



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

Mr Philip Mercer B.Arch ARIBA
79 Bedford Gardens
London
W8 7EG

Your Ref:
1093
Our Ref:
T/APP/K5600/A/99/1020353/P4

Date: 14 JUL 1999

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR C FREEDMAN
APPLICATION NO: TP/98/1470**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of the Council of the Royal Borough of Kensington and Chelsea to refuse planning permission for a change of use from retail and hairdressing to restaurant use at 198 Kensington Park Road, London W11. I have considered all the written representations together with all other material submitted to me. I inspected the site on 21 June 1999.
2. From the written representations and my inspection of the site and surrounding area, I regard the main issues in this case to be whether the proposal would be detrimental to traffic flows and/or road safety and to the quality of the local residential environment, by reason of excessive on-street parking.
3. The Borough's Unitary Development Plan was adopted in 1995. A major strategic objective is the protection and enhancement of the Borough's residential character and amenity. The appeal site lies within the Portobello Road Principal Shopping Centre, where Policy S15 allows for uses of this kind subject to certain provisos. These include that the use should not result in any significant increase in traffic or parking, nor any significant reduction in an area's residential character and amenity. Similarly, Policy TR39 seeks to resist development which would result in any significant increase in congestion, or any significant decrease in safety, on the roads.
4. The appeal premises comprise the ground floor and rear yard of No 198, a 3 storey terraced building on the eastern side of Kensington Park Road. The Council granted permission for a change to restaurant use of the ground floor in 1992, but refused a similar application in 1997, despite an intervening grant of permission in 1994 for construction of a conservatory and a new shop front in connection with that use.
5. This later permission has not been implemented, but it is not for me to comment on or determine its effect. From the documents and plans before me, however, it remains your client's intention to construct the conservatory and incorporate it into the restaurant. Your illustrative plan No 1093/102 shows seating for 43 customers, though you have not

challenged the Council's view that the available floorspace could accommodate up to 48 covers. I see no reason to question that figure, nor your suggestion that many customers would live locally and/or would walk to the premises. This is a well known area of London however and I equally have no doubt that many others would travel to the premises from further afield, some of whom would arrive by car.

6. The Council have cited recent surveys suggesting that between 15% and 40% of restaurant customers will be car drivers. Although I do not have details of these surveys, you have not challenged the figures in relation to the borough as a whole. The Council's reliance on a figure of 20% would, in the light of them, appear reasonable, even allowing for the central London location and the particular character of the area. Your suggested figure of 10% falls below even the lowest of the survey findings. It is not supported by any real evidence, for example, of experience at other restaurants in the area.

7. Thus, assuming that the business were successful, up to 10 customers could reasonably be expected to have travelled to the premises by car at any one time. Some allowance also needs to be made for customers overlapping with each other, and for staff, so that the total number of drivers visiting the restaurant could well be higher than this throughout the course of an evening. It is reasonable also to assume that drivers would seek to park as close to the premises as possible.

8. Daytime parking in the area, other than single yellow line restrictions, is restricted to residents' and metered bays. These cease to be operational after 1830 on weekdays and 1330 on Saturdays. The Council's latest evening parking survey of the vicinity was conducted as recently as May of this year, on a Thursday. It is but a snapshot of the level of vacant spaces then found, but I have no reason to believe that there were any exceptional circumstances surrounding it. It shows, first, a general increase in parking levels since a previous such survey in 1996.

9. The latest survey also shows that 88% of spaces were occupied in Kensington Park Road, with figures of 89% in Blenheim Crescent and 95% in Elgin Crescent to the south and 78% in Westbourne Park Road, to the north. Further, the actual number of vacant spaces in these roads, calculated from Column 4 rather than Column 5 of the Council's table, was 32 over a total length of road surveyed approaching 900m. The roads immediately to the east of Portobello Road showed similar levels of occupancy. Only Portobello Road itself showed any significant number of vacancies, at 49% occupancy and 56 spaces, but over a distance surveyed of some 450m.

10. These figures need to be seen in the context of a busy mixed, metropolitan area, but one which is also heavily residential, including the upper floors of both this and many of the buildings either side of it. Most of the housing consists otherwise either of sometimes large terraced houses, often if not usually converted into flats, or as opposite the site, purpose built flats and/or houses. There is thus little in the way of off-street parking available for residents or indeed visitors.

11. Further, there are already some 9 Class A3 uses within 100m or so of the appeal site, on Kensington Park Road or Blenheim Crescent, and a further 6 immediately to the east on Portobello Road, where there are also 3 outstanding permissions for new or enlarged A3 premises. There may be no firm evidence that these permissions will be implemented, but equally there is nothing to indicate the contrary, so that they weigh against this proposal in

terms of their likely cumulative effect. Further, the Council are considering proposals affecting the currently disused Electric Cinema to the south east. Its future is uncertain, so that I cannot attach great weight to it, but its reuse, for whatever purpose, is only likely to add to the demand for parking in the area.

12. Against this background, that demand has all but reached saturation level in the immediate vicinity. Drivers making for the appeal site would find it difficult to find readily convenient spaces and would thus spend time circulating the area looking for them and/or would be tempted to park in unsatisfactory and/or dangerous positions. That in itself would add to road safety hazards and localised congestion. Westbourne Park Road in particular serves as a bus route and as I saw, can easily become congested.


13. Local residents would also suffer from the effects of ever increasing parking pressures. This is not just a matter of inconvenience, in their not being able to find spaces close to home, but for some, such as the elderly, infirm and lone women late at night, it can become a question of their health and/or safety being put at risk. They too would need to circulate around the area to find a space and/or to double park while collecting or delivering goods and/or passengers, adding further to congestion and local pollution from vehicle fumes. In a variety of ways, therefore, allowing this appeal would result in a deterioration of the quality of the local residential environment, contrary to the UDP objective mentioned above.

14. The amount of vehicle traffic associated with this one small restaurant might not be great, but as both the text of the UDP and PPG6 advise, the cumulative impact of proposals such as this need to be taken into account. The present application was not for the renewal of an existing permission nor was there any appeal against the previous refusal. Whatever the reasons for the Council's Transportation Officer's lack of objection to the 1997 application, I have to determine this appeal on its own merits. Further, the evidence now available was not before the Council when granting the 1994 permission, nor indeed when refusing the 1997 application. The existence of the 1994 permission does not mean that a new permission for use of the full premises should be granted now in the face of the above objections.

15. You have drawn attention to a recent permission granted for premises in Westbourne Grove, but that site is over 300m away. Different considerations appear to have arisen in relation to that site, not least the loss of a restaurant only some 20m away from it to retail use. As already indicated, the present case must be determined on its own merits, including the later evidence of local parking pressures. I have taken account of all other matters raised but none serves to outweigh my conclusions set out above.

16. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



R O EVANS BA(Hons) Solicitor
Inspector