

Address:	24 Torrington Place London WC1E 7HJ	
Application Number:	2009/1507/P	Officer: Sharon O'Connell
Ward:	Bloomsbury	
Date Received:	26/03/2009	
Proposal: Retrospective change of use from shop (Class A1) to cafe/restaurant (Class A3) and alterations to the shopfront, including retention of retractable awning.		
Drawing Numbers: SITE LOCATION PLAN; PV/TOTT/11 R1E ZT; PVTORR-112AB; PV1; S1; SF11R1B; SF11R1C; SAMPLE MENU; SCHEDULE OF WORKS; LINCAT FUME FILTRATION SYSTEM; TILE SAMPLE.		
RECOMMENDATION SUMMARY: Grant Planning Permission		
<u>Related Applications</u>	Listed Building Consent & Advertisement Consent	
Date of Applications:	23/03/2009	
Application Numbers:	2) 2009/1509/L 3)2009/1799/A	
Proposal: 2) Works associated with alterations to the shopfront and display of advertisements in connection with the change of use from shop (Class A1) to cafe/restaurant (Class A3) 3) Continued display of signage on fascia.		
Drawing Numbers: SITE LOCATION PLAN; PV/TOTT/11 R1E ZT; PVTORR-112AB; PV1; S1; SF11R1B; SF11R1C; SAMPLE MENU; SCHEDULE OF WORKS; LINCAT FUME FILTRATION SYSTEM; TILE SAMPLE.		
RECOMMENDATION SUMMARY: 2)Grant Listed Building Consent 3) Grant Advertisement Consent		
Applicant:	Agent:	
Patisserie Valerie Holdings Ltd 105 Marylebone High Street London W1U 4RS	RadcliffesLeBrasseur 5 Great College Street LONDON SW1P 3SJ	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A1	Shop	237.89m ²
Proposed	A3	Restaurants and Cafes	237.89m ²

OFFICERS' REPORT

Reason for Referral to Committee: The proposed development would involve the change of use to Class A3 floorspace [Clause 3(iv)].

1. SITE

- 1.1 The application site is part of the Grade II* listed Heals department store by Cecil C Brewer dating from 1914, which faces onto both Tottenham Court Road and Torrington Place. The unit which the application relates to faces onto Torrington Place. Prior to the current use commencing, the unit was in use as an A1 bookshop. The site is located within the Bloomsbury Conservation Area.
- 1.2 The current use as an A3 café commenced in August 2008.

2. THE PROPOSAL

- 2.1 The applicant's original application form stated that the change of use was from A1 to A1/A3 Sui Generis. Due to the number of tables and the layout of the unit shown on the application drawings, the Council considered the use to be A3 and the application was registered with the following description: "Retrospective change of use from shop (Class A1) to cafe/restaurant (Class A3) and alterations to the shopfront, including retention of retractable awning." Following registration of the application, queries with regards to the assertion of the Council that the premises were in use for Class A3 purposes were raised by the applicant and objectors.
- 2.2 As part of the assessment of the application, a site visit was carried out. This showed that the front part of the unit had a patisserie and ice-cream counter with seating for approximately 8 people. The rear part of the unit had tables and chairs for approximately 48 people. The kitchen was located in the rear of the building. The manager of the property stated that the kitchen is used to prepare sandwiches, salads, reheat soup, quiches, bake cakes and poach eggs. The site visit showed that there was a cooker on site which also had an extraction hood. Details of this hood had not been submitted with the application and therefore the application was made invalid. The applicant submitted details of the fume filtration system. The details of this are assessed below in section 6.4. Due to the number of seats within the unit and as the property had a cooker and hood which was capable of providing primary cooking on site, it was considered that the use of the building is an A3 use. The applicant was advised of this and agreed that the description of development should read "Retrospective change of use from shop (Class A1) to cafe/restaurant (Class A3) and alterations to the shopfront, including retention of retractable awning."

3. **RELEVANT HISTORY**

3.1 None

4. **CONSULTATIONS**

Statutory Consultees

- 4.1 English Heritage was consulted on all three applications and did not raise any objections.
- 4.2 The Government Office for London considered the application, and does not require the application to be referred to them.

Conservation Area Advisory Committee

- 4.3 Bloomsbury CAAC objected to the application: "We object to change of use due to implication for other restaurant outlets in the future. We object to shopfront because it is too low - as was the previous shopfront."

Local Groups

- 4.4 Charlotte Street Association objected to the application:" Strong objection to the proposal to regularise the unauthorised change of use from A1 to A3. Such a change would be contrary to policy both on grounds of loss of a retail unit and intensification of A3 use. SPG for Central London para 9.21 seeks protection of retail uses particularly where they add character and vitality which is clearly the case in this frontage. Para 9.17 says that outside commercial frontages, which do not include this location, planning permission for changes to A3 will generally not be granted. The location of the premises opposite and adjoining blocks of flats certainly do not warrant any departure from these policies."
- 4.5 Gordon Mansions Residents Association object to the application:

"Gordon Mansions and the local residential community:

Gordon Mansions consists of the two blocks of flats that are located at the Huntley Street/ Torrington Place junction. Some of the flats overlook Torrington Place, whilst others overlook Huntley Street and Chenies Mews. There is a long established residential community here, which very much reflects the cross-section of the diverse population of Fitzrovia, having as it does a mix of different income, cultural and ethnic groups, including families with young children, and elderly people. A good proportion of the residents are from the Bangladesh community, and a further proportion from other ethnic minority communities including from the Somali community. The block of flats is owned by Camden. The community here is a stable one with many residents living here for 20. 30 and 40 years. Thus, it is important that planning developments are assessed in protecting the residential amenity of the local community.

In the immediate area and streets either side of Torrington Place, there is a concentration of blocks of flats, both in public and private ownership. The north-south zone between Tottenham Court Road and Gower Street is reckoned to contain more than 50% of the residential population of Fitzrovia.

Planning application:

Our Committee wishes to object to the change of use to restaurant use/A3, due to the likely impact on the residential amenity of the nearby blocks of flats, particularly for those flats overlooking Torrington Place; but to allow Patisserie Valerie to continue as a “cake shop” (a patisserie), i.e. as retail use/A1.

My understanding is that the applicants have advised Camden that there is no cooking extract on site because there is no primary cooking on the premises. This appears to be confirmed by the sample menu that the applicants have submitted as a supporting document with their application, and which shows no primary cooking items. My understanding is that, even with the number of chairs & tables, (but with no primary cooking), the current use of the premises by Patisserie Valerie can continue as A1 use.

I would like to refer to Camden’s “Revised Planning Guidance for Central London: October 2007” (Food, Drink & Entertainment, Specialist & Retail Uses). In para. 9.17, under the Local Area policies for Fitzrovia, it says that “... outside of the Commercial Frontages, new or extended food uses are likely to cause harm to residential amenity, and planning permission will generally not be granted.” Torrington Place is not a Commercial Frontage. Thus, due to the residential flats opposite and in the next door building (Gordon Mansions and Woburn Mansions, respectively), I believe that this policy applies in not allowing change of use to restaurant/A3.

I would just like to point out that the location and extent of the frontage of the ground floor premises at No. 24 (which have been sketched in by hand) are not correctly shown on the applicant’s OS map (part of the set of drawings on Camden’s planning web site), which in any case is an out of date map. The marked-up plan wrongly shows the premises as being next to Brook House (no. 2-18); and confusingly shows a “22” next to Brook House. No. 24 has a double-frontage and is, in fact, further east (almost next to Woburn Mansions), and much closer to Gordon Mansions, opposite; and thus closer to the residential blocks of flats.

Over the years, there has been a gradual eating away at the residential amenity for those flats overlooking Torrington Place, due to developments in Torrington Place. The shop unit at No. 24, and also the shop unit at No. 22 (currently Planet Organic) have, as it were, appeared in Torrington Place by “default” without the need for planning permission. Previously, there were no main shops in Torrington Place, only the 2 or 3 tiny “kiosk” type shops, one of which serves as local newsagent. When he bought the Heals building some years ago, Terence Conran (in addition to dividing the single main building on Tottenham Court Road into Heals and Habitat separately), also created the two current shop units in Torrington Place at No. 22 and No. 24 respectively, where none previously existed. At the time, both Gordon Mansions RA and Ridgmount Gardens Residents Association objected

strongly to this introduction of retail units in Torrington Place, but were told that, because the main (Heals/Habitat) building was already retail use, planning permission was not required for these newly created retail units, with new entrances in Torrington Place. Initially, both these shops were clothes shops; and thus were not detrimental because deliveries occurred only during normal working hours on week days. In more recent years, No. 22 became Planet Organic food shop; this has been detrimental due to daily food deliveries in the early hours of the morning, and daily rubbish collections late at night.

Meanwhile No. 24 also changed from clothes shop to a good bookshop, which also sold modern 20th C. furniture (until, unfortunately, it closed last year due to rent increase) with no detrimental impact due to the type of shop. Although Torrington Place is a busy traffic route during the daytime, it is quiet in the evenings and weekends (except Sunday afternoons due to Sunday shopping traffic). Thus, it will be appreciated why we are greatly concerned about the various likely implications of a change of use at No. 24 to café/restaurant use (A3), which would change the nature of Torrington Place and have a further detrimental impact on the residential amenity.”

4.6 **Adjoining Occupiers**

	Original
<i>Number of letters sent</i>	6
<i>Total number of responses received</i>	1
<i>Total number of objections</i>	1

A Site Notice was also displayed from 30/09/2009 to 21/10/2009.

One letter of objection was received from 61 Gordon Mansions, which stated that:

“We are extremely concerned by this retrospective application, because it adds to the gradual change of use of Torrington Place, which has a set of large residential flat blocks with a broad mix of ages. Many residents are shift workers, there are many school children and we believe it is important to preserve this residential character.

We would like to suggest on top of the suggestions made by our Residential Association that:

- 1 The hours of Patisserie Valerie are restricted. For example, at present the café is open from 8am on Sunday, well before the other shops in the street are open (12 noon). We would propose that the shop does not open before other shops on Sunday.
- 2 We also would propose that the shop closes at 8pm each day.
- 3 Finally, we would propose that deliveries are not made before 8am in mornings. Residents are already subject to large amounts of noise at other times. “

5. **POLICIES**

Replacement Unitary Development Plan 2006

- 5.1 SD1c Access for All
- SD1d Community safety
- SD6 Amenity for occupiers and neighbours
- SD7 Light, noise and vibration pollution
- SD8 Disturbance
- B1 General design principles
- B3 Alterations and extensions
- B4 Shopfronts, advertisements and signs
- B6 Listed Buildings
- B7 Conservation areas
- R1B Food, drink and entertainment
- R2 General impact of retail and entertainment uses
- R7a Central London Frontages, Town Centres and Kings Cross

Other Relevant Planning Policies - London Plan [Consolidated with Alterations since 2004] 2008

- 5.2 3D Enjoying London

Supplementary Planning Policies – Camden Planning Guidance 2006

- 5.3 Advertisements and signs
- Clear Zone Region
- Conservation areas
- Designing safer environments
- Listed buildings
- Noise and vibration
- Plant, machinery and ducting
- Shopfronts
- Town centres, retail and entertainment uses
- Waste and recyclables

6. ASSESSMENT

- 6.1 The principal considerations material to the determination of this application are summarised as follows:
 - **Design/Listed Building**
 - **Land Use**
 - **Neighbour Amenity**
 - **Access**
 - **Refuse and Recycling**
 - **Community Safety**
- 6.2 **Design/Listed Building**

- 6.2.1 Consent is sought to amend the design and refurbish the existing shopfront, which was installed by the current tenant without consent. The previous shopfront dated from the late 20th century and was of no architectural and historic interest.
- 6.2.2 The design of the new shopfront removes the existing sub-fascia - the transom panels would be glazed, and an integral awning would be installed. A plinth rail would be installed to act as a stallriser and the framing around the shopfront would be re-clad in black reconstituted stone to match the existing original frame around the adjoining shopfronts which form part of the same building; a sample of this was submitted with the application and is considered acceptable.
- 6.2.3 The proposed size, location and illumination of the signage is considered to preserve the character and appearance of the area and special interest of the Grade II* listed building. The internal works to the building are minimal and do not affect the special architectural or historic interest of the Listed Building.
- 6.2.4 The proposed are therefore considered not to harm the character and appearance of the conservation area or affect the special architectural or historic interest of the Listed Building. It is recommended that an informative be added to the decision notice advising the applicants that if the works to the shopfront are not carried out within 3 months of the date of the decision notice, the Council will commence formal enforcement proceedings to remedy the breach of planning control with regards to the shopfront.

6.3 Land Use

- 6.3.1 As discussed above in para 2.1, following site visits and additional information submitted by the application it was determined that the use of the building falls within Class A3. The site is located within the Central London Area but outside any designated core frontages. As a result Policy R7c applies, which states that in the Central London Area loss of A1 retail space will be acceptable on the basis that the proposed development contributes to local character, function, vitality, viability and amenity. In addition, the Central London Guidance identifies this site as being within the Fitzrovia area. It is not within any designated commercial frontage, and para 9.17 of the Guidance states that outside the commercial frontages new or extended food, drink and entertainment uses will not generally be granted as they are likely to cause harm to residential amenity and the character of the area. The building is located within a parade of units that includes a pub, retail units and sandwich bars. It also forms part of the Heals building, which is a large retail unit fronting both Tottenham Court Road and Torrington Place. An A3 use is a service use that would typically be found in any shopping area that provides for visiting members of the public; it is considered that such a use will not harm the character, function, vitality and viability of the area. The two units adjacent to the site are in use as a retail shop and a sandwich bar. It is therefore considered that the use does not result in an unacceptable cluster of A3/A4 units within the immediate area.
- 6.3.2 Policy R3 also requires the Council to consider whether any proposals for A3 uses would result in an unacceptable impact in terms of neighbour amenity, community safety, refuse/recycling storage and impact on the highway. As discussed below in the report, the use of the premises as an A3 unit subject to conditions is considered

acceptable in terms of these issues. The use is therefore considered to satisfy policies R2 and R3 of the Replacement Unitary Development Plan.

6.4 Neighbour Amenity

- 6.4.1 The nearest residential dwellings are located at Woburn Mansions and Gordon House Mansions located at the corner of Huntley Street and Torrington Place.
- 6.4.2 The advertisements are non-illuminated and therefore do not raise any issues with regards to neighbour amenity.
- 6.4.3 The use operates between 7:30am to 8pm Monday to Friday, 8am to 8pm Saturdays and 9am to 7pm on Sundays and Bank Holidays. The site is located within a street which has a public house, sandwich bars and retail outlets. It is also located in close proximity to Tottenham Court Road. In the context of its location, it is considered that the opening hours are reasonable and will not result in a detrimental impact on the current levels of amenity experienced by neighbouring residents. However, as the street is largely retail with the exception of the public house on the corner, it is considered that operation outside of these hours could harm the amenity of adjoining occupiers. To ensure that the unit does not operate outside of these hours, it is recommended that a condition is imposed. The site includes a forecourt on which the applicants have placed tables and chairs. It is considered that the use of these tables and chairs within the opening hours as restricted by condition would not result in a detrimental impact on the amenity of neighbouring residents.
- 6.4.4 The details of the extractor hood submitted showed that it removes odours and fumes by a three way filtration system that does not require any external flues. Therefore any noise from the hood will only be heard within the premises and will not be audible externally. Therefore the proposals would not result in a detrimental impact on neighbour amenity in terms of noise or fume extraction.
- 6.4.5 The previously existing A1 unit had no restrictions on deliveries to the premises. Given the size of the unit, and as the overall floorspace of the unit is not being increased, it is unlikely that the frequency of deliveries to the current use is significantly greater than would have been the case with the previous retail use. In addition, the area has a large number of commercial units that are serviced at similar times. It is therefore considered that the nature and frequency of service deliveries to this unit is unlikely to have a detrimental impact on the amenity of neighbouring properties or the highway network, and thus that imposing restrictions on deliveries would not be justified.

6.5 Access

- 6.5.1 The site has level access from the street with entrance doors which are wide enough to enable wheelchair access. To access the seating area to the rear of the shop, a disabled foldaway stair lift with a mounted wall rail has been installed. A disabled access wc has also been provided. The scheme is therefore considered to comply with Policy SD1c (Access for all).

6.6 Refuse and Recycling

- 6.6.1 The unit uses the existing waste and recycling area within the Heals building. The refuse is compacted and collected from an existing service bay. In addition there is bins for separating recycling, as with the refuse this is collected from the existing service bay. As the building is commercial the number of pick ups of the refuse and recycling ensures that the current storage capacity on site is sufficient. As the waste and recycling storage is internal and is managed on a daily basis by staff it does not result in a detrimental impact on the current levels of amenity of neighbouring properties.

6.7 Community Safety

- 6.7.1 The Metropolitan Police crime prevention design officer was consulted as part of the application process. He is satisfied that the proposed use will not raise any issues in terms of community safety. The proposed shopfront includes a recess to match the depth of the existing recess of the previous shopfront. As it is glazed on both sides and therefore allows views in and out of this space it is not considered to increase opportunities for crime on the street. The proposal is therefore considered to comply with Policy SD1d (Community safety).
- 6.7.2 The advertisements do not raise any issues with regards to advertisement consent.

6.8 Other issues raised by objectors

- 6.8.1 The submitted site location plan was inaccurate; this was subsequently amended by the applicant.

7. RECOMMENDATION

- 7.1 The applications for planning permission, listed building consent and advertisement consent are approved subject to the conditions detailed below.

8. LEGAL COMMENTS

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