

43 CHALK FARM ROAD

APPLICATION FOR REMOVAL OF CONDITION 7 - PLANNING CONSENT 2013/0756/P

CONTENTS

- 1.0 INTRODUCTION
- 2.0 SITE AND SURROUNDING AREA
- 3.0 SITE PLANNING HISTORY
- 4.0 OTHER LOCAL RELEVANT PLANNING APPLICATIONS
- 5.0 THE PROPOSALS
- 6.0 PLANNING POLICY
- 7.0 MATERIAL CONSIDERATIONS
- 8.0 CONCLUSION

APPENDICES

- 1.0 Photographs
- 2.0 List of other uses/businesses in terrace
- 3.0 Decision Notice – Application 2013/0756/P
- 4.0 Committee Report – Application 2013/0756/P

1. INTRODUCTION

- 1.1. This Statement is written on behalf of our client, Centrale Deli, in respect of an application to remove Condition 7 from planning consent 2013/0756/P, which permitted the change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3).
- 1.2. Centrale Deli own the retail/restaurant unit as part of the overall building of 43 Chalk Farm Road as well as the residential units above. The unit is currently used as a cafe deli owned and run by Centrale Deli.
- 1.3. Application 2013/0756/P, sought permission for “change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3)”, and was approved on 11th April 2014.
- 1.4. Condition 7 states:
“No primary cooking shall take place on the premises. 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”.
- 1.5. Centrale Deli wish to improve their food offer to match the increasing quality of food on offer in the area and enable the business to compete within an improving local eating provision across the Borough.
- 1.6. Condition 7 was attached to the consent in order to safeguard the amenities of adjoining premises and the area generally. Therefore this statement seeks to demonstrate that the proposed removal of condition 7 will not give rise to any significant adverse amenity impacts accordingly.
- 1.7. This application is submitted alongside a second application to install a kitchen extract duct to the rear of the premises. The extract duct is a mechanical feature which supports primary cooking activity. The two applications are therefore related to each other, however can be considered independently with regards to their respective determinations.

2. THE SITE AND SURROUNDING AREA

- 2.1. The application site, the raised ground and ground floor of 43 Chalk Farm Road, is a commercial unit in Class A1/A3 use. This has been in use by Centrale Deli since 2009.
- 2.2. The surrounding area of Camden Town Centre is the largest of the Borough’s town centres and is characterised by its unique shops, markets, food, drink and entertainment activities, many of which are independent operations.

- 2.3. The terrace falls within the Core Shopping Frontage North, which itself falls within the Local Development Framework's (LDF) Town Centre boundary.

3. SITE PLANNING HISTORY

- 3.1. 2013/7433/P - Alterations to shopfront, including installation of shutters and canopy. Approved 15th January 2014.
- 3.2. 2013/0756/P - The planning permission for which this application seeks to remove Condition 7. Change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3) including removal of existing public roof terrace on rear extension. Approved 14th February 2014.

4. OTHER LOCAL RELEVANT PLANNING APPLICATIONS

- 4.1. 2013/7712/P - 21-22 Chalk Farm Road, change of use of the basement and ground floors from Class A1 to Class A3 use was approved on 19th May 2014. This attached a similar condition to that applied to the application site, that no primary cooking shall take place on the premises.
- 4.2. 2015/0852/P - 21-22 Chalk Farm Road, removal of condition 4 (prohibiting primary cooking on site) of planning permission 2013/7712/P, dated 19/05/2014, (for change of use of the basement and ground floor from Class A1 to Class A3.) Approved 15th May 2015.
- 4.3. 2015/0888/P - Installation of kitchen extract duct to rear. Approved 15th May 2015.
- 4.4. It is worth noting the planning officer report accompanying application 2013/0756/P referenced a recent appeal decision (dated 30.1.13) that allowed the retention of an A3 bar/café around the corner at 4 Ferdinand Street. "The Inspector concluded that the use was part of the vibrant mixed use character, and that its small size (less than 100sqm) with no late opening and no record of complaints resulted in little cumulative impact and thus the use complied with policy and did not set an undesirable precedent."

5. THE PROPOSALS

- 5.1. This application seeks the removal of Condition 7 from planning permission 2013/0756/P in order to allow greater flexibility in respect of the food offer that Centrale Deli can provide their customers.

- 5.2. The change of use under application 2013/0756/P to A1-A3 mixed use has meant that the premises has evolved to operate in line with what is more commonly associated with a cafe i.e. customers sitting down to eat. Centrale Deli is finding that more customers are wishing to sit in to eat and they wish to develop this aspect of their food offer further.
- 5.3. The capacity of 47 is relatively modest in comparison to other A3 uses on the same road, which supplements the argument that Central Deli needs to provide an improved food offer in order to stay appropriate to the developing food requirements and expectations of the area.
- 5.4. Condition 7 states: “No primary cooking shall take place on the premises.
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.
- 5.5. Application 2015/0852/P to remove a condition restricting primary cooking usage, to 21-22 Chalk Farm Road was granted 19/05/2014 and is considered an appropriate precedent for this application.
- 5.6. It is noteworthy that in respect of the existing A3 operation that the applicants are not aware of any complaints received by Camden Council in respect of adverse impacts on local amenity, and thus the unit is considered to operate successfully as a Class A3/A1 unit.

6. PLANNING POLICY POSITION

- 6.1. The planning report accompanying the granted permission states “The operation involves no primary cooking on site and thus has no ventilation and extraction equipment. Consequently there is no direct impact on residential amenity to upper floor flats.....”
planning officer report for application 2013/0756/P
- 6.2. This report seeks to prove that the addition of primary cooking facilities can be made without impacting on the residential amenity of adjoining properties.
- 6.3. The following local policies are explicitly referenced in the officer report in the reason for applying Condition 7.
- 6.4. LDF Core Strategy and Development Policies:
 - 6.4.1. Policy CS5 manages the impact of growth and development in the borough. In respect of amenity, Part E states that the Council will make sure that the impact of developments on their occupiers and neighbours is fully considered.

- 6.4.2. Policy CS7 promotes Camden's centres and shops. In respect of amenity, Part H states that the Council will promote successful and vibrant centres throughout the borough to serve the needs of residents, workers and visitors by making sure that food, drink and entertainment uses do not have a harmful impact on residents and the local area.
- 6.4.3. Policy DP12 ensures that the uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours. Part I notes specifically noise/vibration, fumes and the siting of plant and machinery.
- 6.4.4. Policy DP26 seeks to manage the impact of development on occupiers and neighbours, by considering factors such as noise and vibration levels, and odour, fumes and dust.
- 6.4.5. Camden Planning Guidance 5 Town Centres, Retail and Employment provides guidance on the usage of units. Paragraph 3.15 outlines the need for particular care to ensure that proposals do not harm residential amenity.

7. MATERIAL CONSIDERATIONS

7.1. Principle of Use

- 7.1.1. The principle of use of the unit for mixed use retail/restaurant (Class A1/A3) purposes has been established through the change of use consent, and in use by Centrale.Deli It is not necessary to re-evaluate the principle of Class A1/A3 use.
- 7.1.2. Given planning permission is required to install kitchen extract equipment separately – which, when used, would give rise to the potential for primary cooking to impact on the amenity of neighbours - it is considered that the principle of relaxing the 'no primary cooking' Class A3 permission can be established independently. This would facilitate a greater use of the unit and commercial viability of the Centrale Deli unit.

7.2. Economic Benefits

- 7.2.1. The food offer across the Borough has improved significantly in recent years and therefore existing providers, such as Centrale Deli, need to be able to compete in an ever improving market.
- 7.2.2. Notwithstanding the reason for attaching Condition 7 to the consent, in respect of safeguarding amenity, it is important to note that the application site is within an established town centre environment where food and drink uses are acceptable uses in principle.

7.2.3. Moreover, the presence of other Class A3 operators in the vicinity, including The Monarch Pub, where we are unaware of any restriction in terms of primary cooking, demonstrates that primary cooking is in principle accepted within the parade.

7.2.4. Furthermore, it is noted that the types of food and drink operator who are able to operate without primary cooking are typically sandwich shops or similar, which generally operate under Class A1. A condition restricting primary cooking is often applied to such A1 operations to ensure the units remain strictly as A1 food and drinks units, and are considered less common for A3 units.

7.3. Amenity Concerns

7.3.1. As previously stated, Condition 7 was attached to the change of use permission to ensure the proposals would not adversely impact on the amenity of neighbours.

7.3.2. Given the existing extraction is currently used for ventilation requirements only and not for cooking facilities within the unit, it is considered that the removal of Condition 7 alone will not give rise to significant adverse impacts on local amenity. The policy requirement to protect local amenity can be assessed through the separate determination of an application to install a kitchen extract duct.

7.3.3. The installation of additional mechanical equipment and external extraction generally associated with primary cooking has the potential to give rise to noise, vibrations and odours that could harm the amenity of neighbours. However, as previously outlined, a removal of condition 7 alone would not, in principle, give rise to any concerns in respect of neighbour amenity impacts. For clarity, however, the separate application to install a kitchen extract duct demonstrates that the proposals will not give rise to any significant impacts on neighbour amenity.

8. CONCLUSION

8.1. This application is submitted in support of proposals to remove Condition 7 from a recent change of use consent, which prohibits primary cooking activity from taking place on the premises. In use of the premises Centrale Deli is struggling to compete with the local food offer whilst complying with this condition.

8.2. As owners of the full building of 43 Chalk Farm Road, Centrale Deli are fully committed to ensuring the long term vitality and viability of the property and of the business which operates from the A1/A3 unit.

8.3. In assessing the amenity impacts associated with primary cooking, it is concluded that a removal of Condition 7 alone would not give rise to any concerns in respect of neighbour

amenity. For primary cooking on a commercial scale to have potential to give rise to adverse amenity impacts, external extraction equipment would be required.

- 8.4. A separate application to install a kitchen extract duct has been submitted independent of this application, which essentially allows the principle of allowing unrestricted cooking at the premises to be assessed independently. The amenity impacts associated with kitchen extraction equipment are assessed in full within the separate kitchen extract duct application.
- 8.5. The proposals are in accordance with Policies CS5, CS7, DP12 and DP 26, and it is considered that planning permission should be granted accordingly.

APPENDIX 1 - PHOTOGRAPHS



Photograph 1 – Application site



Photograph 2 - Opposite side of the road



Photograph 3 - Parade of shops including application site

APPENDIX 2 - TERRACE CLASS USES

My Village Cafe

Empty Shop - Suis Generis

Paddy Power - Betting Shop

The Monarch (double unit) - pub with food

The Monarch (double unit) - pub with food

Centrale Deli

Cycle Shop

Escapade (double unit) - Fancy Dress shop

Escapade (double unit) - Fancy Dress shop

The Bowery - coffee and bagels

Made in Brazil - restaurant

APPENDIX 3 - DECISION NOTICE 2013/0756/P



**Regeneration and Planning
Development Management**
London Borough of Camden
Town Hall
Judd Street
London
WC1H 8ND

Tel 020 7974 4444
Fax 020 7974 1930
Textlink 020 7974 6866

planning@camden.gov.uk
www.camden.gov.uk/planning

Mr Robert Sutherland
Jeffrey Green Russell Limited
Waverley House
7-12 Noel Street
London
W1F 8GQ

Application Ref: **2013/0756/P**
Please ask for: **Charles Thuaire**
Telephone: 020 7974 **5867**

11 April 2013

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) Order 2010
Town and Country Planning (Applications) Regulations 1988

Full Planning Permission Granted

Address:
43 Chalk Farm Road
London
NW1 8AJ

Proposal:
Change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3) including removal of existing public roof terrace on rear extension.
Drawing Nos: Design and Access Statement ref JPP/20535.00001; site location plan; floorplan PIX010113

The Council has considered your application and decided to grant permission subject to the following condition(s):

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).



INVESTOR IN PEOPLE

Page 1 of 4

Director of Culture & Environment
Rachel Stopard

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans- Design and Access Statement ref JPP/20535.00001; site location plan; floorplan PIX010113.

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

- 3 The roof of the rear extension shall not be used as a roof amenity terrace, as a dining/drinking area or for storage and other ancillary purposes and shall only be accessible for maintenance purposes.

Reason: In order to prevent unreasonable overlooking and noise nuisance to neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The premises shall only be used as a mixed Class A1/Class A3 use with a takeaway counter and seating located in accordance with the layout as shown on the floorplan ref PIX0101013 hereby approved.

Reason: To ensure that the future occupation of the building does not adversely affect the adjoining premises/immediate area by reason of noise, traffic congestion and loss of retail frontage, in accordance with 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 No music shall be played on the premises 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.

- 6 The use hereby permitted shall not be carried out outside the following times: 10am - 10.30pm Mondays to Thursdays, 10am - 12am midnight Fridays to Saturdays, 10am - 10pm Sundays.

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.

- 7 No primary cooking shall take place on the premises.

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.

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 You are advised that condition 6 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.
- 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 Reasons for granting planning permission.

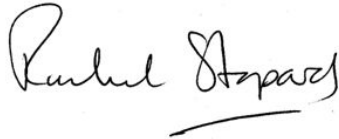
The proposed development is in general accordance with the London Borough of Camden Local Development Framework Core Strategy with particular regard to CS1 - Distribution of growth, CS5 - Managing the impact of growth and development, CS7 - Promoting Camden's centres and shops, and with the London Borough of Camden Local Development Framework Development Policies with particular regard to DP12 - Supporting strong centres etc, DP26 - Managing impact of development on occupiers and neighbours.
Furthermore the proposal accords with the specific policy requirements in respect of the following principal considerations: it is considered that retention of the mixed A1/A3 use with the proposed removal of seating on the roof terrace will retain the overall retail character, function and viability of the parade and, on account of the use's size and nature of operation, will not harm neighbour amenity in terms of noise and other nuisances.
- 5 You are reminded that filled refuse sacks shall not be deposited on the public footpath, or forecourt area until within half an hour of usual collection times. For further information please contact the Council's Environment Services (Rubbish Collection) on 020 7974 6914/5. or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-street-environment-services.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>.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully



Rachel Stopard
Director of Culture & Environment

It's easy to make, pay for, track and comment on planning applications on line. Just go to www.camden.gov.uk/planning.

It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our online survey at the following website address: www.camden.gov.uk/dmfeedback. We will use the information you give us to help improve our services.

APPENDIX 4 - COMMITTEE REPORT 2013/0756/P

Address:	43 Chalk Farm Road London NW1 8AJ		Text
Application Number:	2013/0756/P	Officer: Charles Thuaire	
Ward:	Haverstock		
Date Received:	07/02/2013		
Proposal: Change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3) including removal of existing public roof terrace on rear extension.			
Drawing Numbers: Design and Access Statement ref JPP/20535.00001; site location plan; floorplan PIX010113			
RECOMMENDATION SUMMARY: Grant Planning Permission			
Applicant:		Agent:	
Mr Bruno Dellapina 43 Chalk Farm Road Camden London NW1 8AJ		Jeffrey Green Russell Limited Waverley House 7-12 Noel Street London W1F 8GQ England	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A1 Shop		164.90m ²
Proposed	A1 Shop A3 Restaurants and Cafes		164.90m ² (with A3 seating- 91.90sqm, A1 retail- 37.20sqm)

OFFICERS' REPORT

This application is being reported to the Committee as it entails a part change of use to Class A3 (Clause 3iv).

1. SITE

- 1.1 The site contains a 2 storey terraced property set back from the road with a single storey shop frontage facing the north side of Chalk Farm Road and also with a long single storey rear extension with flat roof and rooflights, currently accessible as a roof terrace. The shop has an elongated floorplate with a ground floor element in the front single storey part, a lower ground floor element in the middle and rear parts and a mezzanine floor above the middle part. At 1st floor is a separate residential flat.

- 1.2 The site falls within the core frontage of the Camden Town Centre. It is not listed nor within a conservation area.

2. THE PROPOSAL

Original

- 2.1 Change of use from retail (Class A1) to mixed use retail/restaurant (Class A1/A3) including prevention of public access to existing roof terrace.

3. RELEVANT HISTORY

- 3.1 1.7.99- PE9900055R1- pp refused for change of use of a shop (Class A1) with ancillary office to a restaurant (Class A3) on two floors with ancillary office and kitchen on the third floor.
- 3.2 18.4.00- PE9900920- pp refused for change of use of the ground and mezzanine floors from retail (Class A1) to restaurant (Class A3), including the installation of an extract ventilation duct on the rear elevation.
- 3.3 17.4.08- 2008/1043/P- pp refused for change of use retail unit (Class A1) to cafe (Class A3) with training workshop at the rear.
Reasons for refusal were-
- a) unacceptable loss of retail floorspace and an over-concentration of food, drink and entertainment establishments within the shopping frontage to the detriment of its vitality, viability, character and function;
 - b) likely to result in a significant cumulative increase in noise disturbance in the area to the detriment of neighbouring residential occupiers, by reason of its proximity to residential properties and the number of existing entertainment uses in the vicinity.
- 3.4 November 2012- EN12/0923- complaint regarding use of rear flat roof as outdoor dining and drinking area.

4. CONSULTATIONS

Adjoining Occupiers

<i>Number of Letters Sent</i>	17
<i>Number of responses Received</i>	00
<i>Number in Support</i>	00
<i>Number of Objections</i>	01

- 4.1 One objection has been received from an owner/occupier in York Way concerned at future use of roof terrace as dining space- although proposal involves closure of its use by public which is commended, there should be no possibility of its use by staff during breaks, storage, cooking etc which would affect its visual appearance or neighbour amenity; access should be restricted to maintenance only.

5. POLICIES

Set out below are the LDF policies that the proposals have primarily been assessed against. However it should be noted that recommendations are based on assessment of the proposals against the development plan taken as a whole together with other material considerations.

5.1 LDF Core Strategy and Development Policies

CS1 - Distribution of growth
CS5 - Managing the impact of growth and development
CS7 - Promoting Camden's centres and shops
DP12 - Supporting strong centres etc
DP26 - Managing impact of development on occupiers and neighbours

Supplementary Planning Policies

5.2 Camden Planning Guidance 5- Town centres, retail and employment

Other policies

5.3 National Planning Policy Framework (March 2012)
The London Plan (July 2011)

6. ASSESSMENT

6.1 The principal considerations material to the determination of this application are summarised as follows: land use policy and impact on town centre; impact on neighbour amenities.

Proposal

6.2 The application is essentially to regularise the current operation of the café that has existed here since 2009 when the current tenants moved in. The application also proposes the removal of the existing roof terrace dining area which previously gave rise to complaints from residential neighbours and which prompted an enforcement investigation and ultimately this application.

6.3 The current tenants are different from previous applicants who proposed changes of use to a full Class A3 operation which were refused planning permissions- see history above. The current operation and layout comprises a deli counter for takeaway trade with some small tables and chairs in the single storey front shop area; the middle lower area has storage and the rear part is used for seating. Adjoining these 2 areas is the kitchen with electric pizza oven. The mezzanine floor has additional seating plus access to the rear roof terrace. The total capacity of the use is 47 seats (10 at front, 25 at rear, 12 in mezzanine). However the seating at front is ancillary to the retail element while the 37 seats at rear/mezzanine comprise approx 92 sqm floorspace. There is no primary cooking on site and only food such as pizzas and paninis is heated up in the oven.

6.4 The hours of operation at present (and proposed) are 10am-10.30pm Mon-Thu, 10am-12am midnight Fri-Sat, 10am-10pm Sun. There is also an alcohol licence which allows similar closing hours, i.e. midday- 11pm Mon-Thu, midday-midnight

Fri-Sat, midday-10pm Sun.

Landuse

- 6.5 The proposal is to continue the current operation that has existed here over the last 4 years. This operation is a genuinely mixed A1/A3 use, with a fair balance of trade between takeaway/retail sales and eating/drinking on the premises. The food is generally confined to cold salads, sandwiches, cakes etc from the deli counter or reheated pizzas and breads and there is no facility for serving or creating hot meals. As such therefore, there is no need for ventilation or extraction equipment.
- 6.6 LDF policies CS7 and DP12 require any change of use involving loss of retail and creation of new food and drink uses to comply with detailed guidance set out in the Camden Town SPG, which is now superseded by CPG5 adopted in 2011. The policies aim to ensure that new town centre uses do not harm the character, function, vitality and viability of centres, the local area and neighbour amenity; more specifically within Camden Town, policy CS7 aims to allow an equal balance between retail and leisure uses. The CPG guidance advises that within core frontages, such as north side of Chalk Farm Rd: retail provision should not fall below 50% of the relevant frontage and if already less, no further loss of retail will be allowed; new food, drink and entertainment uses will only be allowed up to 20% of the frontage; and no more than 2 consecutive units should be in non-retail use.
- 6.7 Previous applications for a full A3 use here failed due to non-compliance with previous policy and guidance (which was very similar to that currently adopted) and due to harm to residential amenity from an additional food & drink use near residential occupiers.
- 6.8 The key difference between the current application and previous ones is that this proposal is now for a mixed use involving a retail element at the front and a different style of operation with no cooking on site. The front shop with deli counter will retain an A1 use and thus a retail frontage will be retained.
- 6.9 A survey of the 10 units within the parade of nos 36/37 - 48 Chalk Farm Rd shows the following uses- A1 x 5, A2 x 1, A3 x 1, A4 x 1, mixed A1/A3 x 1, D2 x 1. This means that the parade has 50% A1 (retail) units and 20% A3/4/5 (food drink and entertainment) units, which are the minimum and maximum amounts referred to in CPG. With the proposed use, the ratios will change to A1 x 4 and mixed A1/A3 x 2, so that the parade will have only 40% A1 but still have 20% A3/4/5. Thus the retail provision falls below the minimum threshold as required in CPG.
- 6.10 However it is considered that this change of use will have no or minimal impact on the retail character and function of the parade, as a retail element within this overall mixed use will be retained on the frontage so that, visually and functionally, the parade and centre will continue as before with a retail outlet. Indeed as this use has existed for at least 4 years, there has been no discernible change in the character and function of the parade as the frontage is currently used as a retail shop selling cold takeaway and delicatessen food. Similarly the proposal continues to comply with guidance regarding 20% A3/4/5 uses and no more than 2 consecutive uses non-A1 uses, as these ratios are not altered by retaining an A1 frontage and by not introducing another full A3 use here.

- 6.11 It is further considered that the A3 element of seating will not harm the overall character, function and viability of the parade either in itself or cumulatively in conjunction with other uses, due to its position at the rear and mezzanine level, its small scale with less than 100sqm floorspace, and its minimal impact on residential amenity (see discussion below). It is proposed to impose a condition to ensure that the areas of seating and takeaway functions, as shown in the submitted layout plan, are adhered to so that the mixture and proportions of A1 and A3 elements are maintained on site.
- 6.12 It is worth noting a recent appeal decision (dated 30.1.13) that allowed the retention of an A3 bar/café around the corner at 4 Ferdinand Street. The Inspector concluded that the use was part of the vibrant mixed use character, and that its small size (less than 100sqm) with no late opening and no record of complaints resulted in little cumulative impact and thus the use complied with policy and did not set an undesirable precedent.

Neighbour amenity

- 6.13 The operation involves no primary cooking on site and thus has no ventilation and extraction equipment. Consequently there is no direct impact on residential amenity to upper floor flats. The existing roof terrace is proposed to be removed entirely and the door blocked to prevent any public or staff access, thus this will remove the previous source of complaints by neighbours. It is proposed to impose conditions to ensure that there is no primary cooking on site and that the roof is only accessible for maintenance purposes.
- 6.14 There is no record of any complaints against this use which has subsisted for over 4 years. The style of operation, with no cooking and a licence which only allows alcohol served with food, means that its impact will be different from that of a normal A3 restaurant or A4 bar and is unlikely to create any anti-social noise or nuisance issues. There is adequate space for refuse storage on site and there is no forecourt enabling tables and chairs to be placed on the highway.
- 6.15 The proposed hours of operation are the same as existing for the last 4 years and are considered acceptable, being appropriate for this area which is not designated as a 'sensitive' or secondary frontage within Camden Town where amenity impacts may be more severe and where earlier closing hours may be preferable. In this case, the closing hours are before midnight and indeed earlier than the times allowed by the alcohol licence.

7. CONCLUSION

- 7.1 It is considered that retention of the mixed A1/A3 use, on account of its layout, size and nature of operation and with the proposed removal of seating on the roof terrace, will retain the overall retail character, function and viability of the parade and will not harm neighbour amenity in terms of noise and other nuisances.
- 7.2 **LEGAL COMMENTS**
- 7.3 Members are referred to the note from the Legal Division at the start of the Agenda.