



# Appeal Decision

Site visit made on 27 March 2007

by **Derek Thew DipGS MRICS**

an Inspector appointed by the Secretary of State for  
Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

Date: 30 March 2007

## Appeal Ref: APP/X5210/A/06/2032612 158 Clerkenwell Road, London, EC1 5DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Mr E Zhou against the decision of the Council of the London Borough of Camden.
- The application ref. 2006/3690/P, dated 21 August 2006, was refused by notice dated 18 October 2006.
- The application sought planning permission for the change of use from sandwich bar (Class A1) to hot food take-away (Class A5) including new extract ducting, without complying with a condition attached to planning permission ref. 2006/0256/P, dated 10 July 2006.
- The condition in dispute is no. 2 which states:  
*"No persons/customers shall be on the premises in connection with the use outside the following times: 1100 – 2300 hours Monday – Saturday. The premises shall not be open to the public on Sundays and bank holidays. No sound emanating from these premises shall be audible within any adjoining premises at any time"*
- The reason given for the condition is:  
*"To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies RE2 and SH18 of the London Borough of Camden Unitary Development Plan 2000 and policies SD6, R1, R2 and R3 of the Revised Deposit Draft (as amended by the Proposed Modifications agreed by the Council's Executive on 11 January 2006)."*

## Decision

1. I dismiss the appeal

## Reasons

2. The variation sought to condition no.2 is to allow the premises to trade between 1100 and 2300 hours on Sundays and Bank Holidays.
3. The appeal premises front onto the busy Clerkenwell Road and they are situated only a short distance away from the bustling, weekday Leather Lane market. When I visited the site on a Tuesday lunchtime it was clear that this is likely to be a consistently noisy locality during weekdays. But I would expect it to be quieter at weekends, particularly on Sundays, when many businesses in the area would be closed. There are many dwellings close to the appeal premises and, notwithstanding the Government's broad support for Sunday trading, I think it reasonable that local residents should be afforded one day a week of relative peace and quiet.
4. I acknowledge that the Duke of York public house is directly opposite the appeal premises and there are other food establishments nearby which may well trade on Sundays. But I also noted during my visit that the "New Seoul" restaurant at no.164 Clerkenwell Road closes on Sundays. Whether no.164 closes on that day from choice or because of a planning restriction I do not know. However, whatever the reason, the fact that it does close suggests to me that Sundays are not just regarded as a normal trading day in this area.

5. The restrictions imposed by the condition in dispute are consistent with the provisions of policies SD6(d) and R3(c) in the Camden Replacement Unitary Development Plan, and in order to safeguard the amenity of local residents I consider it appropriate for that condition to be retained.
6. I have taken account of all other matters raised, including the other appeal decisions to which my attention has been drawn. But those decisions all relate to sites far away from the appeal premises and, as such, the circumstances are not necessarily comparable with those in the vicinity of no.158 Clerkenwell Road.

*Derek Thew*

Inspector