

Decision Notice

Please Index As

File Number

PLANNING AND CONSERVATION

THE TOWN HALL HORNTON STREET LONDON W8 7NX

Executive Director M J FRENCH FRICS Dip TP MRTPI Cert TS

36

**THE ROYAL
BOROUGH OF**



**KENSINGTON
AND CHELSEA**

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W14

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- 8 APR 2003

My Ref: PP/99/00678/MNW
Your Ref:

Please ask for: Central Area Team

Dear Sir/Madam,

TOWN AND COUNTRY PLANNING ACT 1990

**TOWN AND COUNTRY PLANNING GENERAL PERMITTED DEVELOPMENT
ORDER 1995**

Permission for Development (Conditional) (DP1)

The Borough Council hereby permit the development referred to in the under-mentioned schedule subject to the conditions set out therein and in accordance with the plans submitted, save in so far as may otherwise be required by those plans or by the said conditions. Your attention is drawn to the enclosed information sheet.

SCHEDULE

DEVELOPMENT:

Retention of rear extension at ground floor level to provide additional floorspace for existing cafe / restaurant (Class A3).

SITE ADDRESS:

152 Warwick Road, London, W14 8PS

RBK&C Drawing Nos:

PP/99/00678 and PP/99/00678/A

Applicant's Drawing Nos:

MOH/98/01, MOH /98/03, 9910/01A, 9910/02A, 9910/03B and 9910/04B

Application Dated:

26/03/1999

Application Completed:

08/04/1999

Application Revised:

25/11/1999

**FULL CONDITION(S), REASON(S) FOR THEIR IMPOSITION AND INFORMATIVE(S)
ATTACHED OVERLEAF**



CONDITION(S) AND REASON(S) FOR THEIR IMPOSITION

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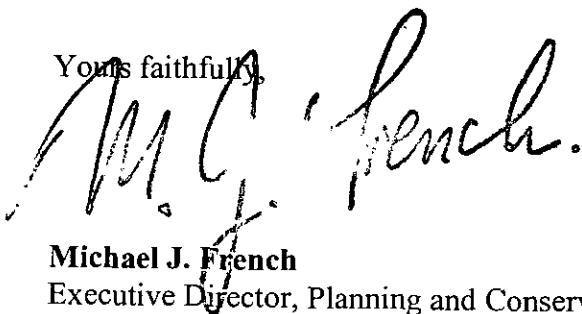
1. **The use cafe/restaurant hereby permitted shall not be carried out between 23.00 hours and 10.00 hours the following day. (C045)**
Reason - To safeguard the amenity of neighbouring property. (R042)
2. **No music shall be played within the premises the subject of this permission so as to be audible outside the premises. (C048)**
Reason - To safeguard the amenity of neighbouring property. (R048)
3. **Not more than one restaurant shall be created pursuant to this permission, and the restaurant (including the rear extension hereby permitted) shall not provide more than 50 covers. (C051)**
Reason - To safeguard the amenity of neighbouring property. (R048)
4. **The premises or distribution shall not at any time be used for the sale of hot food for consumption off the premises. (C061)**
Reason - To safeguard the amenity of the area, in particular the levels of amenity presently enjoyed by the occupants of neighbouring property. (R059)
5. **The rear exit door at ground floor level hereby approved shall be used for emergency purposes only and shall otherwise be kept shut.**
Reason - To safeguard the amenity of the area, in particular the levels of amenity presently enjoyed by the occupants of neighbouring property. (R059)
6. **The rear yard/garden shall not at any time be used for dining or drinking or any purpose ancilliary to the Class A3 Cafe/Restaurant Use.**
Reason - To safeguard the amenity of the area, in particular the levels of amenity presently enjoyed by the occupants of neighbouring property. (R059)
7. **The rear window at ground floor level hereby approved shall be fixed shut and thereafter so maintained.**
Reason - To safeguard the amenity of the area, in particular the levels of amenity presently enjoyed by the occupants of neighbouring property. (R059)
8. **The steps to the rear yard/garden area hereby permitted shall be painted black and so maintained.**
Reason - To preserve and enhance the character and appearance of the Conservation Area. (R072)
9. **The wooden roof structure with corrugated sheeting erected over the rear yard/garden area of the property is not hereby approved. It is unauthorised and shall be removed within two months of the date of this permission.**
Reason - To safeguard the amenities of neighbouring properties.

INFORMATIVE(S)

1. Any Advertisements to be erected at the premises may require consent under the Control of Advertisement Regulations 1992. You are advised to consult the Directorate of Planning Services. (I05)

2. Conditional Planning Permission is hereby granted for the development as shown on the approved drawings. Any alteration to the approved scheme, resulting from the requirements of the Building Regulations or for any other reason, may require further permission. You are advised to consult the Directorate of Planning Services before work commences if this is the case. (I09)
3. Your attention is drawn to the Conditions of this Permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act 1990, as amended. (I10)
4. Separate approval for the works hereby granted planning permission may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. The Director of Building Control, Town Hall, Hornton Street, W8 7NX should be consulted before works commence. (I21)
5. The premises may be subject to the Food Safety (General Food Hygiene Regulations) 1995. You are advised to consult the Director of Environmental Health, Council Offices, 37 Pembroke Road, W8 at an early stage. (I33)
6. Any plant or equipment installed in or on the building must be designed so as not to cause a nuisance through noise, vibration, or fumes. The grant of planning permission does not obviate the need to comply with relevant environmental protection legislation, nor imply that these other approvals will be given. The Directorate of Environmental Services should be contacted on the detail of any such plant or equipment. Any changes to plant or equipment required to comply with other legislation may require further planning permission. (I38)
7. You are advised to consult the Director of Waste Management and Leisure, Council Offices, Pembroke Road, W8 6PW on the provision of facilities for the storage and disposal of refuse. There is a code of practice available and advice can also be given on certain aspects of industrial and commercial waste as well as household waste. The Council operates a trade refuse service on a rechargeable basis. (I29)
8. You are advised that the pergola structure installed over the rear yard/garden area is not hereby approved.
9. You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies CD25, CD28, CD30, CD34, CD41, CD44, CD52, CD53, S13 and TR39. (I51)

Yours faithfully,



Michael J. French
Executive Director, Planning and Conservation

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- 1.1 No. 152 Warwick Road is a four storey (including basement) mid-terrace property on the East side of Warwick Road in the parade of shops directly opposite Sainsbury's Homebase. The property forms part of a small terrace of Victorian properties (Nos. 150-160 even) located between the Council Depot and the rear of Durrels House. The rear garden of the property backs onto the rear garden of No. 52 Warwick Gardens.
- 1.2 The authorised use of the basement and ground floor of the property is as a restaurant (Class A3) whilst the lawful use of the first and second floors of the property is for residential purposes.
- 1.3 The property is not Listed, but is within the Edwardes Square/Scarsdale and Abingdon Conservation Area.

2.0 THE PROPOSAL

- 2.1 Planning permission is sought to retain a full width rear extension at ground floor level which provides approximately 14 sq.m. additional floorspace for the existing restaurant.
- 2.2 The rear extension is located directly above an existing full width rear extension at basement level (approved 1998) and has a depth of 4.0m., a width of 4.8m. and a height of 3.5m. It is constructed in stock brick and features a rear window and a door which provides access to the rear garden/yard area via a metal staircase.

3.0 RELEVANT PLANNING HISTORY

- 3.1 Planning permission was granted in 1996 for the change of use of the basement and ground floor to a restaurant (Class A3). This permission was implemented.
- 3.2 In 1998, planning permission was granted for the erection of a rear extension at basement level to provide improved storage facilities for the restaurant. This permission was also implemented.
- 3.3 A planning application was submitted in 1998 to retain an extract duct at the rear of the property serving the restaurant. This was subsequently withdrawn as the extract duct had been in position for over four years and, therefore, had become lawful.

4.0 PLANNING CONSIDERATIONS

- 4.1 The main considerations are the impact of the ground floor extension of the restaurant on the character and appearance of this part of the Conservation Area and on the levels of amenity enjoyed by neighbouring properties. In addition, any impact on parking and congestion must be considered.
- 4.2 The relevant planning policies are contained within the Conservation and Development and Transportation Chapters of the Unitary Development Plan and the

proposed alterations to it.

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Impact on Conservation Area

4.3 The relevant policies of the Unitary Development Plan are:

CD25 (Standard of Design);

CD41 (Rear Extensions);

CD52 (Development in Conservation Areas);

CD53 (Development in Conservation Areas).

4.4 The rear extension to which the application relates is full width. This would not normally be considered acceptable. However, since the rear extension is at ground floor level and given the nature of other rear extensions in this part of the terrace, in this instance it is considered appropriate.

4.5 The large window in the rear of the extension is not particularly attractive, however, given the nature of its surroundings, a refusal of planning permission is not considered justified.

4.6 Overall, it is not considered that the rear extension is detrimental to the character or appearance of this part of the Conservation Area.

Impact on Amenity

4.7 The relevant policies of the Unitary Development Plan are:

CD28 (Sunlight and Daylight);

CD30 (Privacy);

CD30A (Sense of Enclosure);

CD34 (Noise Disturbance).

4.8 When the extension was originally proposed, it involved blocking up a side window in the rear extension of the neighbouring property (No. 154 Warwick Road) since it would directly abut this extension. The owner of No. 154 objected on the grounds of loss of daylight and outlook. However, agreement was later reached between the two owners and the extension was built. The neighbouring extension at No. 154 receives sufficient daylight and sense of outlook from its main rear window.

4.9 There is no other detrimental impact on the sunlight/daylight, privacy or sense of openness of neighbouring properties.

4.10 Turning now to potential noise disturbance, it would be expected that an increase in the size of a restaurant may have some impact on the amount of noise generated. In this instance, the additional 14 sq.m. of restaurant floorspace that the extension has provided provides approximately 12 additional covers to the restaurant. The original restaurant provided approximately 26 covers although no formal limit on covers was provided for under the original planning permission.

- 4.11 The original planning permission for the restaurant featured conditions designed to limit the noise disturbance from the restaurant to neighbouring properties. These included restrictions on opening hours (10.00 hrs - 23.00 hrs Mon-Sun) and that the rear exit at ground floor level should be used for emergency purposes only. The conditions also precluded the use of the garden for dining or drinking and the playing of music audible from outside the premises. Finally, a condition was attached requiring all the rear windows at basement and ground floor level to be fixed shut and so maintained.
- 4.12 It is considered that the imposition of the same conditions in relation to the rear extension would ensure that although there would be an increased number of covers, there would not be any significant increased noise disturbance to neighbouring properties. It is also considered appropriate to impose a condition limiting the total number of covers in the enlarged restaurant to 50.

Impact on Parking/Congestion

- 4.13 The relevant policy of the Unitary Development Plan is:

TR39 (Parking/Congestion).
- 4.14 The Council's Director of Transportation and Highways does not consider that the rear extension would have a detrimental impact on parking and congestion that would justify a refusal of planning permission. He raises no objection subject to a condition limiting the total number of seats to 50 and the total number of customers on the premises to 55.

Other Matters

- 4.15 The rear garden currently has a "temporary wooden structure" which is unauthorised. It is recommended that a condition be attached requiring its removal within two months of the date of the permission.

5.0 PUBLIC CONSULTATION

- 5.1 Letters of notification were sent to 11 neighbouring properties in Warwick Road and Warwick Gardens. Two letters of objection have been received. The letters were written shortly after the application was first submitted. At that time, it was an application to erect the rear extension. Subsequently, the rear extension was built and, therefore, the application is now to retain it.
- 5.2 One letter of objection is from a nearby resident who states that the extract system as installed is inadequate producing unpleasant smells. He states that until this is resolved, no extension to the restaurant should be permitted.

In response, it is noted that the extract duct as installed is now lawful since it has been in position for over 4 years. It is understood that the Council's Environmental Health Officer is now satisfied with the extraction system. However, were any subsequent complaint to be received, it could be investigated under the powers of the 1990 Environmental Protection Act by the Council's Environmental Health Officer.

- 5.3 The other objection is from the then occupier of the neighbouring property (No. 154 Warwick Road) who stated that the rear extension would involve blocking up his side window.

As stated in the main body of the report, the rear extension as built did involve blocking up of this side window. However, it is understood that agreement later was gained from the owner of the neighbouring property and that the objector has now moved away and vacated the property.

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M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

The contents of file PP/99/00678 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

Report Prepared By: JS
Report Approved By: PK/LAWJ
Date Report Approved: 04/04/2003