

2021/5699/P 208 West End Lane London NW6 1YU



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.



Image 1. Showing the existing shopfront



Image 2. Showing the louvres above the window on the Fawley Road Elevation



Image 3. West End Lane elevation (right corner)

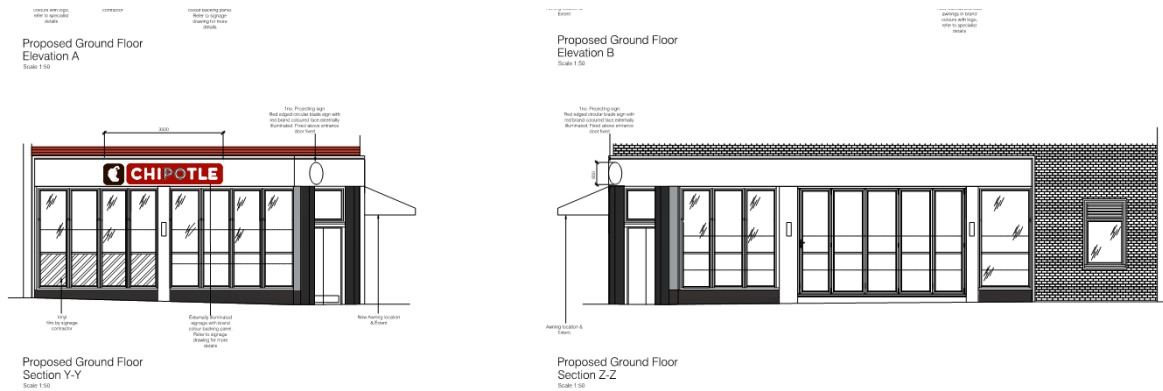


Image 4 revised signage details

Delegated Report		Analysis sheet	Expiry Date:	17/01/2022
		N/A / attached	Consultation Expiry Date:	15/05/2022
Officer			Application Number(s)	
Obote Hope			(i) 2021/5699/P (ii)2021/6288/A	
Application Address			Drawing Numbers	
208 West End Lane London NW6 1UY			See draft decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
1. Alterations to the existing commercial unit including installation of new bifold doors and ventilation louvre to replace the existing fanlight on Fawley Road (part retrospective). 2. Installation of 1 externally illuminated fascia sign, 4 x canvas awnings and 1 externally illuminated projecting sign to the West end Lane Elevation.				
Recommendation(s):	1. Grant Full Planning Permission 2. Grant Advertisement Consent			
Application Type:	1. Full Planning Permission 2. Advertisement Consent			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	106	No. of objections	98
			No. electronic	106		
Summary of consultation responses:	A site notice was displayed outside the site from 05/01/2022 expiring 29/05/2022.					
	The application was advertised in the local press from the 21/04/2022 expiring 15/05/2022.					
	98 objections were received from local residents in the following streets; Fawley Road, West End Lane, Crediton Hill, Abbey Road, Broomsleigh Street, Finchley Road, Honeybourne Road, Cholmley Gardens, Lymington Road, Pandora Road, Solent Road, Inglewood Road, Hillfield Road Cannon Hill, Kylemore Road, Sumatra Road, Dennington Park Road, Mill Lane, Priory Road, Honeybourne Road, Heath Drive, Bracknell Gardens, Agamemnon Road, Mill Lane, these objections are summed up and categorised below on the following grounds;					
	8 letters of support were also received from local residents in the following streets; Fawley Road, Crediton Hill, Abbey Road, West End Lane, Finchley Road and Hemstal Road.					
	<u>Design</u> 1. The proposed awning is out of character with the wider area; 2. The opening of the bifold doors will severely impact on the residents of Fawley Road; 3. The drawings illustrate a Deliveroo service hatch on the pavement on to the West End Lane elevation.					
	<u>Officers' response</u> 1. Please refer to the design section in paragraph 4.00 below; 2. Please refer to the design section in paragraphs 4.0 and amenity section on paragraph 6.3 below, and; 3. This element was revised please see the design section in paragraph 4.1 to 4.6.					
	<u>Amenities</u> 1. The impact of delivery vehicles on neighbouring residential amenity and the area generally; 2. potential noise impact spiling out on Fawley Road; 3. The plans do not have any details of an extraction fan and where it will be/ how loud it will be and if there is to be a change to the building above to accommodate this;					
	<u>Officers' response</u> 1. The application relates to the alteration of the existing shopfront only and is assessed on its merits. Any aspects relating to the proposed occupier and speculation about the future use cannot be taken into account as part of this shopfront application. For additional comment					

- please see sections 4 and 6 below;*
2. *Please refer to amenity section in paragraph 5 below, and;*
 3. *Please refer to section 6.0 below;*

Servicing/Deliveries

1. Potential impact with illegally parked;
2. Blocking of residential parking spaces from delivery vehicles.

Officers' response

1. *This application is for a new shopfront and does not relate to the use of the unit so highways issues including deliveries and servicing cannot be taken into consideration as part of the assessment of this application(see further comment in paragraph 1.2 and 4.5 below);*
2. *This application is for a new shopfront so highways issues including deliveries and servicing cannot be taken into consideration as part of the assessment of this application (see further comment in paragraph 4.5 below);*

Other matters

1. The proposed restaurant would destroy the unique character of West End Lane and its peaceful atmosphere;
2. Chipotle is an unsuitable fast-food restaurant at odds with the character of West End Lane;
3. Potential impact from anti-social behaviour;
4. The works have already begun
5. The chairs and takeaway hatch pose a significant safety issue to pedestrians.
6. 34 different premises on the east side of West End Lane between Fawley Road and Fortune Green and 14 of those (i.e. over 40%) are already allocated to food & drink;
7. Chipotle should not in fact benefit from Class E;
8. The lack of flood risk assessment;
9. supplementary planning guidance was adopted by Camden Council for the eastern side of West End Lane between West End Green and Fawley Road with a presumption that no further A3 licences would be granted;
10. The increase in refuse and pollution;
11. Reduced pavement access;
12. The loss of property value;
13. The change of use will have a detrimental effect on residents that live nearby.

Officers' response

1. *A restaurant use falls within use class E which falls within the authorised use of the unit(see further comment in paragraph 4.5 below);*
2. *A restaurant use is permitted under the existing authorised use class of the premises which falls within Class E (see further comment in paragraph 4.5 below);*
3. *This is not a valid consideration for a shopfront application (see further comment in paragraph 4.5 below (see further comment in paragraphs 1.2-1.6 and 4.5 below);*
4. *The proposal will be assessed against the policies in the Camden Local Plan to determine if the works are acceptable.*
5. *Any external seating would be subject to a subsequent licencing application and is not proposed as part of this application;*

- | | |
|--|---|
| | <ol style="list-style-type: none">6. <i>A restaurant use is permitted under the existing authorised use class of the premises which falls within Class E (see further comment in paragraphs 1.2 -1.6 and 4.5 below;</i>7. <i>The planning application has been submitted for a new shopfront and is not for the use of the premises. (see further comment in paragraph 4.4 and 4.5 below);</i>8. <i>No excavation work, extensions or hardstanding are proposed;</i>9. <i>The proposal is not for a change of use (for further information please refer to paragraph 4.4 below);</i>10. <i>This application is for a new shopfront so refuse associated with the use cannot be taken into consideration as part of the assessment of this application (see further comment in paragraph 1.2 and 4.5 below;</i>11. <i>No works are proposed to the pavement;</i>12. <i>Loss of property value is not a material planning consideration;</i>13. <i>The proposal is not for a change of use for further information please refer to paragraph 1.2 to 1.6 below.</i> |
|--|---|

CAAC/Local groups*
comments:
*Please Specify

The West End Green Conservation Area Committee raised the following objections:

- The proposed signage should be non-illuminated or externally illuminated and will usually consist of one fascia sign and one projecting sign and should not project above the traditional stringcourse or soffit of the shop front.

Officers' response

- *The proposed changes to signage and fascia as revised are considered acceptable. Please see section 5.0 below.*

The Fortune Green and West Hampstead Neighbourhood Forum raise the following objections:

1. Concerns in relation to the change of use
2. Property makes a positive contribution to the conservation area and makes a contribution to the village character of the area (as included in NDF)
3. The proposed signage, combined with the bifold doors, a new awning, 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 NDF area.

Officers' response

1. *Please refer to the other matters section from paragraph 1.1 below;*
2. *The shopfront design is addressed in the design section from paragraph 4 below.*
3. *The proposed changes to signage and fascia as revised are considered acceptable. Please see section 5.0 below.*

Objection received by Cllr Shiva Tiwari on the following grounds:

1. I do not believe your interpretation of applicable laws and regulations is appropriate. Nor does it consider the significant local concerns being raised about this new premises and the scourge of rude and aggressive Deliveroo- esque drivers already menacing the law-abiding residents of West Hampstead with constant engine idling, loud and anti-social behaviour and clogging up of our narrow pedestrian walkways.
2. I'm afraid I must insist that the council applies conditions to chipotle's takeaway operations on West End Lane and I am quite willing to go public with my concerns and complaints should Camden officers continue to (I believe) fail to take my requests and sizeable local public concern into account on this matter.
3. We SHOULD be considering (1) an hours of use condition on the takeaway hatch AND (2) a condition that all collections and deliveries from via the entrance doors outside of those hours must entail drivers parking their bikes/motorbikes / cars in a specific and limited area that

they maintain and earmark away from the parents for residents and not outside the homes of others residents.

4. And (2) a condition that all collections and deliveries from via the entrance doors outside of those hours must entail drivers parking their bikes/motorbikes / cars in a specific and limited area that they maintain and earmark away from the parents for residents and not outside the homes of others residents.

Officers response

1. *Regarding the first 2 x objections. Under the new Class E- Use Class introduced in September 2020 all business uses including retail, financial and professional services (i.e. banks) and cafes/restaurants fall under the same use class and don't need permission to change between these uses. Cafes and restaurants can have a degree of takeaway and delivery. As the change from bank to restaurant is not development, and this application does not include a change of use to a takeaway, no restrictions on the use can be imposed. However if the use of the unit were to change in future to be primarily a Hot food take-away, this would require planning permission as it would not fall within Class E – however such a change has not been applied for under this application;*
2. *The current application is not to assess the use of the premises and relates only to the works to the shopfront and not to the use. The take-away hatch has been omitted from the scheme and as stated above the management of the use cannot be assessed as part of this application.*
3. *The current application is not to assess the use of the premises and relates only to the works to the shopfront and not to the use as such. (see paragraphs 1.1-1.6)*

Objection received from Cllr Peter Taheri on the following grounds:

1. *Concerns in relation to nuisance, litter, anti-social behaviour (ASB), and delivery vehicles associated with fast-food restaurant*

Officer's response:

1. *The premises is operating lawfully under Class E commercial use. The current submission is not for hot foot take-away and the hatch has been removed from the application. The current permission relates only to the works to the shopfront and is not for a change of use. (see paragraphs 1.1-1.6)*

Site Description

The application site is a corner premises at the end of a parade of shops within the West Hampstead Town Centre. The building shopfront faces the junction of West End Lane and Fawley Road. The last lawful use of the premises was Barclays Bank but the premises have since become vacant. Works have been undertaken for the fitting out as a restaurant. Internal works do not require planning permission, although it is understood that works have also started on the changes to the shopfront which require planning permission and this application seeks to permission for these works and it is therefore partly retrospective.

The host building is not listed. However, the it makes a positive contribution to the West End Green Conservation Area. The site is located within the Fortune Green and West Hampstead Neighbourhood Plan area.

Relevant History

2010/3577/P – Planning permission for the installation of air conditioning unit in external side light well at basement level to existing bank(Class A2). **Granted** on 01/09/2010.

2010/0477/A – Advertisement consent for the display of two internally illuminated fascia signs and two internally illuminated projecting signs. **Granted** on 16/04/2010.

2004/0520/P – Planning permission for the provision of an ATM machine on the Fawley Road elevation. **Granted** on 26/03/2004.

Relevant policies

National Planning Policy Framework 2021

London Plan 2021

Camden Local Plan 2017

A1 Managing the impact of development
A4 Noise and vibration
D1 Design
D2 Heritage
D3 Shopfronts
C5 Safety and security
C6 Access for all
TC1 Quality and location of retail unit
TC2 Camden centres and other shopping areas
TC3 Shops outside of centres
TC4 Town centre uses
CC5 Waste

Fortune Green and West Hampstead Neighbourhood Plan 2015

Policy 2 Design and character
Policy 12 Business, Commercial and Employment Premises and Sites
Policy 13 West Hampstead Town Centre

Camden Planning Guidance 2021

CPG Design
CPG Employment and business premisses
CPG Amenity
CPG Town Centres and Retail
CPG Transport

Assessment

1. Proposal

1.2 Planning permission is sought for the following:

- Installation of new shopfront with new bi-folding door to Fawley Road elevation.
- Installation of new awnings to the West End Lane elevation.

Authorised use of the premises:

1.3 Many of the objections refer to either the use as a fast food restaurant or hot food takeaway and the issues which surround these types of uses such as servicing and delivery vehicles and their impacts on parking and harm to the amenity of the area. This application does **not** relate to a change of use but to the works to the shopfront only. Under the new Class E Use Class introduced in September 2020 all business uses including retail, financial and professional services (i.e. banks) and cafes/restaurants fall under the same use class and therefore don't need planning permission to change between these uses. The last use of the premises was a bank which falls within Class E (Commercial, Business and Service). A restaurant use, including a fast food restaurant chain, also falls within Class E and can therefore change between the uses within Class E without the need for planning permission.

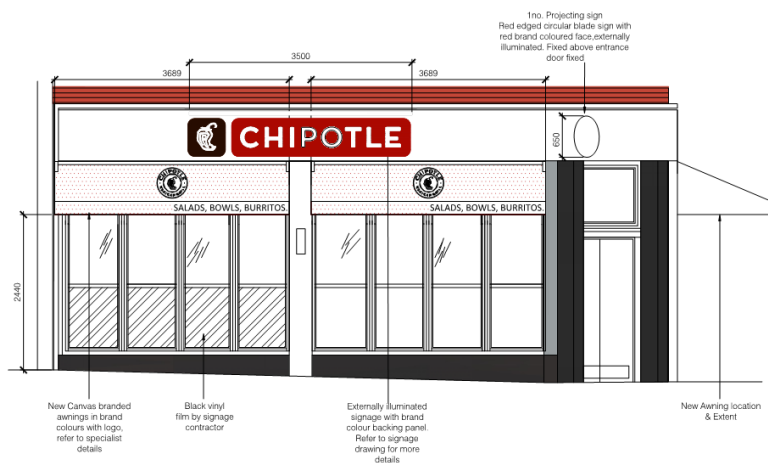
1.4 A use primarily as a hot food takeaway would not fall under the Use Class E and so such a change would require permission. The applicant has not applied for such a change of use and the local planning authority cannot treat this application as one for a change of use on the basis that such a hypothetical change may possibly occur at some point in the future.

1.5 Unless there is a change of use application submitted the Council is not able to impose conditions which control aspects of the use such as limiting hours of opening or the management of delivery vehicles –it can only focus on the matters concerning the proposed development itself which is the installation of bifold doors, awnings and shopfront signage

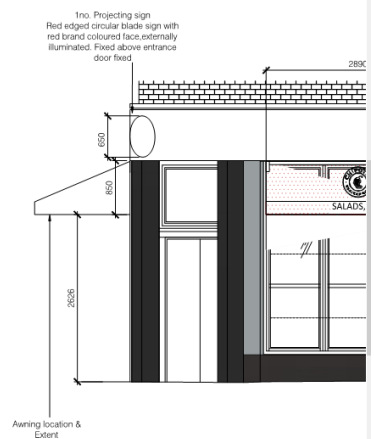
1.6 A change of use to a hot food takeaway will be considered to have occurred if the volume of takeaway sales as opposed to consumption on the premises exceeds what can be considered an ancillary part of the business –i.e. more than 50%. Officers will be monitoring any reported breaches at the premises closely over the next 1-2 months and will take the appropriate action depending on all the available evidence; but until then it is necessary for this application to be determined on the basis of what is currently applied for.

2. Revision

2.2 Following consultation responses and officer advice, the plans were revised to omit the takeaway hatch. The signage detail is now revised to include one externally illuminated projecting sign, one externally illuminated fascia sign and four canvas awnings. The revisions to the signage on the proposed frontage is shown below.



Proposed Ground Floor
Elevation A
Scale 1:50



Proposed Ground Floor
Elevation B
Scale 1:50

Image1: Proposed shopfront as revised.

3. Assessment

3.2 The main material planning issues for consideration are:

- Design and heritage
- Impact on neighboring amenity

4. Design and heritage

4.1 The application site is within the West Hampstead Conservation Area, wherein the Council has a statutory duty, under section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

4.2 Policy F10 of the Fortune Green and West Hampstead Neighbourhood Plan states that West Hampstead as a “district centre” with potential for “medium growth”. The CCS (Policy CS7) says “the council will promote successful and vibrant centers 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.

4.3 The Council’s design policies are aimed at achieving the highest standard of design in all development. The following considerations contained within policy D1 are relevant to the application: development should consider the character, setting, context, form and scale of the neighbouring buildings, and the quality of materials to be used. Within areas of distinctive character or adjacent to one, development should reinforce those elements which contribute to and create the character, in line with policy D2.

4.4 When determining proposals for shopfront development the Council will consider: a. the design of the shopfront or features, including its details and materials; b. the existing character, architectural and historic merit and design of the building and its shopfront; c. the relationship between the shopfront and the upper floors of the building and surrounding properties, including the relationship between the shopfront and any forecourt or lightwell; d. the general characteristics of shopfronts in the area; e. community safety and the

contribution made by shopfronts to natural surveillance; and f. the degree of accessibility.

- 4.5 There is no change of use being proposed here and recent changes to the Use Classes Order signal the government's intent to allow commercial uses to function more freely without planning constraint. The new class E provides for a wide range of commercial uses including office, light industry, retail, food and drink, and any service appropriate in a commercial area. Many commercial units in the area fall into class E and so have a wide range of lawful use rights. The current proposal is for shopfront alterations in connection with the adaptation of the ground floor unit to continued use within the lawful Class E use (bank to restaurant).
- 4.6 The proposed changes to the façade, the replacement of the 20 fixed glass metal framed panels with 17 narrower panels including 5 of these on the middle section of the Fawley Road frontage being bifold frameless doors. The existing glazing on the Fawley Road elevation measures approximately 10m in width and it is proposed to replace a section measuring approximately 4.9m with by-fold doors. In this case, the existing shopfront is of limited merit and whilst the building as a whole is considered as making a positive contribution to the Conservation area the existing shopfront consists of modern fully glazed fixed metal panels, that bear no relationship to the Edwardian mansion block which is the host building.

5.0 Shopfront

- 5.1 The traditional Granite Plinth is being retained apart from the section below the bifold doors to improve access in front of a forecourt area which is proposed for outdoor seating (subject to necessary licensing consent). The proposal does not remove any traditional shopfront features of merit and is generally respectful of the integrity of the upper floors which define the building's contribution to the streetscene and thus preserves the character and appearance of the conservation area.
- 5.2 The conservation area statement reaffirm that the state of the shopfronts and signage is in decline and made reference to very large signs which extend out of the scrolls/ canopy zone and by cheap shopfront replacements. However, the proposed fascia and projecting signs are modestly sized with external illumination and do not obscure or distract from any existing features of the host building.
- 5.3 The ventilation louvre to the Fawley Road elevation is considered to be a very minor alteration to the existing arrangement and is considered acceptable in terms of location, design and materials. The size and scale of the louvre above the small window would have limited impact on the character and appearance of the host building, streetscene and conservation area.
- 5.4 The frontage previously included small scale projecting signs, and projecting and/or hanging signs which are characteristic of the Town Centre. The proposed projecting signs measuring 700mm in height x 700mm in depth and would be affixed to the brickwork. These style of hanging signs are traditional in appearance and can be seen at a number of other locations along West End Lane Conservation Area. The size and type of illumination as revised is considered appropriate for the host building and surrounding area.
- 5.4 The conservation area statement) reaffirm that the state of the shopfronts and signage is in decline and made reference to very large signs which extend out of the scrolls/ canopy zone and by cheap shopfront replacements. However, the fascia and projecting signs are modestly sized with a low luminance level (no higher than 350 cd/m²).

- 5.5 The projecting sign would be located approximately 2.6m from ground floor and would consist of static internally no higher than 350 cd/m² along the West End Lane /Fawley Road elevation. The proposed fascia and projection signs would not obscure or damage any significant architectural features, nor detract from the character and appearance of the South Hampstead Conservation Area. Its size, design, location and method of illumination are considered to be acceptable.
- 5.5 Advertisement Advert consent is subject to considerations of amenity (which includes visual amenity and also design and heritage issues) and public safety. The proposed advertisements on the shopfront would not cause problems for users of the highway, clash with traffic signals or signs, or result in any other public safety concerns.
- 5.6 The proposed awnings would have a maximum depth of 2.4m, when extended, and its overall size and scale are not considered to be out of keeping with similar additions to the West End Lane commercial frontage. Moreover, the proposed awnings would not cause harm to the character and appearance of the host building or surrounding conservation area as a result.

6. Neighbouring Amenities.

- 6.1 Within the Camden Local Plan policies, policy A1 seeks to ensure that development does not cause adverse amenity impacts upon neighbours in terms of sunlight, daylight, privacy and overlooking, noise/vibration and odour.
- 6.2 Policy TC4 advises that harm to amenity or the local area can be managed by planning conditions and obligations by applying controls to the hours of operation of a use. National policy also encourages the use of mitigation to overcome adverse effects to make an unacceptable development acceptable.
- 6.3 The site is a commercial site in a mixed-use town Centre and it would be unreasonable to expect a commercial use to operate in such an area without certain level of comings and goings of customers throughout its permitted opening hours. The openable shopfront would help increase the attractiveness of the unit during the warmer weather months and facilitate access for outside seating (subject to tables and chairs application), however the retractable door would be limited to not be kept open during the later evening in order to protect the residential amenities of the mansion block above. Likewise, there will also be a condition attached to prevent the plying of music within the premises whilst the doors are in open position. However, such conditions can only relate to the shopfront alterations themselves and not extend to opening hours of music playing from the premises generally as the wider restaurant use is not for consideration under this application since the premises already benefits from consent to be used as such under the extant Class E use.
- 6.5 Local residents are concerned that no details have been provided of the extract system to be used within the restaurant. No external extractor duct is proposed as part of this application. The louvers installed on Fawley Road provide an air intake for the Reflow purified air system currently installed and the Reflow system is designed to filter the air internally before being released back into the kitchen space. The applicant has confirmed that all the plant is internal within the kitchen area and there is no external air outflow. Any potential odour or noise related impacts for neighbours should be minimised.

7.0 Recommendation: Grant conditional planning permission and advertisement consent