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17 August 2015

Our Ref: NH/15-2507

Dear Matthias

**RE: 21 Swain's Lane N6 6QX – Confirmation of Operation within A1 Use Class Parameters**

I write to allay your concerns with regards to Gail's trading position at the aforementioned location. The letter demonstrates that the operation of the store falls entirely within the A1 use class.

The overarching mechanisms contained within the Use Classes Order (1987) stipulate a set of criteria that business operations must adhere to, in order to fall within the A1 use class. These include the appearance of the premises, the absence of a waiter service or a menu which contains no on-premises cooked food. The key characteristics of Gail's operation will be drawn upon to demonstrate compliance with the A1 use class parameters, while national and local planning policy guidelines will substantiate these claims.

Gail's sole operation is as a bakery; the characteristics of which designate it as an A1 use shop. Any other uses, such as provision of seating covers or outdoor seating areas, are ancillary to its use as a shop. It trades as a bakery and markets itself as such: it is not a café or restaurant, nor should it be construed as one. The appearance and 'feel' of Gail's is indicative of a bakery, and the perception and image portrayed to the public is of a shop. Indeed it would conflict with the company's marketing objectives to be perceived as a café or restaurant, let alone having to adopt the characteristics of one as a result of change of use.

Your concern around the store's trading position relates to the number of covers at the premises. Indeed the concern may have arisen as a result of the grey area that exists in defining an acceptable number of (indoor and outdoor) covers at a shop trading within the A1 use class. No specific policy or guidance defines this figure. As a consequence each application must be considered on a case by case basis, although it is pertinent to assume

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that provision of tables and chairs, irrespective of number, merely provides an ancillary support facility to the bakery and its patrons. Moreover, the bakery could still function within its permitted use class without a seating area.

The operation of Gail's revolves around the principle of a high volume turnover of a range of set products, consistent through all of Gail's shops. The Gail's product range includes breads, cakes, savouries and lunch products, the vast majority of which are ready-prepared and served cold. A small number of warm foods are provided, as well as hot and cold drinks.

Products are not made to order, but instead are replaced/restocked on a regular basis. The layout of the shop is designed to operate predominantly as a takeaway facility (as can be seen from the layout shown on drawing 15009-1100 shopfront application), with multiple payment counters facilitating the swift turnaround of customers. As demonstrated within plan 15009-1100 (Rear application), the extension to the rear will constitute a small area extension to provide the ancillary seating discussed. The main unit, itself, is very small and would only allow for an insignificant number of customer seats.

The Government promotes a range of town centre uses, including retail, to provide customer choice and a diverse offer, and retain and enhance existing markets. The Government's priority is for active high streets and only proposals that would harm the viability and vitality of the high street should be resisted. In recent times, many high street operators have been struggling to survive and have been forced to introduce additional services to their primary function (e.g. Gregg's now serving coffee). As discussed in The Portas Review (2011) of Britain's high streets, retailers are having to do much more and high streets need to adapt to ensure survival and fight the decline.

Seating is provided as an ancillary service for customers, although the use of seating areas is in no way encouraged. No additional services, such as a waiter service or 'eat in' menu or menus on tables are provided for customers who choose to eat Gail's products on the premises. Those who do consume in the shop do not stay very long. The dominance of ready-prepared food sales, and of takeaway sales, emphasises the primary bakery function.

Indeed, if one was to apply a "blind-fold" test to any member of the public, whereby they were brought into the premises blind-folded to establish what they thought the use was, it would be clear that primary use is for the sale of bakery products, albeit with an ancillary seating area with an atmosphere not typical of a café or restaurant, but instead supportive of another primary use.

In further explanation of the “feel” of Gail’s, the sale of high quality “artisan” bakery products dictates a particular “niche” market is being targeted, hence their presence in upmarket locations such as Hampstead, Kensington and Chelsea. Customers at these locations demand ancillary seating facilities as a desirable feature. It is considered therefore that the Local Planning Authority has an interest in maintaining premises of the calibre of Gail’s.

The National Planning Policy Framework encourages the retention of A1 use class shops in order to preserve traditional high street uses, and encourage their improvement. It is thought that Councils should be actively encouraging tenants such as Gail’s and facilitating their involvement in vibrant high streets, rather than presenting planning obstacles which hinder their operation. Such obstacles may restrict the involvement of Gail’s in certain locations, which would undoubtedly result in a net reduction in high street standards. There is no doubt that high quality operators such as Gail’s should be construed as an asset, and measures to facilitate their presence should be upheld.

We highlight the statutory instrument regarding amendments to permitted development rights, which came into force on 30th May 2013. The changes permit for a period of two continuous years until 30th May 2016, certain changes of use can be made to buildings without the need for planning permission. These ‘flexible’ uses include change of use from A1 use to A3 use.

Essentially, this legislation has been introduced to encourage a fluid town centre environment, reduce vacancy rates and nurture vibrant, diverse shopping centres. This is not to suggest that Gail’s are willing to operate under an A3 use; moreover it demonstrates that national planning policy has a pro-development stance whereby a relaxation of planning legislation allows for flexible high street uses. It is considered therefore that a principle aim of national government is to make the planning system simpler in the short term, with less emphasis on a rigidly defined use for a particular building.

With that said, the ancillary seating relating to this unit would be completely confined to the rear of the unit, with the main unit, itself, undoubtedly operating as an A1 Bakery. It is clear that this element of the function of the unit should remove any doubts regarding the dominant use of the unit.

Finally, Gail’s bakeries are widely understood to operate in similar fashion to Pret A Manger who also have ancillary seating to complement their A1 operations. Indeed, examples of where the dominant A1 operation has been recognised and accepted by Camden Council can be seen at 261 Camden High Street, 102 Southampton Row and 341 Kentish Town Road.

In summary, it is emphasised that the primary use of Gail's is as an A1 bakery shop. Any other use or facilities are ancillary to the primary purpose of the operation: the retail sale of food and drink.

This letter demonstrates Gail's operation is fully concordant to the A1 use class and moreover brings a wealth of advantages to its locations, including increasing the range of shopping choice available, providing a high quality premises and an attractive community shop. The benefits of attracting and encouraging A1 retail is a primary focus of the national planning policy agenda. We present the case that Gail's is allowed to continue operating as an A1 bakery.

If you require any further clarification please do not hesitate to contact me.

Yours sincerely,



Niall Hanrahan MRTPI

Planner

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