

**ROYAL BOROUGH OF KENSINGTON AND CHELSEA**  
**REPORT BY EXECUTIVE DIRECTOR,**  
**PLANNING AND BOROUGH DEVELOPMENT**

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**APP NO. PP/11/03285/Q20**  
**PLANNING APPLICATIONS COMMITTEE 06/03/2012**  
**AGENDA ITEM NO. N24**

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**SITE ADDRESS**

<b>108-110 Notting Hill Gate LONDON W11 3QA</b>	<b><u>APPLICATION DATED</u></b>	<b>30/09/2011</b>
	<b><u>APPLICATION COMPLETE</u></b>	<b>03/10/2011</b>
	<b><u>APPLICATION REVISED</u></b>	<b>25/11/2011</b>

**APPLICANT/AGENT ADDRESS**

**Miss K Harley  
Planware Ltd  
The Granary  
1st Floor 37 Walnut Tree Lane  
SUDBURY  
Suffolk  
CO10 1BD**

<b><u>LISTED BUILDING</u></b>	<b>N/A</b>	<b><u>CONS. AREA</u></b>	<b>N/A</b>	<b>WARD</b>	<b>Pembridge</b>
<b><u>CAPS</u></b>	<b>No</b>	<b><u>ENGLISH HERITAGE</u></b>	<b>N/A</b>	<b>ART '4'</b>	<b>No</b>

<b><u>CONSULTED</u></b>	<b><u>OBJECTIONS</u></b>	<b><u>SUPPORT</u></b>	<b><u>PETITION</u></b>	<b><u>COMMENTS</u></b>
<b>90</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>

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**Applicant**                      **Mcdonald's Restaurant Ltd**

**PROPOSAL:**      **Placement of 4 tables and 16 chairs on pavement in front of 108-110 Notting Hill Gate.**

**RBK&C Drawing No(s):PP/11/03285 and PP/11/03285/A**

**Applicant's Drawing No(s): Notting Hill Gate 108 rev 2, 1/1**

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**RECOMMENDED DECISION:**      **Grant planning permission**

## **CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:**

1. **The tables and chairs hereby permitted shall be retained for a limited period of one year, on or before which date, the tables and chairs shall be removed, the land restored to its former condition and the use discontinued. (C67a)**  
*Reason - The form and appearance of the tables and chairs is out of character with the surrounding area and is permitted for a limited period only in order to assess their impact on residential amenity. (R67a)*
2. **No more than four tables, each with four chairs shall be placed on the pavement at any time. The tables and chairs shall not extend more than 2.0 m from the frontage of the premises at any time. (C67d)**  
*Reason - To enable the free passage of pedestrians on the public footway. (R67d)*
3. **The use of the footway for the placing of tables and chairs shall not commence before 09:00 hours and shall cease at 22:00 hours. Outside these approved hours the tables and chairs shall be removed from the public highway and no customers shall be served on the public highway. (C67g)**  
*Reason - To protect the amenities of neighbouring properties.*
4. **The operators of the premises shall ensure that staff inspect, sweep and clean the pavement area in front of the premises, to a distance of 3000 mm from the shopfront, so as to be free of litter at all times.**  
*Reason - To maintain the amenity of the shopping parade.*

## **INFORMATIVES**

I68 TFL - Olympic Route Network

## **1.0 SITE**

1.1 Nos. 108-110 are located on the Northern side of Notting Hill Gate, the property is in use as a restaurant within Use Class A3, which is currently occupied by McDonald's Restaurant.

1.2 The property is not listed and not located in a conservation area. The property is located in the Notting Hill District Centre.

## **2.0 PROPOSAL**

2.1 Planning permission is sought for the placement of four tables and sixteen chairs on the pavement in front of the restaurant.

2.2 Following Officer advice the proposal has been amended in that barriers around the tables and chairs have been removed from the proposal.

2.3 Another two applications at this site for the installation of a new shop front and advertisements have also been submitted to the Local Planning Authority for consideration (refs:PP/11/3538 and CA/11/3539).

## **3.0 RELEVANT SITE HISTORY**

3.1 There is no relevant planning history for this site.

## **4.0 PLANNING CONSIDERATIONS**

4.1 The main planning considerations to be taken into account in determining this application are the effect of the proposal on the free flow of pedestrians on the pavement, the amenity of occupiers of nearby residential properties and the effect on the appearance of the streetscene.

4.2 The Core Strategy of the Local Development Framework for the Royal Borough was adopted on December 8<sup>th</sup> 2010, and contains planning policies which have succeeded the majority of those in the Unitary Development Plan (UDP). For the purposes of S.38(6) of the Planning and Compulsory Purchase Act 2004, the 'Development Plan' now comprises the Core Strategy, the London Plan July 2011, plus relevant 'saved' policies from the UDP.

The relevant core strategy policies are:

CR3 (street and outdoor life)

CL1 (context and character)

CL5 (amenity)

CE6 (noise and disturbance)

There are no relevant 'saved' UDP policies.

- 4.3 Weight has been given to the Transport Supplementary Planning Document.
- 4.4 The Director of Highways and Transportation has been consulted on the application. The pavement width along this part of Notting Hill Gate is between approximately 10m to 13m wide. This section of Notting Hill Gate is classified as a primary shopping frontage. In such locations 4m clear footway must be left following the introduction of tables and chairs, in order to allow sufficient space for pedestrian movement. The configuration of 4 tables and 16 chairs, extending 2.0m will leave the required 4m clear footway width of clear pavement between the proposed seating area. However, there are also two building columns in this location which support the oversailing building and the columns restrict the pavement width to 6 metres, which reduces the footway clearance to 3.1m. However, there is also footway located in front on the columns and the reduced width is only for a small proportion of the area proposed.
- 4.5 In light of the above, it is considered that the proposed configuration of the tables and chairs along this section of the highway would allow a sufficient amount of clear pavement for the free, safe and secure passage of pedestrians. Therefore, the proposal would comply with the Transport SPD and Core Strategy Policy CR3.
- 4.6 The applicant states in the planning statement that the chairs will be removed at 23:00 hours when the restaurant closes. However, the total hours of operation for the tables and chairs have not been specified, although it is noted that it is 06:00 hours when the restaurant opens. Notting Hill Gate has a high volume of traffic and subsequently experiences a high level of road noise. As such, it is considered that this road noise would to some extent block out any noise and disturbance from people sitting outside the restaurant. However, the use of the tables and chairs between 06:00 hours and 23:00 hours is considered to be excessive due to the number of residential units within the vicinity of the application site. Therefore, it is recommended that a planning condition is imposed limiting the use of the tables and chairs between 09:00 to 22:00 hours Monday to Sunday in order to preserve the amenity of the surrounding residential properties. It is considered that removal of tables after 22:00 hours Monday to Sunday would minimise any late night disturbance and during the day, noise levels are unlikely to rise above the general existing noise levels from traffic. On this basis the proposal is considered to comply with Core Strategy Policies CE6 and CL5.
- 4.7 With regard to the effect on the streetscene, given that this section of Notting Hill is predominantly commercial and the provision of four tables and sixteen chairs is not considered to be excessive. The proposal would not result in a cluttered appearance outside the restaurant and would be in-keeping with the surrounding area. On this basis, the proposal is considered to be in compliance with

## **5.0 PUBLIC CONSULTATION**

5.1 Neighbouring occupiers were notified of this application. Letters of objection have been received. These letters of objection are summarised as follows;

5.2 **There is already a proliferation of street cafes. The proposal would lower the tone of our properties having McDonald's street consumption.**

Notting Hill Gate is a predominately commercial area and a number of nearby restaurants have tables and chairs on the pavement in front of their premises. It is considered that the introduction of tables and chairs in this location would not harm the appearance of the area.

5.3 **This area of pavement is already congested; the proposed tables and chairs would cause an unacceptable amount of blockage on a congested pavement for pedestrians and make it impossible for users with wheelchairs and prams.**

The Director of Highways and Transportation has commented on the application and it is considered that the configuration of the tables and chairs would allow for the safe and free movement of pedestrians along this part of the pavement.

5.4 **Smoke clouds would linger outside the residential entrance to Campden Hill Towers. It is not safe for people to subjected to smoking pollution.**

There is no existing enforceable restriction in persons smoking on the public highway. This is not considered grounds to warrant refusal of the application.

5.5 **The use of the proposed tables and chairs would create unacceptable sound pollution, disturbing the peace of residents living in the building.**

Notting Hill Gate is a busy road and as a consequence suffers from a significant amount of noise from traffic. It is considered that road noise would screen noise or disturbance from people sitting outside the restaurant. However, it is also recommended that planning conditions are attached to the planning permission to restrict the hours of use of the tables and chairs to prevent any material increase in noise or disturbance for occupiers of neighbouring properties.

5.6 **The proposed tables and chairs would increase the amount of litter on the streets.**

applicant to keep the pavement free of litter in this location.

5.7 **The assembly of too many unknown persons congregating too close to the entrance of Campden Hill Towers, is a threat to safety.**

There is no existing enforceable means of prohibiting persons congregating here but use of the tables and chairs by persons other than patrons of the restaurant would be self-enforced by the restaurant operator.

5.8 **The proposed tables and chairs would diminish the value of flats in Campden Hill Towers.**

The impact that the proposal would have on the value of neighbouring residential properties, is not a material planning consideration that can be lawfully taken into account in determining the application.

5.9 **The entrance door to Campden Hill Towers will be blocked.**

Given the size of the pavement along this part of Notting Hill Gate, it is considered that it would be able to accommodate this number of tables and chairs. It is not considered the entrance to the flats is likely to be obstructed.

5.10 **There is no mention of what time the chairs will be put out in the morning.**

It is recommended that a planning condition is attached to the permission to control the hours of use of the tables and chairs to protect the amenities of neighbouring occupiers

5.11 **The loss of space and the visual impact will down-grade Notting Hill Gate further.**

Given that this is a predominantly commercial area and that a number of nearby restaurants also provide outdoor seating, it is considered that the proposed tables and chairs would not harm the appearance of the streetscene or the surrounding area.

## **6.0 CONCLUSION**

6.1 The proposed tables and chairs by virtue of their configuration would allow for the safe and of pedestrians. Given the commercial nature of the streetscene it is considered that the tables and chairs would not harm the character and appearance of the streetscene or the surrounding area. Due to the number of tables and chairs and the controlled hours of use the proposal would not have a detrimental impact on the amenities of neighbouring properties.

**7.0      RECOMMENDATION**

**7.1      Grant planning permission**

**JONATHAN BORE  
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH DEVELOPMENT**

**List of Background Papers:**

**The contents of file PP/11/03285 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.**

**Report Prepared By:      HES  
Report Approved By:      LP/DT  
Date Report Approved:    23/02/2012**

**PSC03/12/HES.REP**

23/02/2012 16:23:29

**Placement of 4 tables and 16 chairs on pavement in front of 108-110  
Notting Hill Gate.**

**SUMMARY OF REASONS FOR DECISION**

You are advised that this application was determined by the Local Planning Authority with regard to Development Plan policies, including relevant policies contained within the Core Strategy of the Local Development Framework, the London Plan, as well as policies 'saved' from the Unitary Development Plan, and was considered to be in compliance with the relevant policies. In particular, the following policies were considered:

**Core Strategy adopted 8 December 2010**

CL1	Context and Character
CL5	Amenity
CR3	Street and Outdoor Life
CE6	Noise and Vibration

The material circumstances of the case, including site history, location, and impact on amenities were considered.

In addition, consideration was given to the results of public consultation.

It was concluded that there was no impact upon the amenities of adjoining occupiers, or upon the character or appearance of the area, that would justify a refusal in this case.

The proposed tables and chairs by virtue of their configuration would allow for the safe and of pedestrians. Given the commercial nature of the streetscene it is considered that the tables and chairs would not harm the character and appearance of the streetscene or the surrounding area. Due to the number of tables and chairs and the controlled hours of use the proposal would not have a detrimental impact on the amenities of neighbouring properties.

The full report is available for public inspection at the Planning Information Office, Ground Floor, Town Hall, Hornton Street, London, W8 7NX.