

From: Milligan Neil: H&F

Sent: Monday, August 14, 2023 3:33 PM

To: Overton Adrian: H&F <Adrian.Overton@lbhf.gov.uk>; Licensing HF: H&F <licensing@lbhf.gov.uk>

Subject: FW: NEW: I found Hours of Planning Appeal Fwd: 24-hour opening proposed 22 Aug
deadline For PapaJohn's to 5am hot food licence and 24-hr opening 2023/01216/LAPR

Hi Adrian

You have probably received this already. I have checked and it looks like there is no subsequent planning approval allowing extended hours beyond that in the appeal decision notice. The hours they are proposing goes well beyond what has been approved.

Regards

Neil Milligan

Planning Enforcement Team Leader



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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TP/824/63

RM/93/00026

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Your Ref:
993NC229
Our Ref:
T/APP/H5390/A/93/229294/P7

Date: 07 MAR 1994

Allowed

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR A SOTERIOU & MISS M TSIELEPIS
APPLICATION NO: 93/00026

1. I have been appointed by the Secretary of State for the Environment to determine this appeal. The appeal is against the failure of the Council of the London Borough of Hammersmith and Fulham to give within the prescribed period notice of their decision in respect of an application for the conversion of the existing ground floor bakery use to a fish and chip take-away restaurant at 63A Walham Grove, Fulham. I have considered the written representations made by you and by the Council and also those made by interested persons, including those representations made directly to the Council which have been forwarded to me. As you know, I inspected the site on 31 January 1994.

2. The Council resolved that had it been empowered to do so, it would have refused your clients' application on the grounds that: 1) it would give rise to customer parking and manoeuvring which would be prejudicial to highway safety; and 2) the proposal would result in an increase in noise and disturbance, thereby harming the amenities of nearby residents.

3. The building is within the Walham Green Conservation Area and under the provisions of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of such areas.

4. The Council have formulated and published guidelines for restaurant uses which complement policies contained in the adopted Borough Local Plan and the emerging Unitary Development Plan (UDP). Policy SH12 in the emerging UDP



indicates that when considering proposals for food and drink establishments, account will be taken of their effect on residential amenities, their impact on traffic and the cumulative effect of the introduction of new A3 Uses. The Council's guidelines for restaurant uses highlight factors such as location and access requirements and the potential detrimental effects.

5. The appeal property is a prominent 3 storey corner building situated on the junction of Walham Grove and Vanstone Place. It is included in the Council's local register of buildings of merit. The application relates to the ground floor of the premises, which was formerly a bakers shop, but is now vacant. In addition to the proposed change of use of the shop to a hot food take-away, the development involves the installation of a new shop front and the fixing of an external ventilation duct to the rear elevation of the building.

6. From what I have read in the representations and seen during my inspection of the site and its surroundings, I consider there are three main issues in this case. These are: firstly, the effect on the character and appearance of the Walham Green Conservation Area; secondly, whether the development would adversely affect the amenities of people living nearby as a result of noise and disturbance; and thirdly, whether it would be detrimental to highway safety.

7. The appeal site is a short distance from Fulham Broadway and the locality is typical of a town centre location, with the buildings containing a mixture of commercial uses at ground floor level and residential accommodation on the upper floors. The proposed use would not be very dissimilar to the previous use which also involved the preparation, cooking and sale of foodstuffs. I noticed that there is a street market in North End Road and the character of the area is one of a busy vibrant shopping centre. I therefore consider the proposal to be entirely in keeping with this character and the new shop front is typical of many in the area. The proposed ventilation ducting would be positioned on the rear elevation of the building, where it would not be widely seen and it is proposed to be painted in a dark colour to minimize its visual impact. I thus conclude the development would preserve the character and appearance of the Walham Green Conservation Area.

8. Turning to the second issue, I noted during my visit that the appeal premises are close to a busy road junction and adjoin a launderette which operates until 10pm every day. There is a public house opposite and several other catering premises in the vicinity which also remain open late into the evening. Having regard to the commercial nature of the locality and the very high volume of vehicular and pedestrian traffic, I found the area to be quite noisy. Whilst I accept that the proposed use would also attract night-time customers, the ambient noise levels are such that I consider it would be most unlikely for residents in the neighbourhood to be

disturbed by additional noise attributable to customers of the proposed fish and chip shop. Furthermore, I am satisfied that I can prevent any customer noise at unsociable hours, by attaching a condition to restrict the operation of the premises to opening times similar to those of comparable nearby establishments. In these circumstances, I conclude the development would not adversely affect the amenities of people living nearby as a result of noise and disturbance.

9. I now turn to the third issue. The appeal site, in common with many of the other properties in the locality, has no off-street parking facilities. Additionally, I noted that there are double yellow lines in front of the premises and in Walham Grove there is kerbside parking for residents and meters for the general public. I have seen no evidence to suggest that customers attracted to the proposed fish and chip shop would add unacceptably to the already high traffic flows, or place undue strain on the available roadside parking in the area. I am therefore not persuaded the proposal would result in a significant increase in pedestrian and vehicular movements. I therefore conclude the development would not be detrimental to highway safety in the locality.

10. The Council have suggested a number of conditions, which I have considered in the context of the criteria set out in Circular 1/85. I also note that the final submitted drawings followed extensive negotiations with officers of the Council and their report to the Sub-Committee indicates that the details contained therein meet with their approval and I see no need for conditions which reiterate the specifications shown on the drawings. In addition to the standard time condition, I therefore only propose to attach conditions relating to hours of operation and the installation of the ventilation system prior to the use commencing.

11. I have considered all the other matters raised in the representations including the presence of other A3 uses in the locality, but I have found no other matter of such weight as those upon which I have formed my conclusions and which lead to my decision.

12. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the conversion of the existing ground floor bakery use to a fish and chip take-away restaurant at 63A Walham Grove, Fulham, in accordance with the terms of the application No 93/00026, dated 11 January 1993 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;

2. The use hereby permitted shall not take place other than between 0900 hours and 2330 hours from Monday to Saturday and between 1130 hours and 2230 hours on Sundays;

3. The fume extraction system hereby permitted shall be fully installed and operational before the use is commenced.

13. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

14. The developer's attention is drawn to the enclosed note relating to the requirements of the Building Regulations 1991 with respect to access for disabled people.

15. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

16. Your attention is drawn to the provisions of Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area.

Yours faithfully

R. C. Grace

E C GRACE DipTP(Nottm) FRTPI FBEng PPIAAS
Inspector