

# Appeal Statement

Prepared by Urban Planning Practice

March 2020

**Planning Application Reference:** 2019/3692/A

**Site Address:** 335 West End Lane, London, NW6 1RS

**Appellant:** Kiyoto Sushi Bar

**Appeal Proposal:** Display of 1x internally illuminated fascia sign to existing restaurant (Class A3).

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*A streetscene view of the appeal site and neighbouring properties*

## 1.0 Introduction

- 1.1 The Urban Planning Practice have been instructed by the appellant, Kiyoto Sushi Bar, to conduct a planning appeal in response to the London Borough of Camden's decision to refuse advertisement consent to application 2019/3692/A. The application was refused under delegated powers. The appeal proposes the display of 1x internally illuminated fascia sign to existing restaurant (Class A3) at 335 West End Lane, London, NW6 1RS.
- 1.2 This appeal statement should be read alongside the submitted forms, the planning statement and plans.
- 1.3 This statement will set out the policy compliance of the proposed development having regard to the National Planning Policy Framework, the London Plan 2016 and the relevant Development Plan Policies.
- 1.4 The primary objectives of this appeal statement are to demonstrate that:
  - The installed fascia sign, by reason of its design, preserves or enhances the character and appearance of the host building, the parade of which it forms a part, and the West End Green Conservation Area;
  - The proposal endorses Central Government Guidance contained within the National Planning Policy Framework (NPPF) together with the relevant policies contained the Camden Local Plan (2017) and the Fortune Green and West End Green Neighbourhood Plan (2015) where non-compliance is being alleged.

## 2.0 Site and Area Analysis:

- 2.1 The appeal site relates to a three storey mid terraced building located on the south side of West End Lane, which is of mixed character. The building comprises a restaurant at ground floor level (Use Class A3) with residential accommodation above. The surrounding properties are of similar use with retail at ground floor level and a mix of commercial and residential uses on the upper floors.
- 2.2 The brick built building is set back from West End Lane and similar to other properties on this parade, benefits from a wide frontage separating the shop frontage from the public highway. These frontages follow the natural shape of the road and narrows as the numbers increase; the majority of which are in use as additional outdoor seating areas. The appeal site contrasts with the surrounding properties on the street as it is the only building to be painted white. However, it does form a natural pair with No 337 West End Lane which is painted black and also benefits from a modern shop frontage.
- 2.3 The appeal site is located directly opposite West End Green, an triangular shaped area of open space located at the junction of West End Lane and Fortune Green Road. This provides a small area of public open space in an otherwise densely populated, urban area.
- 2.4 The appeal site itself is not listed although the site is located in close proximity to a couple of Grade II listed buildings and monuments. This includes the drinking fountain on West End Green and West Hampstead Fire Station located to the south of the site.
- 2.5 The appeal site is located in the West End Green Conservation Area. There are no other planning designations which are relevant to the appeal.
- 2.6 The planning history of the site is excerpted below.

Application Number	Site Address	Development Description	Status	Date Registered	Decision
2019/3692/A	335 West End Lane London NW6 1RS	Display of 1x internally illuminated fascia sign to existing restaurant (Class A3).	FINAL DECISION	07-10-2019	Refused and Warning of Enforcement Action to be Taken
2019/3436/P	335 West End Lane London NW6 1RS	Installation of replacement shopfront, including retractable awning and balustrading to decked area to forecourt of existing restaurant (Class A3).	FINAL DECISION	07-10-2019	Refused and Warning of Enforcement Action to be Taken
2003/2546/P	335 West End Lane London NW6 1RS	The replacement of rear air handling equipment and extract flue, in connection with the existing use of the ground floor for purposes within Class A3 of the Town and Country Planning (Use Classes) Order 1987.	FINAL DECISION	13-10-2003	Granted
PW9802423R2	335 West End lane NW6	The installation of a new shop front and the refurbishment of the air handling equipment at the rear, as shown on drawing numbers; 001; 002; 003 (drawing on photograph) and 004 Rev.3.	FINAL DECISION	18-08-1998	Grant Full Planning Permission (conds)
PW9802423R1	The Good Earth 335 West End lane NW6	Installation of a new shop front, also the refurbishment of the air handling equipment. (Revised Plans submitted)	FINAL DECISION	04-08-1998	Withdrawn Application-revision received
PW9802423	The Good Earth 335 West End lane NW6	Installation of a new shop front, also the refurbishment of the air handling equipment. Plans submitted	FINAL DECISION	10-06-1998	Withdrawn Application-revision received
9500263	335 West End Lane NW6	Modification of condition 04 of planning permission (Reg No PL 9100563) to allow the extension of hours of operation to 3am daily.	APPEAL DECIDED	21-02-1995	Refuse Full or Outline Permission
9100563	335 West End Lane NW6	Change of use of the ground floor and basement from shop to restaurant as shown on one un-numbered site plan.	FINAL DECISION	31-05-1991	Grant Full or Outline Perm. with Condit.

### *Planning history for the appeal site*

2.7 From a public transport point of view the site is located in a highly accessible location in close proximity to West Hampstead Station. It is from this location that direct routes into and out of Central London are provided courtesy of the Jubilee Line and Overground. There are also a large variety of bus services that provide local connections to key destinations. The site is well located for public transport and has a PTAL rating of 5. This 'excellent' PTAL rating should be read alongside public transportation which is available 'on the ground', allowing future residents the ability to

use non-car modes of transport. It can be concluded that the appeal site is well connected to public means of transport'

### 3 Background to Appeal

3.1 The appeal application was registered by the London Borough of Camden on 7 October 2019. The appeal application proposed the “display of 1 x internally illuminated fascia.”

3.2 The appeal application was refused under delegated powers on 30 January 2020, despite the 8 week statutory period expiring on 29 November 2019. A copy of the officer’s delegated report is attached at **Appendix 1**.

3.3 The application was refused for the following one reason:

- 1. The installed fascia sign, by reason of its inappropriate design, fails to preserve or enhance the character and appearance of the host building, the parade of which it forms a part, and the West End Green Conservation Area, contrary to the provisions of policy D4 of the Camden Local Plan 2017 and policies 2, 3 and 13 of the Fortune Green and West End Green Neighbourhood Plan 2015.***

3.4 This statement will challenge the Council’s decision to refuse the application, by refuting the reason for refusal to demonstrate that the proposal complies with planning policy. It is considered that the issues can be addressed under the following headings:

- Whether or not the fascia sign by reason of its design would preserve or enhance the character and appearance of the host building, the parade of which it forms a part and the West End Green Conservation Area;**
- Other material considerations.**



## 4.0 Planning Policy Context

### Central Government Guidance

#### THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF) (2019)

- 4.1 The NPPF has a presumption in favour of sustainable development. This is highlighted in the opening paragraph the document which states that:

“The purpose of planning is to help achieve sustainable development.”

- 4.2 There are principally three aspects which define sustainable development and these are based on the associated economic role, the social role and the environmental role. In terms of the economic aspect land has to be made available where there is a demand to support growth. The social role is focused on providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment. The environmental role involves the protection of the natural, built and historic environment. The NPPF goes on to stipulate:

“achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways.”

- 4.3 Paragraph 17 of the NPPF sets out the core planning principles. Of particular relevance to the proposed development, the document states that Council’s must look to:

“...approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.”

- 4.4 Chapter 12 is titled 'Achieving well-designed places' and sets out that "good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."
- 4.5 The NPPF recognises that "where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to the development (paragraph 130)." Furthermore, the NPPF stipulates in paragraph 131 that "great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in the area."
- 4.6 Paragraph 132 considers the importance of appropriately sited and designed advertisements noting that "advertisements should be subject to control only in the interests

#### REGIONAL PLANNING POLICY

##### The London Plan 2016

- 4.7 The Council have not referred to any London Plan policies in their reasons for refusal.

#### LOCAL PLANNING POLICY

##### Camden Local Plan 2017

- 4.8 The Council's reasons for refusal refers to policy D4 of the Borough's adopted Local Plan.

4.9 Policy D4 relates to advertisements. The policy states as follows:

**“The Council will require advertisements to preserve or enhance the character of their setting and host building. Advertisements must respect the form, fabric, design and scale of their setting and host building and be of the highest standard of design, material and detail.**

**We will support advertisements that:**

- a. preserve the character and amenity of the area; and**
- b. preserve or enhance heritage assets and conservation areas. We will resist advertisements that:**
- c. contribute to an unsightly proliferation of signage in the area;**
- d. contribute to street clutter in the public realm;**
- e. cause light pollution to nearby residential properties or wildlife habitats;**
- f. have flashing illuminated elements; or**
- g. impact upon public safety.**

**The Council will resist advertisements on shopfronts that are above fascia level or ground floor level, except in exceptional circumstances. Shroud advertisements, banners, hoardings / billboards / large outdoor signboards are subject to further criteria as set out in supplementary planning document Camden Planning Guidance on advertisements.”**

Fortune Green and West End Green Neighbourhood Plan

- 4.10 The reasons for refusal also refer to policies 2, 3 and 13 of the Fortune Green and West End Green Neighbourhood Plan 2015.
- 4.11 Policy 2 relates to design and character and requires all developments to **“be of high quality design which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead.”**
- 4.12 Safeguarding and enhancing Conservation Areas and heritage assets is discussed in Policy 3. Development is expected to preserve and enhance the character and appearance of the conservation area. Part iii of this policy notes that **“development will be expected to deliver improvements to the street environment and public realm of West End Lane.”**
- 4.13 Policy 13 considers the West Hampstead Town Centre. Part ii of this policy notes that the character of the town centre will be preserved or enhanced through **“the control of signage, adverts and forecourt developments in keeping with the site context and Conservation Areas, where applicable.”**

## 5.0 Grounds for Appeal

5.1 Having regard to the policy referred to in Chapter 4 and the key issues as set out under Chapter 3 of this statement, the following points are discussed below:

- **Whether or not the fascia sign by reason of its design would preserve or enhance the character and appearance of the host building, the parade of which it forms a part and the West End Green Conservation Area**
- **Other material considerations.**

**Whether or not the fascia sign by reason of its design would preserve or enhance the character and appearance of the host building, the parade of which it forms a part and the West End Green Conservation Area**

5.2 The Local Planning Authority asserts that the existing fascia sign by reason of its design, fails to preserve or enhance the character and appearance of the parade of shops it forms a part and the West End Green Conservation Area. The appellant vehemently disagrees with these assertions and seeks to challenge the reason for refusal on the following grounds.

5.3 It is important to note that the officer's delegated report which is grouped together with the refusal of the new shopfront makes no reference or justification in either the design or amenity sections for the refusal of the advertisement sign. Therefore, there is no detail in the report to explain why the advert is considered unacceptable. The only reference is in paragraph 4.2 of the delegated report which states 'the fascia sign is

detrimental to the appearance of the host building, shopping parade and the wider character and appearance of the West End Green Conservation Area.’ However, there is no evidence to suggest why this is the case. This statement will seek to demonstrate that the existing sign is acceptable and would not have a detrimental impact on the character and appearance of the property or wider locality.

- 5.4 The existing fascia board is of similar size to the sign it replaced and is of identical proportions to other signs in this parade. Additionally, the fascia sign has been painted black with white writing and therefore creates a discreet frontage to the property. This is in contrast to the other fascia signs such as Gourmet Burger Kitchen which has a yellow background and is much more prominent within the parade. As such, the proposal is considered to be of high-quality design that would enhance the character of the area.
- 5.5 Although the writing on the sign is internally illuminated, given its size and siting is not considered to have a harmful impact on the character of the building or wider locality. The wording itself is limited to the lettering of the restaurant name and a pair of chopsticks which are centrally located within the sign. The illuminated white signage is located against a black backdrop and is considered a tasteful and inconspicuous shop front that is appropriately designed for the setting of the conservation area. Should the Inspector consider it appropriate, the appellant is willing to comply with a condition relating to luminance levels to ensure that the signage does not appear overly bright within the conservation area setting.
- 5.6 It is also important to consider the design and luminance of the surrounding signage in this part of West End Lane, many of which are considered to have a much more harmful impact on the character of the parade and wider conservation area. Although many of the signs may not benefit from express advertisement consent, if the Local Planning Authority considered these harmful, they would have taken the appropriate enforcement action. Their very existence denotes that the Local Planning Authority have no concerns regarding their impact on the character of the area.
- 5.7 Examples of distasteful advertisement signs are located immediately adjacent to the appeal site and include No 333 West End Lane which has multi-coloured, continuously

flashing illuminating signs which are visible throughout the day and night. Similarly, there are several signs in the area which are internally illuminated and are like the appeal scheme. This includes, 'feng sushi' located opposite the site, 'Trattoria' and 'ami bento' which are located further down the parade, as well as 'Golden Residential' immediately adjacent to the site. This demonstrates that internally illuminated signs are considered appropriate in the conservation area and the proposed signage would not have a harmful impact on the parade of shops of which it forms a part.

5.8 Whilst the Local Planning Authority assert that the appeal scheme is harmful to the character and appearance of the conservation area, it is noteworthy that there were no objections from either the West End Green Conservation Area Advisory Committee or the Fortune Green and West Hampstead Neighbourhood Development Forum. Surely if the proposal had been considered harmful to the character of the area, either interest group would have contacted the council and their comments recorded in the application.

5.9 There are numerous examples of advertisement signs in the immediate area many of which are internally illuminated. The sign which forms the subject of this appeal does not appear overly obtrusive or out of character and does not harm the character and appearance of the building, wider locality or conservation area. The sign is a discreet addition to the building which harmonises with the wider area and by virtue of its size and design, in fact enhances the appearance of the building. It is therefore respectfully requested that the Inspector allow the appeal for this reason.

### **Other material considerations**

5.10 Whilst not a material planning consideration it is important to note that the application was not considered in a timely manner. Contrary to the dates on the planning website,

the request for advertisement consent was submitted on 4 July 2019. However, the application was not validated until 7 October 2019 (despite the applicant receiving no invalidation letters). Whilst the application should have been determined by 29 November 2019, the decision was not issued for another two months until 30 January 2020.

- 5.11 These delays were extremely costly for the appellant and he was unable to delay opening his restaurant until the application was determined. Had the appeal application been determined within the statutory 8 week period from the date it was submitted on the planning portal, the appellant would have had a greater awareness of what was considered acceptable by the LPA in a reasonable time frame. It is both unfair on the appellant and unreasonable of the LPA to take 6 months to determine an advertisement consent application.
- 5.12 It is also important to note that the Council failed to acknowledge amendments submitted by the appellant to address the concerns in respect of the amendment to the main fascia and the subsequent merits of the case. These amendments were submitted to the case officer on 17 October 2019 (well in advance of the decision notice being issued) but the revised plan numbers were not listed on the decision notice. A copy of these plans together with the email highlighting when they were submitted to the case officer is attached in Appendix 2.
- 5.13 The appellant reserves the right to comment further should any other matters, other than those that arise from the Council's reason for refusal, be considered relevant.



## 6.0 Conclusion

- 6.1 This appeal statement sets out the planning reasons why the proposed development concerning the display of 1x internally illuminated fascia sign to existing restaurant (Class A3) at 335 West End Lane, London, NW6 1RS should be approved.
- 6.2 With regards to the proposed advertisement sign the Local Planning Authority has not expressly stated why this is unacceptable. Although internally illuminated, the existing sign has been sensitively designed and discreetly placed to ensure it is in keeping with the character of the property, wider locality and enhances the character and appearance of the West End Green Conservation Area.
- 6.3 The development is fully compliant with National Planning Policy Framework (NPPF), the relevant policies contained within the London Plan 2016, the Camden Local Plan 2017 and the Fortune Green and West End Green Neighbourhood Plan 2015.
- 6.4 For the reasons noted in this statement it is requested that the Inspector allow this appeal.