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Planning statement

Project name: 119 Shaftesbury Avenue
Site address: 119 Shaftesbury Avenue, London, WC2H 8AE
Applicant: Cambridge Circle Limited
Date: February 2020

Description of development

Change of use of the ground and basement levels from retail (use class A1) to restaurant (use class A3); and the installation of a ventilation flue to the rear.

Type of application

The application is for full planning permission.

Applicant

Cambridge Circle Limited

List of supporting documents

1. Existing and proposed floorplans and elevations by gpad London Limited;
 2. Application form;
 3. CIL form; and
 4. Noise assessment.
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Development plan

The adopted development plan comprises:

1. Camden Local Plan (2017);
2. Camden Site Allocations Plan (2013);
3. Fitzrovia Area Action Plan (2014); and
4. The London Plan (consolidated with alterations since 2011) (2016).

The emerging development plan comprises:

1. The London Plan (intend to publish) (December 2019)
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Policies map

The following designations on the policies map are particularly relevant:

1. Protected Frontage (secondary);
 2. Central London Frontage; and
 3. Seven Dials (Covent Garden) Conservation Area.
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Planning policies

The following adopted and emerging planning policies are particularly relevant:

Document	Policy number	Policy title
Camden Local Plan	Policy TC2	Camden's centres and other shopping areas

Camden Local Plan	Policy TC4	Town Centre Uses
Camden Local Plan	Policy D1	Design
Camden Local Plan	Policy D2	Heritage
Camden Local Plan	Policy A1	Managing the impact of development
Camden Local Plan	Policy G1	Delivery and location of growth

Other material considerations

Other material considerations (such as national planning policy and supplementary planning documents, area action plans and design briefs) include:

1. National Planning Policy Framework ('the Framework') (2019);
2. National Planning Practice Guidance ('the Practice Guidance');
3. Camden Planning Guidance: Town Centres and Retail (2018); and
4. Conservation Area Statement – Seven Dials (Covent Garden) (1998).

Relevant planning decisions

Reference/address	Description	Status/decision date
2019/1060/P 119 Shaftesbury Avenue London WC2H 8AE	Change of use of floors 1 - 4 from A1 (Retail) to B1 (Office), internal refurbishment and alterations to ground floor shopfront	Under consideration – decision due April 2019

Contents of this statement

1. Site and area description
2. Pre-application engagement
3. Proposed development
4. Considerations
5. Conclusions

Appendices

1. Survey of secondary retail frontage

1.0 Background

- 1.1 As stated, the site is currently occupied by Angels fancy dress shop. However, the current tenant advised the site owner that it would be vacating the premises over a year ago and will not be relocating within another retail unit elsewhere. Following this, the owner of the site has unsuccessfully tried to secure a new retailer to occupy the unit. However, a number of food and drink occupiers have expressed interest in the unit, which is why the applicant is applying for a change of use of the unit from retail to restaurant use. Should this application not be approved, then it is likely that the retail unit will become vacant due to a lack of interest from retailers.

2.0 Site and area description

- 2.1 The site address is the ground floor unit located within 119 Shaftesbury Avenue, London, WC2H 8AE. The site area is 163sqm.
- 2.2 The site comprises of a five storey building. The ground and basement levels are currently in use as the Angels fancy dress shop (Use Class A1). The upper floors of the building are also currently in retail use. However, there is a current planning application under consideration that proposes the change of use of the upper floors to office.
- 2.3 The site does not have any vehicular access. Pedestrian access is provided at the front of the site via Shaftesbury Avenue, where there are two pedestrian entrances. The site has a PTAL rating of 6b (best) and is therefore highly accessible by public transport. The site is located within a short walk of several underground stations including Tottenham Court Road, Covent Garden and Leicester Square. There are a number of bus stops located within the vicinity of the site.
- 2.4 The site is located within flood risk zone 1 and is therefore not at risk of flooding. The site is located within the Seven Dials (Covent Garden) Conservation Area. The site does not comprise of a listed building.
- 2.5 Existing buildings in the area surrounding the site range from around four to ten storeys in height. Surrounding buildings are in a range of different uses including retail, cafes, restaurants, theatres and a cinema. There are large street trees located on the pavement outside the site.
- 2.6 There are double yellow lines located on the highway outside the site.

3.0 Proposed development

- 3.1 The proposed description of development is for the change of use of the ground and basement levels of the building from retail (use class A1) to restaurant (use class A3); and the installation of a ventilation flue to the rear elevation of the site from the ground to fourth floor levels.
- 3.2 No external alterations are proposed to the front elevation. The only external alterations proposed are the installation of a ventilation flue to the rear of the site, which would be clad in brick vinyl to match the rear elevation of the building.
- 3.3 Refuse and recycling storage is proposed to be located within the basement.

4.0 Considerations

- 4.1 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material consideration indicates otherwise. This section therefore assesses the proposal against the development plan policies outlined above and examines relevant material considerations where appropriate. The assessment draws upon the suite of application documents listed at Section 1 of this statement. The main planning considerations are considered to be:
- Principle of the proposed use, including the impact on the viability and vitality assessment of the secondary retail frontage;
 - Design and impacts to heritage;
 - Impacts to amenity; and
 - Highways considerations.

Principle of proposed use of the site as a restaurant

- 4.2 The site is located within a designated secondary retail frontage and is also located within the designated Central London Frontage. Policy TC2 (g) states that the Council will protect the secondary frontages as locations for shops (use class A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre. Policy TC2 goes on to state that the Council's expectations for the mix and balance of uses within frontages for each designated centre are set out in Appendix 4. Appendix 4 states that within the Tottenham Court Road Central London Frontage, 66% of the units within the secondary frontage are expected (our emphasis) to be in use as shops (use class A1). Accordingly, the policy wording contains inherent flexibility in that it does not definitively require the 66% retail target to be met.
- 4.3 The Camden Planning Guidance ("CPG") in relation to Town Centres and Retail also states that the Tottenham Court Road/Charing Cross Road/New Oxford Street Central London Frontage is required to have a minimum of 66% of units within the secondary frontage in use as shops (use class A1). The planning guidance is more definitive in its approach to the 66% requirement. However, by its nature, it is a guidance document that is a material consideration in the assessment of the application but is not part of the adopted development plan.
- 4.4 The CPG refers to Charing Cross Road in paragraph 3.21, and states that *'the retail function of this part of the Central London Frontage is not as significant in terms of size or number of uses as the Tottenham Court Road / New Oxford Street area.'* Paragraph 3.22 of the CPG states that a higher level of food, drink and entertainment uses is considered acceptable in this area. Planning permission for food, drink and entertainment uses may be granted in this area, provided development does not result in a harmful concentration or cause harm to amenity, and does not result in a reduction of A1 retail uses to less than two thirds (66%) of uses on the frontage. This allows flexibility for limited growth of these uses. The CPG also states that the Council will take into account the number and mix of uses in adjacent and opposite premises in assessing applications. The CPG guidance is clear that applications should be assessed on a case by case basis. Camden is a diverse Borough with a range of types of retail frontages so there should not be a "one size fits all" approach to assessing changes of use applications within defined frontages.

Boundaries of the secondary frontage

- 4.5 In order to assess the extent of the frontage that is in use as retail, a survey of the secondary frontage was undertaken on 11 February 2020 having regard to the guidance set out on page 6 of the CPG regarding how to calculate frontages. The CPG states that a frontage will start at a road junction or where there are ground floor residential uses in the run, at the beginning of the first two consecutive non-residential uses at ground floor level. The CPG also states that frontages may continue around corners, or across entrances, but will stop where there are roadways.

- 4.6 The boundary indicated on the Council's Policies Map appears to have arbitrarily been drawn to cease at 119 Shaftesbury Avenue and 124 Charing Cross Road, rather than continue to include the additional units from 121 Shaftesbury Avenue up to 11 Denmark Street. For the purpose of this assessment, it is considered that the secondary frontage in this location should be considered to run from 121 Shaftesbury Avenue (itself already in retail use but outside the defined frontage boundary), around the corner up to 11 Denmark Street.
- 4.7 In arriving at the appropriate extent of the frontage assessment, it is acknowledged that Phoenix Street is located part way through this frontage. However, Phoenix Street comprises of a shared surface and only allows one-way traffic to travel down it. Bollards are located along the pavements on either side of the road that ensure that pedestrians are prioritised over vehicles. It is therefore not considered that Phoenix Street 'interrupts' the frontage, as pedestrians walking along Charing Cross Road would not necessarily perceive the Charing Cross Road/Phoenix Street junction as a busy, traffic-dominated "road junction" (to use the CPG terminology) that they are required to cross. An image of Phoenix Street is included below that demonstrates that it is a pedestrian-focused route, rather than a busy road junction.

Image 1: Phoenix Street (source: Google Streetview)

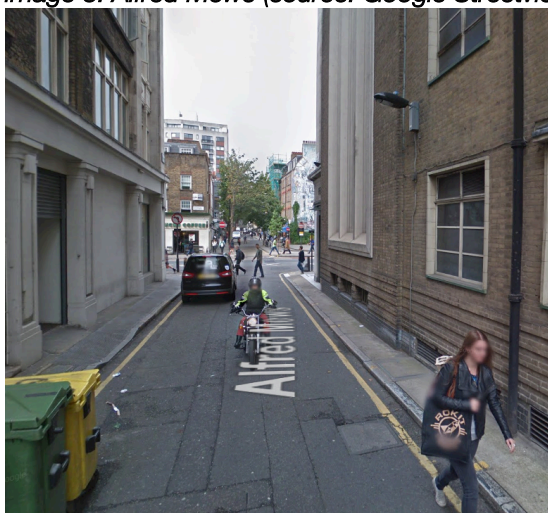


- 4.8 Furthermore, elsewhere within the Central London Frontage, the primary retail frontage is shown to traverse roads and other breaks within the frontage. For example, to the north of the site the primary frontage runs across Stephen Street, which is a two-way undercroft vehicular route, as indicated in Image 2 below. Also located to the north of the site, the primary retail frontage spans Alfred Mews, which is a two-way vehicular route. This is shown in Image 3 below.

Image 2: Stephen Street (source: Google Streetview)



Image 3: Alfred Mews (source: Google Streetview)



- 4.9 It is therefore considered that the secondary retail frontage that the site is located within and this proposal assessed against, should not be fragmented by Phoenix Street, but should continue across Phoenix Street given it is not a busy route that would be perceived by pedestrians to 'interrupt' the frontage.
- 4.10 The secondary frontage is also considered to include 121 Shaftesbury Avenue to the south, as it is the final unit within the frontage and has similar characteristics as the site. The final unit beyond 121 Shaftesbury Avenue comprises of a lobby for an office, so number 121 should logically form the final unit within the frontage. Similarly, it is considered that 11 Denmark Street should be included within the secondary frontage in order to reflect the extent of the secondary frontage located on the opposite side of the road. Therefore, 11 Denmark Street has also been included within the survey of the frontage.

Findings of the survey of the secondary frontage

- 4.11 On the basis of the above, the secondary retail frontage comprises of 16 units in total. A total of 11 of the units (including the site) are in retail use currently, which equates to 69% of the frontage. A table is included within Appendix 1 of this document which summarises the use of each unit. The retail units include 11 Denmark Street (Music Room), 124-120 Charing Cross Road (TK Maxx), 110 Charing Cross Road (ticket sales shop), 110 Charing Cross Road (vape shop), 104 Charing Cross Road (corner shop), 100-104 Charing Cross Road (Made furniture shop), 92-94 Charing Cross Road (Maccaris Music), 90 Charing Cross Road (souvenir shop), 117 Shaftesbury Avenue (Pret), 119 Shaftesbury Avenue (Angels fancy dress shop – the site) and 121-125 Shaftesbury Avenue (Nisbets catering shop). Whilst it is acknowledged that 117 Shaftesbury Avenue has a previous planning permission for use as a restaurant (Use Class A3), Pret primarily sells food and drink on site to customers that mainly consume it off site. It is effectively a sandwich shop as hot food is not prepared and cooked on site. Pret occupy hundreds of Class A1 retail units across the country and so it is therefore considered that, as per other units occupied by Pret, the unit is being operated as an A1 use rather than A3 use.
- 4.12 The proposal for the change of use of the site from A1 to A3 would therefore result in 10 of the units being in A1 use, with six units being in non-retail uses. This equates to 63% of the units being in non-retail uses. This is only marginally below the requirement set out in the CPG for this area, which specifies that 66% of the units in the secondary frontage should be in retail use. The loss of this retail unit cannot be considered to dilute the retail offer to such a degree that the vitality and viability of the centre frontage is compromised when considering purely unit numbers.
- 4.13 However, the secondary retail frontage can also be considered in terms of the length of the frontage that is within a specific use. This approach is adopted by a number of Councils in order to assess the proportion of primary and secondary frontages that are in retail and non-retail uses, such as Tandridge. It is considered that this is particularly relevant in this section of the secondary frontage as there are several retail units that are much larger than average (for example, TK Maxx and Made). The

table included in Appendix 1 includes a summary of the lengths of the frontages of the units located within the secondary frontage. The table demonstrates that 66% of the frontage would be in retail (A1) use following the change of use of the site from retail to restaurant, therefore complying with the thrust of policy TC2 and the CPG.

- 4.14 Furthermore, the site is currently located between two A1 uses, being Pret and Nisbets. It is therefore not considered that changing the use of the unit from retail to restaurant would result in an over-concentration of non-retail uses. The site is located on Shaftesbury Avenue rather than Charing Cross Road, which is more retail-focused in character than Shaftesbury Avenue. In light of the above, it is concluded that the change of use of the application site from A1 to A3 will not compromise the overall retail offer along the frontage.

Impacts to the vitality and viability of the secondary frontage

- 4.15 The proposed development has also been considered in terms of the impacts it would have on the vitality and viability of the secondary retail frontage in line with policy TC2 and the Framework (chapter 7).
- 4.16 The government's Planning Practice Guidance states that the following indicators, and their changes over time, may be relevant in assessing the health of town centres: diversity of uses, proportion of vacant street level property, pedestrian flows, accessibility, perception of safety and occurrence of crime, state of town centre environmental quality, hours of opening/availability/extent to which there is an evening and night time economy offer. These indicators are considered in further detail below.
- 4.17 The site is located on Shaftesbury Avenue in central London. The site has a PTAL rating of 6b (best), and is located within a short walk of a number of underground stations including Leicester Square, Tottenham Court Road and Covent Garden. There are a number of bus stops located in close proximity to the site along Charing Cross Road. There are also Santander bicycles that are available for hire located within a two-minute walk of the site on Moor Road. It is therefore considered that the secondary retail frontage benefits from excellent accessibility through a range of modes of public transport.
- 4.18 The secondary frontage benefits from a range of different uses, including retail, restaurants, a bar, a theatre and massage parlour. There are currently no vacant units located within the frontage, demonstrating that there is a high level of demand for units in this location. Given the central London location of the site, it benefits from strong pedestrian flows. Conversely, the application site is soon to become vacant as the current tenant is due to vacate the premises. The current tenant does not wish to extend its lease and there is strong demand from restaurant occupiers to secure a presence in this location. Therefore, the proposal will ensure that the unit does not become vacant and will secure immediate re-occupation. Both Shaftesbury Avenue and Charing Cross Road are busy thoroughfares for pedestrians, both during the day and night time as the area is characterised by theatres and other evening entertainment facilities such as bars. The wider area is not a traditional shopping area in the way that many of Camden's other centres function and attract shoppers. It is an area that supports the theatre and tourist economy and the site's loss of a retail use will not compromise the overall function of this particularly secondary frontage. The retail occupiers wishing to locate in this area are much more likely to consider Seven Dials, Covent Garden or Oxford Street and the roads immediately off it as more attractive retail locations.
- 4.19 The secondary frontage is located within an area with a high environmental quality. Shaftesbury Avenue and Charing Cross Road benefit from large street trees. The site is located within a conservation area that is characterised by attractive, historic buildings. The public realm surrounding the site is of a high quality. Therefore, it is likely that pedestrians perceive the area to be a safe and secure area. This will not be impeded by the proposed development.
- 4.20 Overall, the indicators considered above confirm the robust health and vitality of the secondary frontage through the lack of any vacant units, excellent accessibility by a range of modes of public transport, strong pedestrian footfall, a varied range of uses (including night time uses), and a high quality public realm. As such, it is not considered that the change of use of the site from retail to restaurant would impact on the vitality and viability of this part of the secondary frontage.

Summary on secondary frontage

- 4.21
- When the length of the frontages of individual units are considered, 66% of units would remain in retail use (A1) with the proposed development in place;
 - If the proportions are considered in terms of the total number of units, 63% of the units would be A1 use with the proposal in place (10 out of 16), being only marginally, and therefore not materially below, the 66% target;
 - There is inherent flexibility in policy TC2 and the CPG acknowledges some flexibility to assess applications on a case by case basis;
 - A health check of the frontage demonstrates that it demonstrates high levels of vitality and viability, so the change of use of one unit would not harm its overall attractiveness or function as a secondary frontage. Conversely it will lead to an immediate occupation of a premises that will soon become vacant;
 - The area is characterised by theatres/evening entertainment industries – a restaurant would support the overall function of this area and assist in meeting the needs of theatregoers, visitors and tourists whilst helping to foster growth in the day and night time economy;
 - Camden's Local Plan supports a range of supporting uses within the secondary frontage and therefore the proposal for a restaurant should be acceptable in this location; and
 - This part of Shaftesbury Avenue does not have a strong retail character – it forms the end of the secondary frontage and a number of restaurants and a cinema are located further down the road.

Proposed restaurant use

- 4.22 The proposal for a restaurant in this location is supported by Camden's policy, as well as the emerging London Plan.
- 4.23 Policy TC2 of Camden's Local Plan states that a range of shops including independent shops, services, food, drink and entertainment and other suitable uses will be provided for within Camden's centres to provide variety, vibrancy and choice. Policy TC2 (c) also states that food and drink uses will be focused within the Central London Frontages. Policy TC2 (g) states that a broader range of town centre uses will be supported within the secondary frontages, including food, drink and entertainment uses that support the vitality and viability of the centres. Paragraph 9.31 of the Local Plan states: *"in order to protect the primarily retail role of core frontages, the preferred location of food, drink and entertainment uses is secondary frontages."*
- 4.24 The CPG recognises that the Charing Cross Road Central London Frontage is characterised by offices, with little residential development, and therefore a higher level of food, drink and entertainment uses is considered acceptable. Paragraph 3.16 of the CPG states:
- "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."*
- 4.25 The emerging London Plan (intend to publish version) states in policy SD6 (A):
- "The vitality and viability of London's varied town centres should be promoted and enhanced by:*
2. *encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses that meet the needs of Londoners, including main town centre uses, night-time economy, civic, community, social and residential uses."*
- 4.26 Policy SD6 (B) goes on to state:
- "The adaptation and diversification of town centres should be supported in response to the challenges and opportunities presented by multi-channel shopping and changes in technology and consumer behaviour, including improved management of servicing and deliveries."*
- 4.27 Policy SD6 (F) states:

"The management of vibrant daytime, evening and night-time activities should be promoted to enhance town centre vitality and viability."

- 4.28 On the basis of the above, the site is considered to be an appropriate location for a restaurant as it is located within a secondary frontage and would therefore assist in diversifying the range of uses within the Central London Frontage, contributing to its vibrancy and vitality. As set out in the emerging London Plan (policy SD6), London's centres should be encouraged to be resilient with a diverse range of uses on offer including night-time economy and other main town centre uses. Part B of the policy is supportive of encouraging adaptation and diversification of town centres in response to the challenges posed by multi-channel shopping and changes in technology and consumer behaviour. This is of particular relevance to the proposed development as as stated, the current retail occupier notified the owner of the site that they were vacating the premises over a year ago. The owner has since tried to secure an alternative retail tenant, but has not been able to secure one. The owner has, however, received interest from a number of food and drink tenants. This is indicative of the changing nature of town centres and changing patterns of consumer behaviour whereby consumers are more likely to shop on the internet than on the high street, unless it is for a specialist product.
- 4.29 In addition to the above, the retail unit currently employ four members of staff. Based on the Government's Employment Densities Guide (2010), the restaurant is anticipated to employ 16 full time employees. This represents a significant increase in employment opportunities, which should be considered as a significant benefit of the proposals when it is considered as a whole.
- 4.30 In summary, Camden's policy was originally drafted in 2015 and adopted in 2017. It is therefore some five years since its original inception and it was crafted at a time when the retail industry was more buoyant. Over the last two to three years, retail habits have begun to change substantially. Independents and multi-chain retailers are extremely cautious about securing long leases in locations that are not conducive to heavy levels of retail footfall. In close proximity to the site there are retail locations that are much more attractive for operators such as Seven Dials, Covent Garden and the Oxford Street area. The assessment has demonstrated that the overall retail function of the centre will not be materially affected by this proposal and therefore, sitting in the context of the current retail climate, it is considered that material considerations outweigh any potential conflict with the development plan regarding the secondary frontage, notwithstanding the case presented that the proposal complies with the expectations set out in the CPG when the length of the frontages of the units are taken into account.

Design and heritage impacts

- 4.31 The only external amendment that is proposed as part of this application is the installation of a ventilation flue to the rear of the site. The flue is proposed to be located at basement level, up to the fourth floor level. The flue is proposed to be finished in brick vinyl to match the existing brick located on the rear elevation. The flue would not be visible from the public realm as it is located to the rear of the site. The flue would only be visible in private views. It is therefore not considered that the proposed flue would result in any harm to the Seven Dials (Covent Garden) Conservation Area, as it would not be visible from the streetscene. It is proposed to be finished in the same material as the rear façade of the building so that it blends in to the rear elevation as much as possible.

Impacts to amenity

- 4.32 The upper floors of the existing building are in retail use currently, although a current application is under consideration that proposes the change of use of the upper floors of the building to office. As such, the existing building is not in residential use. There are no residential occupiers located in close proximity of the site. The site is located within a busy, central London location, with a range of uses located nearby including restaurants, theatres and bars. It is therefore not considered that the proposal for the change of use of the unit to a restaurant will cause any unacceptable impacts to residential amenity given the context of the site. A noise report has been submitted with the application that demonstrates that the proposed flue does not result in any harmful noise impacts.

Highways considerations

- 4.33 As stated above, the site is located within a highly accessible location, with a PTAL rating of 6b (best). There are a range of modes of public transport located within a short walk of a number of underground stations including Leicester Square, Tottenham Court Road and Covent Garden. There are a number of bus stops located in close proximity to the site along Charing Cross Road. There are also Santander bicycles that are available for hire located within a two-minute walk of the site on Moor Road. It is therefore considered that the site is an appropriate location for a restaurant, as it is highly accessible.
- 4.34 The proposals identify an area for the storage of waste and recycling. The occupier would be required to transport the waste from the storage area to the kerb on collection days. Should further details be required on the refuse strategy, then a condition can be attached to the planning permission requiring further details to be provided on the strategy prior to the occupation of the development.

5.0 Conclusions

- 5.1 This planning application is for the change of use of the ground and basement levels from retail (use class A1) to restaurant (use class A3); and the installation of a ventilation flue to the rear.
- 5.2 This statement demonstrates that the proposal is in accordance with the material policies in the development plan. If it is considered that the proposal is not fully in compliance with the policies in the development plan, then the benefits of the proposals are considered to outweigh the departure from the development plan.

Benefits of the proposal

- 5.3
- The creation of 16 new employment opportunities, which represents an uplift of 12 new jobs when compared to the current operation; and
 - The delivery of a new restaurant that will contribute towards the vibrancy and vitality of the Central London Frontages, contributing to the evening economy which is key in this location that is characterised by a large number of theatres and night-time uses.
- 5.4 It is therefore requested that this application is approved without delay.

Appendix 1

Findings of the survey of the secondary frontage

	Address	Use	Use class	Width of frontage (m)
1	11 Denmark Street	Music Room	A1	8
2	124-120 Charing Cross Road	TK Maxx	A1	44
3	116-114 Charing Cross Road	Chipotle	A3	10
4	112 Charing Cross Road	Phoenix Theatre	D4	7
5	110 Charing Cross Road	Ticket Sales	A1	6.5
6	108 Charing Cross Road	Vape shop	A1	6.5
7	106 Charing Cross Road	Massage parlour	Sui Generis	6.5
8	104 Charing Cross Road	Lycra Corner shop	A1	6.5
9	100-102 Charing Cross Road	Made shop	A1	27
10	96 Charing Cross Road	Salsa! Soho	A3	4
11	92-94 Charing Cross Road	Maccaris Music	A1	13
12	90 Charing Cross Road	Souvenir Shop	A1	5
13	84 Charing Cross Road	McDonalds	A3	38
14	117 Shaftesbury Avenue	Pret	A1	13
15	119 Shaftesbury Avenue	Angels fancy dress	A3 (proposed)	15
16	121-125 Shaftesbury Avenue	Nisbets catering shop	A1	25
	Total number of units in A1 use following the proposed development:	10		
	As a percentage of the total:	63%		
	Total length of frontages in A1 use following the proposed development:	235		
	As a percentage of the total:	66%		