gray's Inn Road.

2. THE PROPOSAL

- 2.1 The application is seeking to change the use of the building at basement and ground floor level from the lawful use as offices (Class B1a) to a café (Class A3). The change of use has already taken place, with Madeira Café operating from the premises since 17th May 2010. As such, this application is retrospective in nature. The proposals also seek the retention of an extract duct on the rear elevation of the building. During the course of the application a high velocity jet cowl and acoustic attenuator has been added to the plans at the request of the Council's Environmental Health team. These additional features are not yet in place or operation at the premises. Thus the application seeks permission for the retention of the duct and the installation of the specialist features.

3. RELEVANT HISTORY

Planning applications

- 3.1 2004/0162/P - Change of use from offices (Class B1) on upper floors to provide three one bedroom flats (Class C3) including alterations at roof level and erection of rear extension at third floor level. (Planning permission already granted 7/1/03 PSX0205171 for mansard roof extension and rear extension at third floor level in connection with office use). Granted following completion of S106 Legal Agreement 02/06/2004.

Enforcement investigations

- 3.2 EN10/0562 – Unauthorised use of the premises for hot-food cooking (Class A3 use) without planning permission. Current investigation pending the outcome of this planning application.

4. CONSULTATIONS

Conservation Area Advisory Committee

- 4.1 King's Cross CAAC has replied to the formal consultation with no comments on the application.

Adjoining Occupiers

	Original
<i>Number of letters sent</i>	9
<i>Total number of responses received</i>	0
<i>Number of electronic responses</i>	0
<i>Number in support</i>	0
<i>Number of objections</i>	0

4.2 A site notice was erected on 22/12/2010, expiring on 12/01/2011. A press notice was published on 20/01/2011, expiring on 10/02/2011. No responses have been received.

5. **POLICIES**

5.1 **LDF Core Strategy and Development Policies**

CS1 Distribution of growth
 CS3 Other highly accessible areas
 CS5 Managing the impact of growth and development
 CS7 Promoting Camden's centres and shops
 CS9 Achieving a successful Central London
 CS11 Promoting sustainable and efficient travel
 CS14 Promoting high quality places and conserving our heritage
 CS18 Dealing with our waste and encouraging recycling
 DP12 Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses
 DP16 The transport implications of development
 DP24 Securing high quality design
 DP25 Conserving Camden's heritage
 DP26 Managing the impact of development on occupiers and neighbours
 DP28 Noise and vibration

5.2 **Supplementary Planning Policies**

Camden Planning Guidance 2006 / Camden Planning Guidance 2011 Stage 1 (Adopted 06/04/2011)
 King's Cross Conservation Area Statement
 Revised Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses. Adopted 4 October 2007.

6. **ASSESSMENT**

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Principle of development – change of use
- Impact of proposed Class A3 use
- Appropriateness of extract duct

Principle of development – change of use

6.2 The lawful use of the basement and ground floors of the building is as offices (Class B1a). As such, in order for a Class A3 use to be able to be examined at the

site, the loss of the existing lawful Class B1a use must first be considered. Core Strategy policy CS8 denotes the Council will promote the provision of office floor space to meet predicted demand at King's Cross and Euston plus other Growth Areas and Central London. In addition supporting paragraph 8.8 indicates projected demand can be met and therefore there is potential for change of use of older office premises to provide housing and community uses.

- 6.3 In this instance the applicant has denoted that the office space was of an older nature and was vacant from June 2006. The attractiveness of this space to occupiers was said by the applicant to be limited and it is considered by officers that the viability of the 75m² space was likely to have been minimal. Policy DP13 is also of consideration, which indicates that change of business use will be resisted unless the premises are not suitable for the existing use and alternative business uses have been explored over a suitable period. In this instance the business use was vacant for a period of almost three years and given the emphasis is CS8 regarding older office premises, this is not considered applicable in this instance. As such, the loss of the lawful Class B1a use is considered to be justifiable in land use terms.
- 6.4 Turning to the principle of the proposed use, the focus of new retail growth is noted in CS7 to be in the growth areas at King's Cross/St Pancras, other town centres, Central London Frontages, neighbourhood centres and some small shops outside centres to meet local needs. The application site is located outside of a designated centre but is 90m away from the nearest one at King's Cross. In addition, Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses (at paragraph 6.14) states that on heavily trafficked streets with limited residential development and good access to public transport, food drink and entertainment uses may be acceptable as a part of a mix of uses. Thus it is considered that the principle of a Class A3 use at the site is considered to be appropriate. However, the main consideration in this application is the impact the Class A3 use has on the local area.

Impact of proposed Class A3 use

- 6.5 Since May 2010 the premises has been operating as Madeira Café at basement and ground floor level. The café specialises in fresh baked goods (in particular Portuguese cakes and breads) and serves a variety of breakfasts, sandwiches, soups, lunch meals and desserts. It offers an eat-in or take-away facility, with internal seating both at ground and basement floor level and hot-food cooking taking place on site within the ground floor kitchen area. It was seen during the officer site visit that there are three computer stations at basement floor level, with these being able to be used for internet access. This is however entirely ancillary for the main use of the premises, which is considered to be as a restaurant and café, falling within a Class A3 use.
- 6.6 As noted previously, there is a mix of uses in the local area and the continuation of the Class A3 unit is considered to positively add to this mix, assisting the vitality and viability of the area which is on the fringe of a designated centre and within the Central London area.

- 6.7 Madeira Café currently trades between 06:00 and 18:00 hours Monday to Friday and from 07:00 to 17:00 hours on Saturdays, Sundays and Bank Holidays. These are the operating hours the Café is seeking to regularise in this application. It is considered that the 06:00 weekday and 07:00 weekend opening hours are not appropriate, causing harm to the residential amenity of nearby occupiers. Although it is acknowledged that the site is located along a busy road within the Central London area and close to designated centres, given the presence of residential occupiers on the upper floors of the building and other nearby buildings along this part of Gray's Inn Road, the noises, odours and other possible disturbances of the proposed early opening hours are considered to cause harm to the amenity of neighbouring occupiers.
- 6.8 Instead it is considered that opening hours from 07:00 on weekdays and 08:00 at weekends and bank holidays is appropriate. This is owing to the aforementioned context of the location of the application site and other comparable premises in the locality. For example, nearby Guzel Café and Bar at 293 Gray's Inn Road can operate between 08:00 and 23:00 hours after the Planning Inspectorate considered this to be appropriate in allowing a Class A3 use at this premises (Appeal Ref: APP/X5210/A/03/1109407 allowed 04/06/2003). Further towards King's Cross within the designated centre at No. 315 Gray's Inn Road Café Plaka can operate between 07:00 to 17:00 hours Monday to Saturdays (App ref: PS9804075R1).
- 6.9 Given this context the opening hours of 07:00 to 18:00 hours Monday to Friday and from 08:00 to 17:00 hours on Saturdays, Sundays and Bank Holidays are considered to be the most suitable in both protecting residential amenity and ensuring any Class A3 operator is able to trade successfully from the premises. A condition, which the applicant is aware of, is recommended to be added to control this. An informative is also recommended stating that this condition means that no customers shall be on the premises and no activities associated with the use (such as preparation and clearing up) are permitted outside these hours.
- 6.10 In order to further protect the residential amenity of neighbouring occupiers it is considered appropriate to add a condition stating that no music from the premises should be audible from the highway or adjoining premises. In addition, given that only a Class A3 use is proposed, and the hours of operations noted above, there are not considered to be any significant anti-social behaviour impacts envisaged. In this respect the Council's Environmental Health team have not received any complaints of this nature since Café Madeira began trading.
- 6.11 In relation to transport matters, the application site is located in a highly accessible Central London location, in close proximity to a variety of bus routes along Gray's Inn Road and train/tube links from King's Cross St Pancras station. As such, the site is evidently in a readily accessible location. Given the small scale nature of any possible Class A3 operation at the site, owing to the floorspace of 75m², it is not considered that the use generates any significant harm to the transport network or highways in this location. Deliveries do not take place on a frequent basis and there is no off-street parking for customers. It is therefore considered that in relation to transport implications the proposals are appropriate.

- 6.12 Turning to refuse matters, there is a designated storage space at basement floor level and the applicant has already set up arrangements with the Council's Street Environment Services team for up to eleven bags a week to be collected from the roadside. Such arrangements are considered to be appropriate to the scale of operations and consistent with other nearby uses in this area.

Appropriateness of extract duct

- 6.13 In order to operate from the site Café Madeira has installed a kitchen extract unit, which rises up from a ground floor kitchen rooflight at the rear of the premises and externally up the building by way of a duct, terminating 1m above the highest part of the building. In terms of the design of the duct, it is utilitarian in nature but not overly wide (at between 0.3m and 0.6m). It is not visible from any part of the public realm owing to its rear elevation location and does not obstruct any upper floor residential window. Given this context the proposed duct is not considered to cause any harm to the character of the building or wider conservation area.
- 6.14 Turning to the impact of this extract duct, the applicant has submitted a Noise Impact Assessment in support of the application. The report denotes that the current noise emissions of the installed kitchen extract unit are higher than the current background noise level. As such, the report recommends that an outlet silencer is incorporated into the duct to mitigate noise emissions to an acceptable level. It is shown that with this measure the noise emissions will comply with the Council's noise criterion, being 10dB(A) below existing levels. During the course of the application the plans have been revised to indicate the precise location of the duct and the inclusion of the proposed high velocity jet cowl and acoustic attenuator, consistent with the Noise Impact Assessment recommendations. Such works have not yet been implemented on site.
- 6.15 The Council's Environmental Health team have confirmed that if the recommendations of the Noise Impact Assessment are implemented, the proposals are satisfactory in maintaining an adequate level of amenity for nearby residential occupiers on the upper floors of the application site building. However, at the present time the noise emissions, as detailed in the Noise Impact Assessment submitted, do not comply with the Council's standards. Given this context, it is recommended that this application is granted with the warning of enforcement action. This will warn the applicant that if the aforementioned works recommended in the Noise Impact Assessment and shown on the proposed plans are not carried out within 3 months of the date of the decision, that the Council will take enforcement action in order to protect the residential amenity of nearby residential occupiers.
- 6.16 A number of conditions are also recommended to be added in respect of this element of the proposals. The Council's standard noise condition is required in order to ensure that if the plant becomes noisier than anticipated in the future, there are sufficient safeguards to take the necessary action. In addition, a timeclock condition is recommended so that the plant is only operational when the Class A3 use is open. Such conditions will protect the residential amenity of both present and future occupiers of nearby occupiers.

7. CONCLUSION

- 7.1 It is considered that the retention of a Class A3 use in place of the lawful Class B1a use at basement and ground floor level complies with the relevant LDF policies. The application site is small scale in nature and, although not within a designated centre, is located in a mixed Central London area where the provision of a Class A3 use is considered to be appropriate in principle. Moreover, with the use of carefully worded conditions relating to opening hours and noise matters and the warning of enforcement action regarding plant works recommended (but not yet implemented) the residential amenity of nearby occupiers is considered to be preserved by the proposals.

8. LEGAL COMMENTS

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

9. RECOMMENDATION

- 9.1 It is recommended that planning permission is granted subject to conditions and warning of enforcement action.