



Appeal Decision

Site visit made on 1 March 2023

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/T5150/W/22/3305066

401A Edgware Road, Kingsbury, London NW9 0AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Nando's Chickenland Ltd against the decision of London Borough of Brent.
 - The application Ref 22/1204, dated 31 March 2022, was refused by notice dated 24 May 2022.
 - The development proposed is described as 'installation of hatch to shopfront.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the safe use of the highway with specific regard to the free flow of pedestrians.

Procedural Matter

3. At the time of my site visit, the hatch concerned was in situ and the internal arrangements appeared to be laid out to facilitate its use. I have therefore considered the appeal as seeking retrospective planning permission.

Reasons

4. Edgware Road is a busy single carriageway route carrying the A5. A paved footway separates the area of the serving hatch from the back edge of the vehicular carriageway which has double yellow lines at this point. The footway is unencumbered save for a single tree, a lampstand and signage pole. It is not overly wide. The premises is centrally located and within walking, riding and driving distance of an extensive local population. My site visit was during the day and the restaurant seemed to be open albeit quiet. There were no delivery operatives waiting outside the hatch. I cannot be certain that this is typical of the operation of the premises, but it is reasonable to assume that there would be busier times either in the evening or at weekends.
5. With that in mind, there is a potential for operatives to be present outside the serving hatch. They might not be there for a significant period of time themselves but, in the absence of any further details to the contrary, I would reasonably assume there to be a fairly regular turnover of visitors in that regard during busy times. The appellant has set out that operatives are encouraged to use nearby car parks and other places to wait away from the hatch. Indeed, at the time of my site visit, I observed a sign on the wall near

the hatch advising operatives to not be present before their order is ready. Good practice although this is, one would be asking a lot in the face of free will, convenience and the pressure of delivery turnaround. I am therefore concerned that even a small accumulation of operatives and their vehicles, which could be motor or pedal cycles, would cause an obstruction in the footway, hindering the free flow of pedestrians taking into account its width and the parking restrictions on the vehicular carriageway. Potentially forcing them to either cross the road or walk into the vehicular carriageway. Whilst a minor inconvenience for the abled bodied, this would be worse for parents with prams/pushchairs and those with mobility needs.

6. The appellant has proposed a management plan which would incorporate the no waiting policy I have touched upon and a number of other measures. These would no doubt be effective in reducing the potential impacts I have outlined but nonetheless difficult for a busy centrally located restaurant to enforce. Even more so for the Council who would be responsible for enforcing any conditions I may impose to the same effect.
7. I am aware that the restaurant operated a takeaway use prior to the installation of the hatch. This appears to have had third party delivery operatives associated therewith. There is thus something of an existing or fallback situation at play. Whilst I would not argue with the rationale for the hatch, for the above reasons I feel it is in the wrong place. Taking into account parking restrictions and the width of the footway.
8. The pre-existing takeaway/delivery/collection arrangement operated successfully. At least the evidence does not suggest it didn't. It doesn't strike me therefore that the future success of the business currently occupying the building is necessarily dependent on the hatch remaining. Evidence pertaining to the success of the use of the hatch and the limited number of problems associated therewith in highway safety terms is itself limited to the extent that I remain to be convinced it is the best option for the free and safe flow of pedestrians at that point.
9. With this and the above in mind, the appeal scheme conflicts with Policies DMP1 and DE5 of the Brent Local Plan (2019-2041). Together, and amongst other things, these policies seek to ensure that new development will be acceptable provided it is satisfactory in terms of means of access for all, parking, manoeuvring, servicing and does not have an adverse impact on the movement network and on street parking in front of the premises does not create highway safety problems.

Conclusion

10. For the reasons I have explained, the appeal scheme conflicts with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

John Morrison

INSPECTOR