

**Fortune Green and West Hampstead Neighbourhood Forum objection to:  
Application number: 2021/5699/P**

**208 West End Lane London NW6 1UY**

Internal and alterations to existing commercial unit including installation of new bi-fold door, installation of new take-away hatch at Fawley Road elevation and new awning to West End Lane elevation.

Application number: 2021/5699/P

Application type: Full Planning Permission

**General**

The NDF regards the proposed use and changes to the property as being of particular concern, given the significance of 208 West End Lane both within the area covered by the Fortune Green and West Hampstead Neighbourhood Plan, and within the West End Green conservation area.

We note that the West End Green Conservation Area Advisory Committee have, in their own objection to the application, stressed that the property is one of the focal points of the conservation area. It is particularly striking that a photograph of 208 West End Lane features on the front page of the “West End Green Area Appraisal and Management Strategy”. We note that 208 West End Lane is also listed on page 26 of that document as a property making a positive contribution to the conservation area.

The NDF regards 208 West End Lane as being a landmark building, which makes an important contribution to the village character of the area. It is located at the junction of West End Lane, Fawley Road and Dennington Park Road, with West Hampstead Library opposite and Hampstead Synagogue, a listed building, almost diagonally opposite. This area is one of the central focal points of West End Lane.

We believe that the proposed signage (the subject of a separate planning application), combined with new bifold doors, a new awning to West End Lane elevation, together with other aspects of the proposed design, would be out of keeping with the character of the area and have a detrimental impact on this key part of the NDF area.

We note from a previous planning application (subsequently withdrawn) that the applicant intends to place a significant number of chairs and tables on the Fawley Road frontage, with bifold doors opening onto that outside area. This would introduce the first food and drink usage on an important residential road within the Conservation Area, which we believe should be resisted.

**Use category**

We note that the application, on the details page of the application, is characterised as “Commercial Minor Alternations”. We strongly challenge this assertion.

We believe that the proposed use is not covered by Class E. This is because Class E, while it covers some food and drink uses, only covers food and drink mainly to be consumed on the

premises. Our research indicates that Chipotle's usual model is a delivery-focussed one, and this is supported by the application including a dedicated delivery hatch on the West End Lane frontage (not on the Fawley Road elevation as shown in the application summary). This delivery-focussed use would instead fall within the *sui generis* category specified in Article 3(6)(r) of the Town and Country Planning (Uses Classes) Order 1987 i.e. sale of hot food where that food is mostly undertaken off the premises.

The NDF notes and supports the comments made by a local resident that change from a bank to a fast-food chain operation can scarcely be described as being covered by the "Commercial Minor Alterations" description. It involves changing the use of this key location from a bank with opening hours 9.30am-4.30pm in the week to a fast-food outlet with proposed hours 11 am to 11 pm seven days a week. The noise and additional traffic generated by this new use would have a significant impact on the area.

We note the important issue identified by a local resident in his objection as follows:

*"The reason the property in question is set back some distance from Fawley Road in the way that it is (providing a wide pavement of benefit to the community, especially the disabled) is that the property is subject to a restrictive covenant under which the premises can only be used for trade or business if (i) it is 12 yards away from Fawley Road and (ii) the business fronts on to West End Lane. I can supply copies of relevant entries from Land Registry if they would assist. In my view Camden should not permit any development that would facilitate a breach of this covenant, which the proposal clearly would. In other words any development (including outside tables and bi-fold doors that open) should strictly face West End Lane not Fawley Road. This approach is consistent with the aim of minimising impact on the residential-only Fawley Road."*

## **SPD and Local Plan**

We are aware that when there was concern in the early 2000s about the increasing domination of West End Lane by food and drink uses, a Supplementary Planning Document for West Hampstead Retail, Food, Drink and Entertainment Uses was adopted by Camden Council limiting the proportion of food and drink uses in this part of West End Lane. The SPD states that "The Council will not grant planning permission for development which results in the number of ground floor premises in retail use falling below 75% or 50% of the total units in each individual Protected Retail Frontage". This provision was carried forward in the Camden Local Plan 2017, with regard to limiting the number of food and drink usages on this primary West End Lane frontage. (See Appendix 4 on page 351 and also para 9.18 on page 283 of the 2017 Local Plan). We therefore consider that a further food and drink use on this frontage would be excessive and in conflict with those policies, and should be refused.

Section 3.4 of the SPD is also very important here:

*3.4 Section 9 applies to planning applications for new food, drink and entertainment uses, which include extensions and expansions of existing premises and activities. For a planning application for a new or expanded food, drink or entertainment use, the Council will consider whether the use:*

- *is appropriately located;*

- *does not harm the retail function and character of the centre; and*
- *does not create harmful impacts, either individually or cumulatively.*

### **Traffic management issues**

The proposed delivery service hatch on the West End Lane side of the building is immediately adjacent to a pedestrian crossing. This would be extremely dangerous in itself, and would also mean that delivery drivers would be forced to ride across the pavement, as they could not park on the zig-zag lines by crossing.

We presume that you will be seeking comments from Camden's traffic management team on this aspect of the application.

We believe that this issue alone provides strong grounds for rejecting the application.

The following NDP policy is particularly relevant here:

### **POLICY 9: Pavements & Pedestrians**

**Pedestrian access in the Area - particularly in and around the West Hampstead Growth Area - shall be improved by development that takes into account the following:**

- i. Provides safe and wide pavements, giving the maximum possible space to pedestrians.
- ii. Is set well back from the pavement, where appropriate, with the aim of giving additional pavement space.
- iii. Improves accessibility for disabled people and those with push chairs.
- iv. Contributes to improved and safer pedestrian crossings – particularly on the roads listed in D14.

### **Ventilation and waste storage**

An operation based on meat-grilling would clearly require an extraction unit, and we can find no trace of such a unit in the application; the location on the exterior of the premises of such a unit would be a relevant planning consideration. The same applies to external waste storage, for which there appears to be no provision.

### **Overlap with licensing**

Our research indicates that Chipotle's standard business model involves the sale of alcohol, which would mean that Chipotle would have to apply for a premises licence. This is not of course a planning issue. However, many of the relevant considerations as regards opening hours and disturbance to neighbours are also planning issues, not least because the application involves opening the first food and drink use on Fawley Road, which is a quiet residential road.

Elsewhere in these comments, we urge the Council to reject this application on the grounds of the operation of a delivery hatch on West End Lane, in view of the road and pedestrian safety implications of that. It is hard to see how the delivery operation could instead use the

rear of the property, which is a private road giving access to a great many homes with entrances via that private road.

#### **Other Relevant Extracts from NDP:**

We urge the Council to pay heed to Policy 13 of the NDP, on the West Hampstead Town Centre. There is particular emphasis in this policy on preserving the balance between retail outlets, food/drink outlets and commercial premises, and on supporting independent businesses.

#### **POLICY 13: West Hampstead Town Centre**

**Development preserve or enhance the village character of the Town Centre as a mixed retail area with a diverse range of shops and businesses. This shall be achieved by, where appropriate:**

- i. A presumption in favour of preserving or enhancing the character of the Town Centre – especially the large parts of which are also in the West End Green and South Hampstead Conservation Areas.**
- ii. The control of signage, adverts and forecourt developments in keeping with the site context and Conservation Areas, where applicable.**
- iii. Increasing the range of retail outlets, food/drink outlets and commercial premises.**
- iv. Support for development of small/independent shops and businesses, including affordable space.**
- v. Contributions to public realm improvements - which enhance the character of the Town Centre and which are in keeping with the Conservation Areas - where applicable.**

F9. The Area covered by this Plan includes a number of areas classified as Town Centres and Neighbourhood Centres in the CCS, which are of significant importance to the local economy. Town Centres are defined as areas that provide shops, services and facilities for a wide area. Neighbourhood Centres are defined as areas that cater for the day-to-day needs of people living, working and staying nearby.

F10. West Hampstead Town Centre: the NPPF (23) says plans should “promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres”. The London Plan (Table A2.1) classifies West Hampstead as a “district centre” with potential for “medium growth”. The CCS (Policy CS7) says “the council will promote successful and vibrant centres...to serve the needs of residents, workers and visitors” by ***protecting and enhancing their unique character; providing for a range of shops and services; protecting and promoting small and independent shops; making sure that food, drink and entertainment uses do not have a harmful impact on residents and the local area***; and pursuing individual planning objectives for each centre. The CCS notes (p.74) that the northern end of the centre “has a high quality environment with a ‘village’ character”, while the southern end of the centre, around the stations, “is less attractive and has a poor quality pedestrian environment”. It says the Council will ***“make sure that development conserves or enhances the special character and appearance of West Hampstead by applying the guidance in the conservation area statements for the area”***. Most of the Town Centre is included in a Conservation Area (see 4A); part of the southern end of the Town Centre is also in the West Hampstead Growth Area (see 4B). Consultations for this Plan and the Place Plan found that

residents and businesses were clear in their demand for a successful, diverse and well managed town centre. ***While residents accept that changes will take place, there is a need for a range of shops, independent retailers, restaurants and other businesses. Camden Planning Guidance (CPG 5, 2011) says the Council “will control food, drink and entertainment uses to ensure that our town centres are balanced and vibrant as well as ensuring that these uses do not harm the amenity of local residents and businesses”.***

Those living and working in the Area appreciate the wide variety of food and drink establishments. With many people living in or near town and neighbourhood centres in the Area, there is no evidence of a demand for premises to have late licences or for the night-time economy of the Area to be developed.

Keith Moffitt and Nick Jackson

Co-Chairs

**Fortune Green and West Hampstead Neighbourhood Development Forum**