

Address:	Unit 1 101-107 Tottenham Court Road London W1T 4TT		12
Application Number:	2015/0459/P	Officer: Olivier Nelson	
Ward:	Bloomsbury		
Date Received:	29/01/2015		
Proposal: Change of use from retail (Use Class A1) to restaurant (Use Class A3) (retrospective).			
SK-01, SK-02, 101-107 Tottenham Court Road, Fitzrovia, 140343 M 100, Planning Statement dated January 2015, Refresh recirculation unit by Britannia, Salamander Cookers by Electrolux			
RECOMMENDATION SUMMARY: Grant conditional planning permission			
Applicant:		Agent:	
Mrs M Prioletta United House 39-41 North Road London N7 9DP		Pomery Planning Consultants Ltd Abbeygate One 8 Whitewell Road Colchester Essex CO2 7DF	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A1 Shop		181 m ²
Proposed	A3 Restaurants and Cafes		181 m ²

OFFICERS' REPORT

Reason for Referral to Committee: This application is being reported to committee as it involves the creation of a Class A3 use. (Clause IV)

1. SITE

- 1.1 The site comprises a corner unit on the junction of Tottenham Court Road and Maple Street. The unit is part of a mixed-use development known as the Qube. The building is in retail use at ground level and has office use above.
- 1.2 The application site is located within the Fitzrovia Central London Area.
- 1.3 The ground floor unit was operating as Cilantro café in 2013, Zee Café in 2014 and recently as Ca'puccino in 2015. The current layout comprises a service counter, preparation area and kitchen and seating for 16 customers. The rear of the premises provides as WC and seating for another 24 customers.

2. THE PROPOSAL

- 2.1 This application seeks retrospective permission for the change of use of the ground floor from A1 (retail) to A3 (restaurant). The intended user is 'Ca'puccino.' The layout of the front of the premises would remain as existing with the toilet and kitchen area in the same place. The front of the premises would see the addition of a service counter, which would also be the takeaway counter area. Table and chairs are proposed on the public highway at the front and side of the unit.
- 2.2 The proposed opening hours are from 07.00 to 20.00 (Monday to Friday), 08:00 – 20:00 (Saturday) and 08:00 – 18:00 (Sunday and Bank Holidays).
- 2.3 The application does not propose to make alterations to the front of the property.

3. RELEVANT HISTORY

101-107 Tottenham Court Road

- 3.1 **PSX0104726:** Alterations and extension involving 6 storey extension at rear to provide additional office (class B1) floorspace and additional plant at roof level. Partial change of use of existing office floorspace to form 5no residential flats (class C3) fronting Whitfield Street. Elevational changes, involving recladding, additional retail space at ground floor, including relocation of office entrance to Whitfield Street frontage. Granted Subject to a Section 106 Legal Agreement 13/01/2004
- 3.2 **2004/1021/P:** Redevelopment of existing office/retail building to provide new office/retail building and freestanding residential building adjacent. (amendment to previous approved scheme PSX0104726 relating to total demolition of the original structural frame, relocation of plant to basement and additional 1bed residential unit). Granted Subject to a Section 106 Legal Agreement 11/06/2004

- 3.3 **2005/2703/P:** Revision to planning permission dated 11th June 2004 (Ref: 2004/1021/P for the redevelopment of existing office/retail building to provide new office/retail) comprising a new shopfront canopy, modifications to residential floor layouts and associated external elevations, the erection of a new glazed wall at ground floor and elevational changes to plant area. Granted 20/09/2005

Unit 6, 101 Tottenham Court Road

- 3.4 **2013/4703/P:** GDPO Class D (temporary flexible use) Notification of change of use from shop (Class A1) to restaurant /cafes (Class A3) for a single continuous period of up to 2 years commencing 23/7/13. This flexible use has now expired and so the lawful use of this property is retail (Class A1).
- 3.5 EN15/0519: Use of A1 premises as resaturant (A3). An enforcement case was opened 20/05/2015 to investigate the unauthorised use of Unit 6.

4. CONSULTATIONS

Local Groups

- 4.1 Charlotte Street Association responded and raised concerns about the loss of retail and the detrimental consequences for nearby residential properties. The premises (now Ca'puccino, which opened last week) are on the corner of Tottenham Court Road and Maple Street, with large external forecourt areas on both frontages. The block of flats, Paramount Court with 119 flats, is immediately diagonally opposite on the corner of Tottenham Court Road and University Street. The external forecourt of the proposed plans shows some 40 chairs (with tables). A condition should be secured limiting the hours of use of the external areas, especially the terminal hours. The current application should also have a condition restricting the hours of use.

Adjoining Occupiers

<i>Number of letters sent</i>	43	
<i>Total number of responses received</i>	0	
<i>Number in support</i>	0	
<i>Number of objections</i>	0	

- 4.2 A site notice was displayed from 18/02/2015 until 11/03/2015 and 43 letters were sent to adjoining occupiers. No responses were received.

5. **POLICIES**

5.1 **National and Regional Policy**

National Planning Policy Framework 2012

The London Plan March 2015, consolidated with alterations since 2011

5.2 **LDF Core Strategy and Development Policies**

CS1 (Distribution of growth)

CS2 (Growth Areas)

CS3 (Other highly accessible areas)

CS5 (Managing the impact of growth and development)

CS7 (Promoting Camden's centres and shops)

CS8 (Promoting Camden's economy)

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)

DP10 (Helping and promoting small and independent shops)

DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses)

DP13 (Employment sites and premises)

DP16 (The transport implications of development)

DP17 (Walking, cycling and public transport)

DP20 (Movement of goods and materials)

DP21 (Development connecting to the highway network)

DP24 (Securing high quality design)

DP26 (Managing the impact of development on occupiers and neighbours)

DP28 (Noise & vibration)

DP29 (Improving access)

DP30 (Shopfronts)

Fitzrovia Area Action Plan adopted March 2014

5.3 **Camden Planning Guidance:**

CPG1 Design 2015

CPG5 Town Centres, Retail and Employment 2013

CPG6 Amenity 2011

CPG7 Transport 2011

6. **ASSESSMENT**

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

- Land use
- Residential amenity
- Transport
- Waste Storage

Land use

- 6.2 This application seeks permission for a change of use of the ground floor from retail (Class A1) to café/restaurant (Class A3). Previously the unit was occupied by a café/restaurant known as Zee café (which served hot food). Given that a café has traded at this site for some time, the applicant now wishes to regularise the use.
- 6.3 The application property is within the Tottenham Court Road 'Central London Frontage' and is a primary frontage. Core Strategy Policy CS7 states that the Council will make sure that food, drink and entertainment uses do not have a harmful impact on residents and the local area, and indicates that such uses are most appropriately located in Camden's Central London Frontages, Town Centres and the King's Cross Opportunity Area. The site is within the Central London Frontage and so would accord with policy CS7.
- 6.4 CPG 5 'Town Centres, Retail and Employment' provides specific guidance on food drink and entertainment uses on the Tottenham Court Road 'Central London Frontage'. Central London Frontages are considered generally appropriate locations for new food, drink and entertainment uses, as they have good public transport provision (including late-night services) and are busy, commercial streets with limited residential development. Paragraph 4.13 states: *there has been a rise in the number of sandwich bars and cafes in Tottenham Court Road operating out of shop premises (Use Class A1), many occupied by High Street chains. A large majority of cafes along Tottenham Court Road operate within the A1 shop use class. The law does not say at what point a change of use happens between Class A1 and Class A3; therefore, the Council has to consider each application on a case by case basis.*
- 6.5 *Due to the importance of its retail role, which the Council does not wish to see diminished, planning permission will generally not be granted for changes of use from Use Class A1 to other uses at ground floor level in the designated frontages on Tottenham Court Road if the proposal takes the proportion of A1 use in the frontage below 80% (Paragraph 4.14, CPG5).*
- 6.6 The existing uses in the parade were surveyed on 24th April 2015. The survey was based on the parade which is a primary frontage. The 10 units are identified below:
- 95 – Multiyork (furniture shop) – Class A1
 - 97 – Network Building (ground floor entrance to office above) – Class B1
 - 98 – Franca Manca (restaurant) – Class A3
 - 99-100 – Pret a Manger (sandwich bar) – Class A1
 - 101 – Leon (restaurant) – Class A3; the site has flexible planning permission for change of use to A3 which expired 23/7/13. Therefore the lawful use of this property is A1
 - 102 – Rush (Hairdresser) – Class A1
 - 103 – Itsu (sandwich bar) – Class A1 (the lawful use of this property according to the planning history is A1)
 - 104 – Joy (clothing) – Class A1
 - 105 – Space NK Apothecary – Class A1
 - 106 – Formerly Zee Café now Ca'puccino (application site) – lawful use Class A1

- 6.7 CPG 5 states that when calculating frontage percentages, all calculations should be based upon the existing lawful use of the properties and valid planning permissions with potential to be implemented (paragraph 8.6 of appendix 3). There are 9 units in the retail frontage (excluding the office entrance at 97 Tottenham Court Road). The office entrance is excluded as this is the main entrance/lobby to the whole building and therefore it is unlikely that No 97 could ever be used as an independent business unit. Eight of the 9 units have a lawful use as a shop (where the sale, display or service is to visiting members of the public) and therefore fall within Use Class A1. Therefore 89% of the street frontage is in A1 retail use and 11% of the frontage is in A3 (restaurant/café) use. As a result of the proposed change of use, 78% of the frontage would be in retail use. As the percentage is just fractionally below the 80% set out above, the change of use is considered to be in accordance with the intention of CPG5 and as such would not warrant a refusal of planning permission in this instance.
- 6.8 The site falls within the Tottenham Court Road Character Area of the Fitzrovia Area Action Plan (FAAP). The character area appraisal emphasizes that cafes and sandwich shops catering to the lunchtime office workers are common at the northern end of Tottenham Court Road. It also notes in the public realm strategy that lunch time trade in the area is growing and moving about can be made more pleasant. It suggests the pavement should be widened to provide sunlit café spaces.
- 6.9 The FAAP includes Principle 5 which states that the Council will guide development of food, drink and entertainment uses to the Central London Frontage on Tottenham Court Road and New Oxford Street (except those the Council considers to be small scale and low impact). The supporting text for principle 5 indicates the Central London Frontage on Tottenham Court Road has some potential for new food, drink and entertainment uses. This frontage has direct access to the tube, bus and night bus networks and many parts remain predominantly in A1 shop use. In addition large parts of the frontage are occupied by commercial premises with non-residential uses above. The subject property is part of a block which has offices above and therefore the change of use to A3 is considered to comply with Principle 5 of the FAAP. Moreover the change of use to A3 would contribute to the area's mixed-use character and vitality.
- 6.10 The proposed opening hours would be from 07.00 to 20.00 (Monday to Friday), 08:00 to 20:00 (Saturday) and 08:00 to 18:00 (Sunday and Bank Holidays). The proposed opening hours are consistent with a café and would limit the intensity of the A3 use of the site. The premises would serve a combination of hot and cold food comprising breakfast; Italian style sandwiches, pasta dishes, salads; cakes and hot and cold drinks. However there would be no extraction and limited primary cooking is proposed.
- 6.11 It is considered that a range of shops, services and food and drink uses would be maintained to provide variety, vibrancy and choice. As such, it is considered that the proposed change of use would contribute to the vitality and viability of this part of the Central London area in accordance with policy CS7, DP12 and CPG5.

Impact on amenity

The proposed A3 use

- 6.12 Policy DP12 states that the Council will consider the impact of food and drink related uses on nearby residential uses and amenity and noise and vibration generated inside or outside the site. In order to manage the potential harm to amenity or the local area, the Council will use planning conditions to address hours of operation, noise and vibration and the siting of plant and machinery.
- 6.13 The nearest residential properties are located on the opposite side of Tottenham Court Road (Paramount Court is at the junction of Tottenham Court Road and University Street). There may also be ancillary residential accommodation above the pub at 108 Tottenham Court Road (on the opposite side of Maple Street).
- 6.14 The unit has operated with a function of a café for a number of years and it is not considered that the proposal would see a dramatic difference. In comparison to the previous café on this site there would likely be an increase in customers as there are tables and chairs proposed both internally and externally. The opening hours would be reduced with the premises closing at 20.00 Monday to Saturday rather than 21:00 previously. The proposed opening hours are similar to other nearby premises and are appropriate to this Central London Frontage.
- 6.15 Given a café has been operating at this location since 2013 it is not considered that the proposed A3 use would be so intensive that it would result in noise nuisance or anti-social behaviour associated with customers leaving the premises. A condition is recommended to ensure the premises do not open outside the proposed hours. A condition is also recommended to ensure any amplified music is not audible outside the property. An informative would be included to advise a license is required for table and chairs on the pavement outside the unit if this is part of the public highway.

Plant/Extraction Equipment

- 6.16 The Council would not permit any external ducting in this location as it would harm the appearance of the host building. However only a limited amount of primary cooking is proposed, comprising a hob and a grill unit. The proposed A3 use would use of a self-contained kitchen ventilation system that would not require connection to an external duct. This type of extraction is consistent with the limited primary cooking proposed. No external extract flue is therefore required and so there would be no noise impacts on neighbouring properties. A condition is recommended to ensure that all odour and extraction takes place within the premises.

Transport

- 6.17 Policy DP12 considers the effect of the food and drink uses in terms of parking, stopping and servicing. In terms of transport matters, it is considered unlikely that there will be any net increase in scale of transport impacts from the proposed restaurant (Class A3) use. It is likely most customers will arrive and leave using public transport. Warren Street and Godge Street underground stations are located in close proximity to the application site and there are several nearby bus routes. No parking is proposed on or near to the site.
- 6.18 It is considered that servicing requirements would be similar to the previous A1 use as a sandwich bar. Therefore it is not considered necessary to require a servicing strategy.

Waste and refuse

- 6.19 Policy CS18, seeks to ensure developments include facilities for storage and collection of waste and recycling together with this. Policy DP12 seeks to ensure the storage and disposal of refuse is managed to safeguard the amenity of the surrounding area. It is considered that there is sufficient space within the ground floor unit to accommodate the necessary refuse/recycling storage requirements for the proposed use. A condition is recommended to secure details of the refuse and recycling storage prior to commencement of the use.

7. CONCLUSION

- 7.1 The loss of an A1 retail unit would not undermine the retail function of this Tottenham Court Road Frontage and the restaurant use would be in keeping with the cafes and sandwich shops catering to the lunchtime office workers that are common at the northern end of Tottenham Court Road. As such, it is considered that the proposed retrospective change of use would contribute to the vitality and viability of this part of the Central London area in accordance with policy CS7, DP12 and CPG5. The nearest residential properties are some distance away (on the opposite side of Tottenham Court Road) and so the change of use to a restaurant would be unlikely to harm neighbouring amenity. Conditions limiting the hours, audible music and no external extraction would ensure that amenity would be safeguarded.
- 7.2 Planning permission is recommended subject to conditions.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans SK-01, SK-02, 101-107 Tottenham Court Road, Fitzrovia, 140343 M 100, Planning Statement dated January 2015, Refresh recirculation unit by Britannia, Salamander Cookers by Electrolux.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 The use hereby permitted shall not be carried out outside the following times 07.00 to 20.00 (Monday to Friday), 08:00 to 20:00 (Saturday) and 08:00 to 18:00 (Sunday and Bank Holidays).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 4 No music shall be played on the premises (or in the outside seating area) in such a way as to be audible within any adjoining premises or on the adjoining highway.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Before the development commences, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 6 Any tables and chairs placed on a private forecourt shall be removed, outside the following times 07.00 to 20.00 (Monday to Friday), 08:00 to 20:00 (Saturday) and 08:00 to 18:00 (Sunday and Bank Holidays).

Reason: To safeguard the amenities of the adjoining premises and the area

generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 7 No external extract vents or flues are permitted and all extract and odour control is required to take place within the unit.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

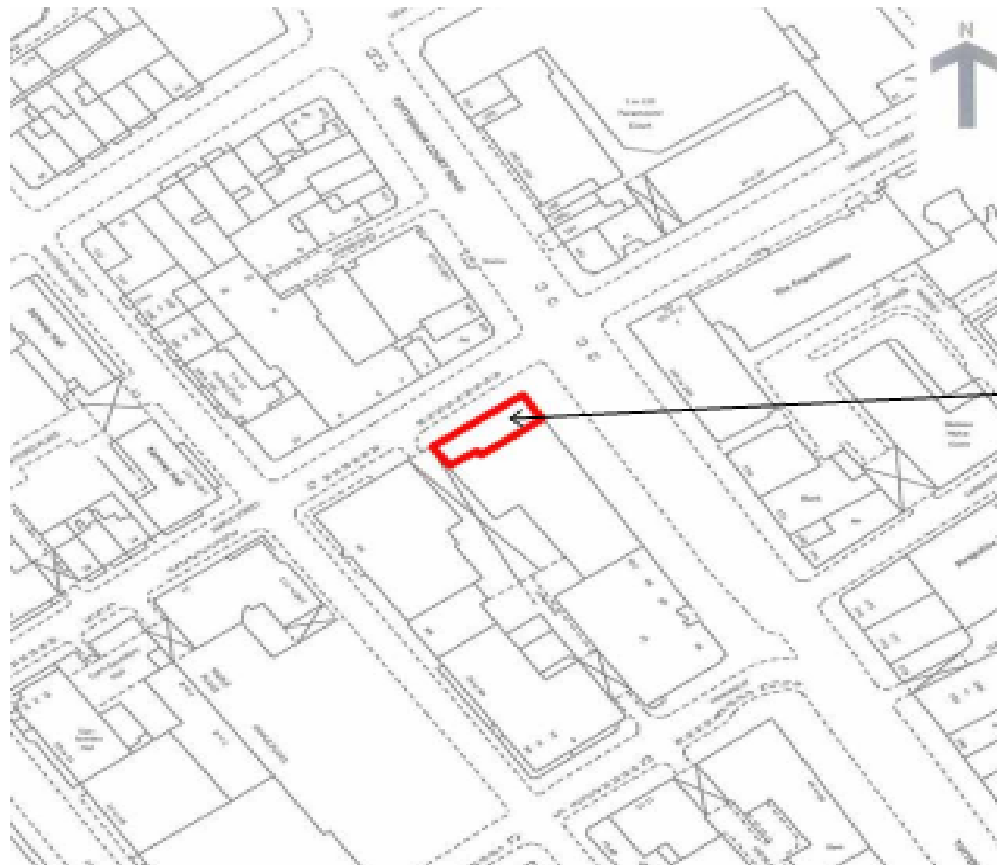
Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 Your attention is drawn to the need for compliance with the requirements of the Environmental Health regulations, Compliance and Enforcement team, [Regulatory Services] Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 4444) particularly in respect of arrangements for ventilation and the extraction of cooking fumes and smells.
- 4 You are advised that condition 3 means that no customers shall be on the premises and no noise generating activities associated with the use, including preparation and clearing up, shall be carried out otherwise than within the permitted time.
- 5 The Council supports schemes for the recycling of bottles and cans and encourages all hotels, restaurants, wine bars and public houses to do so as well. Further information can be obtained by telephoning the Council's Environment Services (Recycling) on 0207 974 6914/5 or on the website <http://www.camden.gov.uk/ccm/content/environment/waste-and->

[recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en](http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en).

- 6 You are reminded of the need to provide adequate space for internal and external storage for waste and recyclables. For further information contact Council's Environment Services (Waste) on 020 7974 6914/5 or see the website <http://www.camden.gov.uk/ccm/content/environment/waste-and-recycling/twocolumn/new-recycling-rubbish-and-reuse-guide.en>.
- 7 In accordance with the Highways Act 1980 and Camden's licensing policy, you are required to apply for a license for tables and chairs on the public highway.

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Location Plan (1:1250)

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Existing parade frontages on Tottenham Court Road

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Tottenham Court Road Front Elevation

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Maple Street Elevation

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



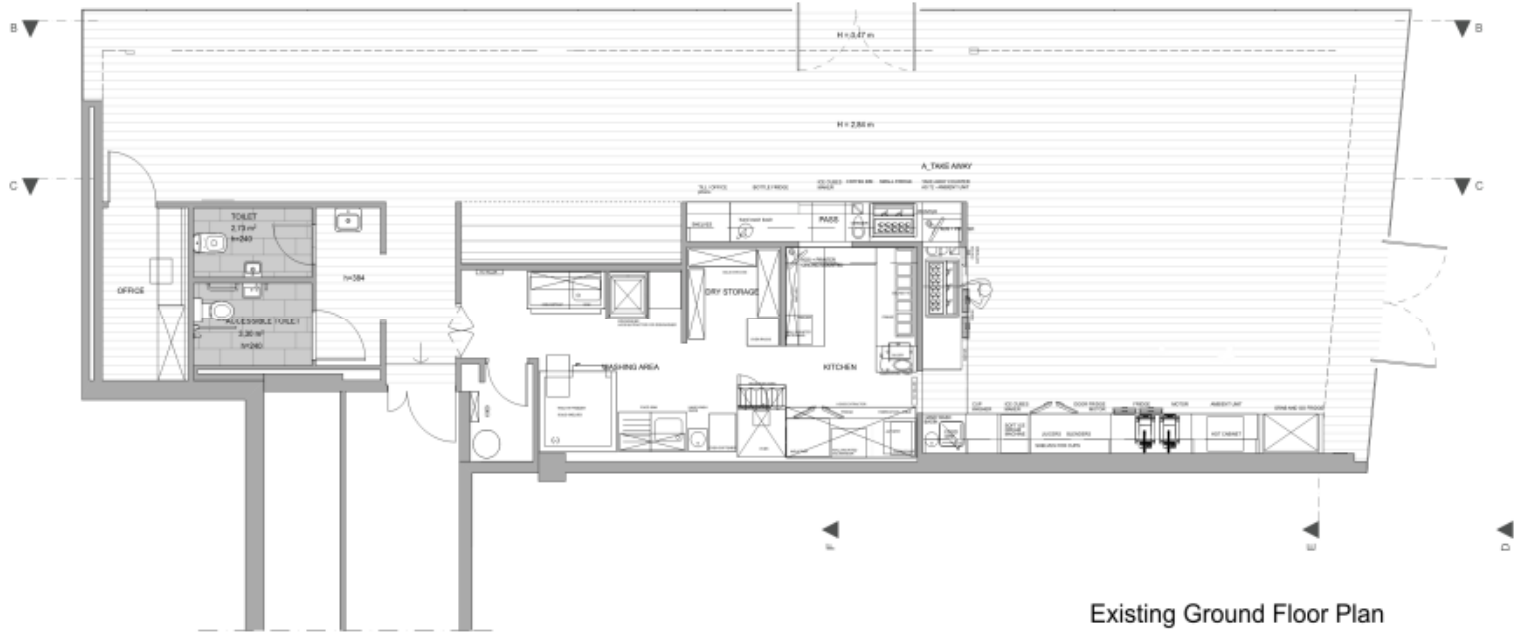
Service area

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Existing seating area

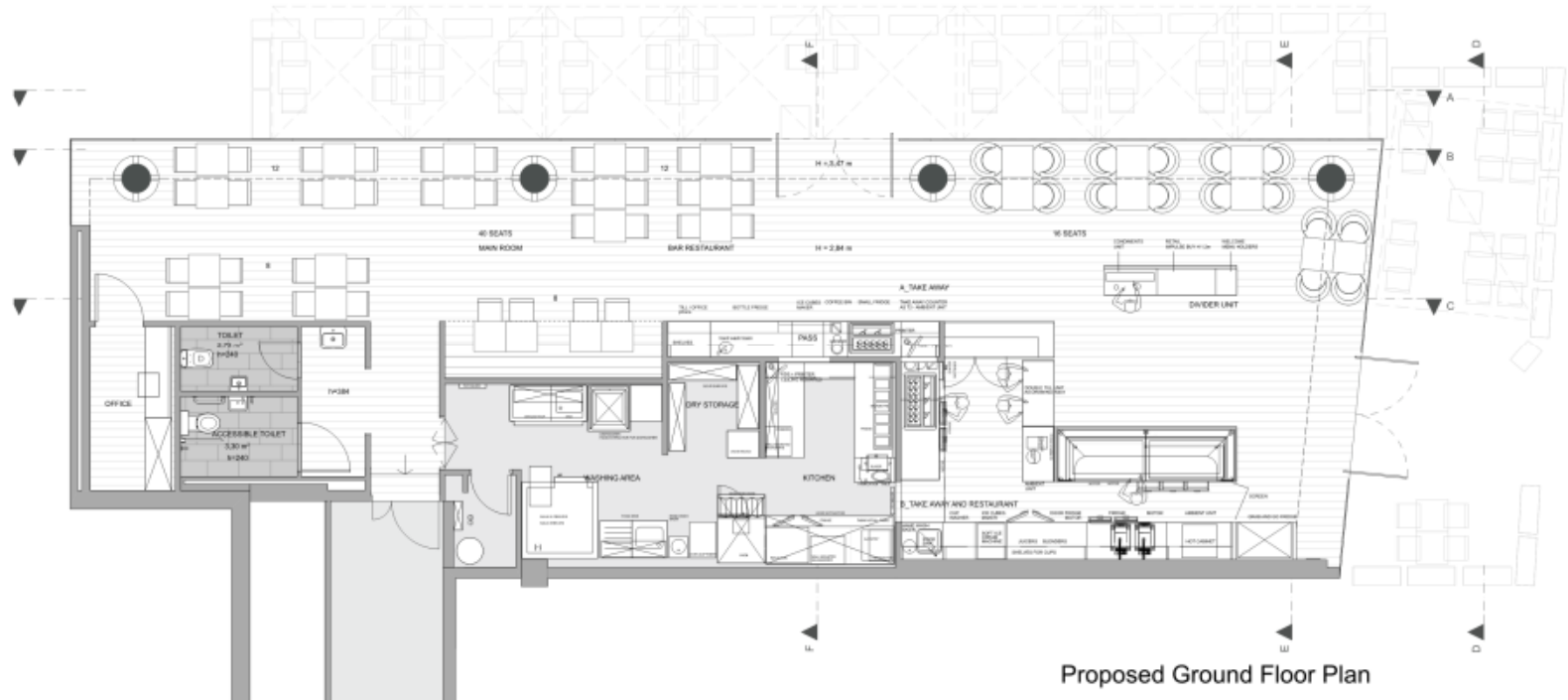
Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Existing Ground Floor Plan

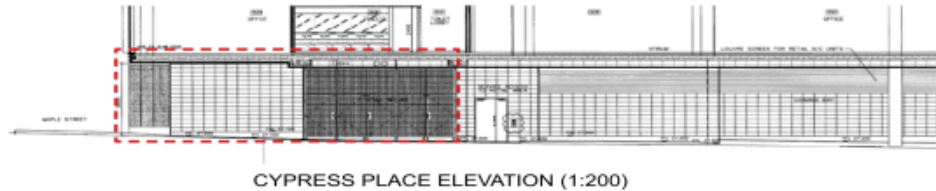
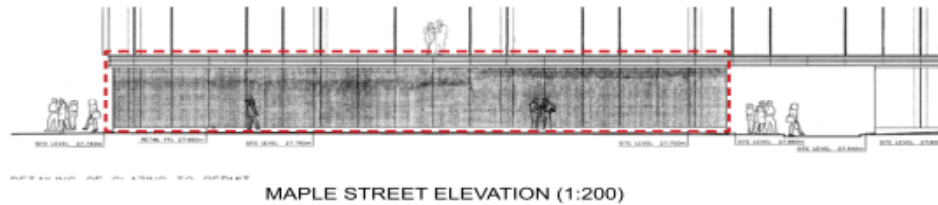
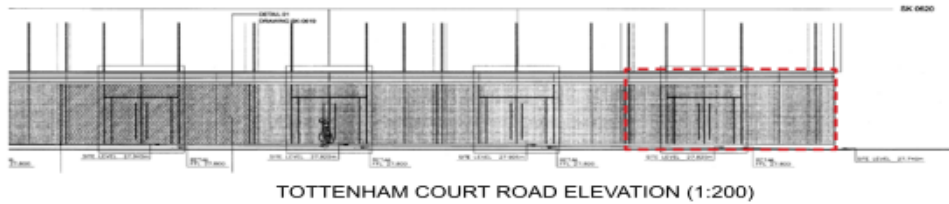
Existing ground floor plan

Unit 1, 101-107 Tottenham Court Road
2015/0459/P



Proposed ground floor plan

Unit 1, 101-107 Tottenham Court Road 2015/0459/P



Existing elevations (unchanged)