

**VARIATION OF CONDITION NO. 3 (TRADING
HOURS) OF PLANNING PERMISSION
00707/558/P2 TO ALLOW TRADING BETWEEN
09.00 HOURS TO 05.00 HOURS DAILY**

APPEAL STATEMENT

**558 LONDON ROAD
ISLEWORTH
TW7 4EP**

ON BEHALF OF DELMON PIZZA LTD

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004**

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PLANNING | **DESIGN** | **ENVIRONMENT** | **ECONOMICS**

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1. INTRODUCTION

- 1.1 Pegasus Group has been instructed by Delmon Pizza Ltd (the “**Appellant**”) to act on their behalf in respect of an appeal against the decision of the London Borough of Hounslow (the “**LPA**”) to refuse planning permission under application reference 00707/558/P13 (the “**Application**”).
- 1.2 This Statement is submitted pursuant to Part 2 of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (Statutory Instrument 2009/452), as amended by The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013 (Statutory Instrument 2013/2114).
- 1.3 The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for development without complying with a condition subject to which previous planning permission was granted.
- 1.4 The Application, the subject of this appeal, was submitted to the LPA on 15th February 2018 by DPP Planning on behalf of the Appellant and was given the reference 00707/558/P13 by the LPA. The Application seeks a further variation of Condition No. 3 (trading hours) of planning permission 00707/558/P2 to allow “*closing times of the unit to 0500hrs daily*” (as stated on the submitted application forms), further to section 73 application reference 00707/558/P4 which had permitted the “*Variation of condition no. 3 (trading hours) to approved permission 707/558/P2 allow trading 09.00-22.30 Monday to Saturday and 09.00-22.00 Sundays and Holidays*”. The Decision Notice of planning permission 00707/558/P4 is contained at **Appendix 1**. No conditions were attached to planning permission 00707/558/P4.
- 1.5 For clarification, planning permission 00707/558/P2 was for the “*Use of shop as café*”. The Decision Notice of planning permission 00707/558/P2 is contained at **Appendix 2**. The original wording of condition 3 of planning permission 00707/558/P2 is as follows:

“The café and ‘takeaway’ hereby approved shall not be open for business at any time other than between 9am and 10pm on Mondays to Fridays inclusive and from 9am to 3pm on Saturdays”

1.6 The current permitted opening hours of the appeal premises are in line with planning permission 00707/558/P4, allowing trading hours of **09.00 to 22:30 hours Monday to Saturday and 09:00 to 22:00 hours Sundays and Bank Holidays**.

1.7 This Application seeks a further amendment to condition no. 3 relating to trading hours.

1.8 As part of the validation of the Application, the subject of this appeal, the LPA later amended this description to the following:

"Variation of Condition 3 (Trading Hours) of planning permission 00707/558/P2 to allow trading during 09.00 - 05.00 daily and variation of Condition 4 (Air Conditioning Hours) of planning permission 00707/558/P11 to allow use during 09.00 -05.00 daily".

1.9 Planning permission 00707/558/P11 noted above within the LPA's amended application description was for the *"installation of an air conditioning condensor unit to the rear roof of the premises"*. The Decision Notice of planning permission 00707/558/P11 is contained at **Appendix 3**. The wording of condition 4 of planning permission 00707/558/P11 is as follows:

"The air conditioning shall not be in operation between the hours of 11pm – 7am"

1.10 Section 73 of the Town and Country Planning Act 1990 allows for applications to be made for planning permission for development without complying with a condition(s) previously imposed on a planning permission, and the Application the subject of this Appeal seeks the variation of condition 3 of planning permission 00707/558/P2. Despite this, the LPA have chosen to also include the variation of another condition attached to a separate planning permission (condition 4 of Planning Permission 00707/558/P11) within the Application's description. Procedurally, permission could be granted for this proposal varying condition 3 of planning permission 00707/558/P2, and imposing additional conditions, including a condition restricting the operation of air conditioning equipment to the same hours as proposed as part of this appeal.

1.11 The LPA's formal decision notice for the Application, the subject of this appeal, was issued on the 3rd September 2017 and forms part of the documentation submitted with this Appeal. A copy of the Decision Notice is included at **Appendix 4**, with the

associated Delegated Report contained at **Appendix 5**. The Decision Notice cites the reason for refusal as follows:

"The proposed opening hours of the hot food takeaway are likely to result in increased noise and disturbance affecting nearby residents during the night. This would harm living conditions. The application therefore conflicts with Local Plan policies CC2 (Urban design and architecture), TC5 (Managing neighbourhood centres and isolated local shops) and EQ5 (Noise)."

1.12 The following information was submitted with the Application and form part of the documentation submitted with this appeal:

- Application Forms
- Noise Assessment prepared by Cole Jarman

1.13 In addition, the following technical information has been prepared in support of this Appeal:

- Review of Potential Noise Impact by 24 Acoustics (contained at **Appendix 6** of this Statement)

1.14 Prior to submitting this Appeal, Pegasus Group, on behalf of the Appellant, approached the LPA's Case Officer (George Clarke) of Application reference 00707/558/P11, to understand the reason for refusal and suggest potential measures to improve the acceptability of the scheme. Correspondence between Pegasus Group (agents acting on behalf of the Appellant) and the LPA's Case Officer of Application reference 00707/558/P11, can be found at **Appendix 7**.

1.15 In the following sections, this Statement will explain the background to the case, including a description of the site and its surroundings, and provide a breakdown of relevant planning policy guidance and legislation. The main section following this sets out the Appellant's Statement of Case.

2. BACKGROUND

Site Description

- 2.1 This appeal relates to a ground floor unit, operated as a Domino's Pizza, within 558 London Road, Isleworth, TW7 4EP. 558 London Road comprises of a mid-terrace three storey building with the upper floors in residential use.
- 2.2 The London Road (A315) is the main through route into London from south west, heading towards Central London to the east.
- 2.3 The appeal site is located within the Spring Grove Conservation Area, positioned between the Neighbourhood Centre of Isleworth, which is located approximately 0.5km east, and the Hounslow Town Centre (Metropolitan Centre) located approximately 1.3km south west. The surrounding parade consists of a variety of ground floor 'main town centre' uses, with first and second floor residential accommodation above. Uses in the parade include shops (use class A1), estate agents (use class A2), restaurants (use class A3), drinking establishments (use class A4) and hot food takeaways (use class A5). To the south, on the opposite of London Road to the site, is a car service and repair garage and a used car dealership with adjoining residential properties and Thornbury Park beyond. The Heston and Isleworth Fire Station is located to the north east of the site. North of the parade is a predominately residential area including neighbouring properties that face onto Pembroke Place.
- 2.4 The planning history relevant to the appeal site is set out in the Delegated Report contained at **Appendix 5**.
- 2.5 The site currently operates under Use Class A5 (Hot Food Takeaways). Prior to more recent iterations of the Use Class Order this use was combined under a broader A3 Use Class. The site has operated as a hot food takeaway (Use Class A5) for well in excess of 10 years and all recent planning applications have related to this use.

Appeal Background

- 2.6 Condition 3 of planning permission ref. 00707/558/P2 (and condition 4 of planning permission ref. 00707/558/P11 introduced by the LPA) as currently worded, place unnecessary restrictions on the operation of this takeaway premises.

- 2.7 The Application (reference 00707/558/P13), the subject of this appeal, seeks to vary condition 3 of planning permission ref. 00707/558/P2, to allow opening hours from 09.00 hours to 05.00 hours daily. The LPA amended the description of development to include the variation of condition 4 of planning permission ref. 00707/558/P11 to allow the operation of associated air conditioning equipment from 09.00 hours to 05.00 hours daily. Procedurally, a condition could be imposed to a permission varying condition 3 of planning permission reference 00707/558/P2, in order to restrict the operation of air conditioning equipment from 09.00 hours to 05.00 hours daily.
- 2.8 A Noise Assessment produced by Cole Jarman was submitted with the Application which assesses the impact of the proposal on neighbouring amenity in relation to noise and disturbance.
- 2.9 As part of the Application, the LPA informed 53 neighbouring residents, of which 4 responded with written letters and twelve signed a signature (it is unclear whether any were duplicated). To summarise, key concerns included:
- The fan and machinery noise and vibration
 - Delivery scooters taking up car parking spaces and parking on the pavement
 - Noisy conversations outside the premises late at night
 - The noise from the shop would be intolerable if it were to continue all night
 - The area is predominately residential, which is unsuitable for almost 24-hour operations
 - Delivery activity occurs from the rear of the site, creating noise and disturbances to nearby residents
- 2.10 The Osterley and Wyke Green Residents Association also objected to the proposal:
- "Local residents are already affected by customers, staff and delivery companies using London Road and Pembroke Place for that branch and extending the hours would mean their peace is disturbed even more with anti-social behaviour and crime in the early hours of the morning."*
- 2.11 There were no other consultation responses noted in the Delegated Report (contained at **Appendix 5**). In later communication with the Case Officer of the

Application (contained at **Appendix 7**), as well as a phone call with a member of the Planning Support Team, it was confirmed that no responses were received by the Police nor the LPA's Environmental Health Officer for the Application.

- 2.12 Within the correspondence contained at **Appendix 7**, the Case Officer of the Application stated that *"it is hard to see how disturbance issues related to customers visiting the site late at night can be overcome"*, suggesting that the comings and goings of customers during the proposed extended hours is the primary concern of the LPA.
- 2.13 As such, in light of this perceived primary concern, and without any detailed comments or evidence from either the LPA's Environmental Health team or the Police, the Appellant intends to prevent walk-in sales during the proposed extended trading hours (between 2230 hours and 0500 hours Monday to Saturday, and between 2200 hours and 0500 hours Sundays and Bank Holidays), with deliveries only during these hours of operation. The Appellant currently uses electric vehicles for undertaking deliveries and it is intended that only electric vehicles will be used during the extended trading hours sought through this proposal (between 2230 hours and 0500 hours Monday to Saturday, and between 2200 hours and 0500 hours Sundays and Bank Holidays). Additional conditions could be imposed on a new planning permission in order to ensure that these intended measures are imposed and controlled to ensure the amenity of neighbouring residents is safeguarded and to satisfy LPA concerns.
- 2.14 In light of these measures relating to walk-in sales and the use of electric vehicles, and in response to the LPA's reason for refusal relating to noise and disturbance, a Review of Potential Noise Impact has been produced (prepared by 24 Acoustics) and is contained at **Appendix 6**. The report provides further demonstration that the appeal proposal would not result in harm to the living conditions of neighbouring residents, subject to recommended mitigation set out in the Review of Potential Noise Impact report, including the measures noted above. This therefore forms part of the justification to show that condition 3 of planning permission ref. 00707/558/P2 (and condition 4 of planning permission ref. 00707/558/P11 included by the LPA), the subject of this proposal, are neither reasonable nor necessary to safeguard the living conditions of neighbouring residents.

3. APPEAL PROPOSAL

- 3.1 The Application (reference 00707/558/P13), the subject of this appeal, seeks to vary condition 3 of planning permission ref. 00707/558/P2, to allow opening hours from 09.00 hours to 05.00 hours daily. The LPA amended the description of development to include the variation of condition 4 of planning permission ref. 00707/558/P11 to allow the operation of associated air conditioning equipment from 09.00 hours to 05.00 hours daily. A condition could be imposed to a permission varying condition 3 of planning permission ref. 00707/558/P2 in order to restrict the operation of air conditioning equipment from 09.00 hours to 05.00 hours daily (having the same outcome as varying condition 4 of application ref. 00707/558/P11).
- 3.2 In order to address the reason for refusal given by the LPA in relation to the Application (00707/558/P13), this appeal is supported by a Review of Potential Noise Impact, which reviews the previously submitted Noise Assessment and provides further professional recommendations in relation to the appeal proposal.
- 3.3 As part of the proposal, and in line with the supporting Noise Assessment and Review of Potential Noise Impact, it is proposed to implement the following measures to safeguard neighbouring amenity, which could be covered by suitably worded conditions if necessary:
- Prohibiting walk-in counter sales between 2230 and 0500 hours Monday to Saturday, and between 2200 and 0500 hours Sundays and Bank Holidays;
 - Limiting all deliveries between 2230 and 0500 hours Monday to Saturday, and between 2200 and 0500 hours Sundays and Bank Holidays to be undertaken by means of electric vehicle only;
 - Implement mitigation measures for plant and equipment in line with Section 5.3 of the Noise Assessment by Cole Jarman; and
 - Implement, before first use, a noise management plan to submitted and approved by the local planning authority.

4. PLANNING POLICY

- 4.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

DEVELOPMENT PLAN

London Borough of Hounslow Local Plan 2015-2020

- 4.2 The Development Plan for the area consists of the London Borough of Hounslow Local Plan (adopted September 2015), the West London Waste Plan (adopted July 2015) and the London Plan (amended 2016).

- 4.3 In the London Borough of Hounslow Local Plan 'Supporting Statement to the Vision' (paragraph 2.18) states:

"The Local Plan will seek to ensure a diversification of town centre uses to achieve activity during the day and night that acts as a focus for servicing the diversity of local cultural needs."

- 4.4 **Policy TC5** relates to managing Neighbourhood Centres and Isolated Local Shops. The policy aims to:

"maintain and improve neighbourhood centres to meet the key day-day shopping and service needs of local communities and protect isolated local shops, to contribute to sustainable development and local character in the borough residential areas."

Paragraph (g) of Policy TC5 relates to the proposal, in that the Council will achieve the above aim by:

"Considering the cumulative impact of proposals on the vitality and vibrancy of neighbourhood centres and the amenity of local residents, particularly avoiding the overconcentration of non-retail uses such as hot food takeaways."

There are no further requirements in this policy relevant to the proposal.

- 4.5 **Policy EQ5** relates to noise, and states that the Council will "seek to reduce the impact of noise from [...] noise-generating uses". Whilst this is written to relate predominately to the location and design of new developments, proposals should

consider "the impact of noise and mitigation of these impacts on new uses and surrounding uses according to their sensitivity". This will be achieved by:

"(a) Assessing the potential noise impacts of development proposals where they are located near to noise-sensitive uses (such as housing) or existing sources of noise;

(c) Ensuring noise-sensitive development is protected against existing and proposed sources of noise through careful design, layout and use of materials, adequate insulation of the building envelope (including both internal/external walls and ceilings), as well as protecting external amenity areas;

(d) Encouraging the uptake of measures to decrease noise nuisance in the built environment, including working with Heathrow Airport to improve conditions for households and other noise-sensitive uses exposed to high levels of noise, consistent with the Aviation Policy Framework; and"

4.6 Development proposals are required to:

"(f) Carry out noise assessments where major schemes or a change of use to a more noise sensitive use are proposed, detailing on site noise levels both internally and in any external amenity space, and the potential impact of the development on surrounding uses;

(g) Minimise noise disturbance from adjoining uses by incorporating sound insulation or alternative forms of noise barrier, using appropriate materials and arranging and locating rooms appropriately (such as through stacking rooms of similar use above/adjacent to each other), including where conversions or change of use are proposed;

(h) Ensure that noise mitigation measures are implemented, to demonstrate compliance with British Standard BS8233: 2014 – Guidance on sound insulation and noise reduction for buildings, as appropriate;

(i) Demonstrate that new plant and machinery (including ventilation) do not harm the amenity of neighbouring properties and generate noise level that is at least 10dB below the background noise levels"

4.7 The supporting text of Policy EQ5 (paragraph 9.11) outlines how the Council should approach planning decisions and how Noise Impact Assessments should be used:

"The approach to minimising noise impacts is twofold. Firstly, noise generating development, and proposals for developments near existing sources of noise, should be designed such that disturbance is avoided. The use of noise impact assessments, and assessing potential noise nuisance using recognised measures such as British Standards, should be used to prevent and mitigate noise. Secondly, planning decisions should consider the context of the built environment, including established sources of noise pollution."

- 4.8 **Policy CC2** relates to urban design and architecture, it is not directly relevant to the proposal but it was referenced in the case officers reason for refusal. It states that the Council will *"retain, promote and support high quality urban design and architecture to create attractive, distinctive, and liveable places"*. To achieve this, development proposals are expected to:

"[...] (h) Deliver the right land use mix, amount and density in the right places to support the rejuvenation of our town centres and the creation of healthy, diverse and varied places;

(i) Create places that are easy to get to and through, foster active lifestyles, are easy to understand and navigate and feel safe during the day and night, with a particular focus on pedestrians and cyclists;

(j) Function well in themselves and in their effect on surrounding areas, have a positive impact on the amenity of current and future residents, visitors and passers-by and help create Lifetime Neighbourhoods that foster social interaction and capital; [...]

(r) Be designed to mitigate noise and air quality issues which significantly affect parts of the borough; [...]"

London Plan

- 4.9 Policy 2.6 outlines the Greater London Authorities Vision and Strategy for outer London, paragraph (A) notably states:

"The Mayor will, and boroughs and other stakeholders should, enhance the quality of life in outer London for present and future residents as one of its key contributions to London as a whole. The significant differences in the nature and quality of outer London's neighbourhoods must be recognised and improvement

initiatives should address these sensitively in light of local circumstances, drawing on strategic support where necessary."

- 4.10 Policy 2.7 related to the outer London economy, it seeks to address constraints and opportunities in *"the economic growth of outer London so that it can rise above its long term economic trends by:*

(a) enabling existing sources of growth to perform more effectively, and increasing the competitive attractiveness of outer London for new sectors or those with the potential for step changes in output by identifying, developing and enhancing capacity to support both viable local activities and those with a wider than sub-regional offer, including strategic outer London development centres"

- 4.11 Policy 7.15 'Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes' seeks to *"reduce and manage noise to improve health and quality of life and support the objectives of the Mayors Ambient Noise Strategy"*. Development proposals should manage noise by:

"(a) avoiding significant adverse noise impacts on health and quality of life as a result of new development;

(b) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens on existing businesses;

(c) improving and enhancing the acoustic environment and promoting appropriate soundscapes (including Quiet Areas and spaces of relative tranquillity);

(d) separating new noise sensitive development from major noise sources (such as road, rail, air transport and some types of industrial development) through the use of distance, screening or internal layout – in preference to sole reliance on sound insulation;

(e) where it is not possible to achieve separation of noise sensitive development and noise sources, without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through the application of good acoustic design principles;

(f) having particular regard to the impact of aviation noise on noise sensitive development;

(g) promoting new technologies and improved practices to reduce noise at source, and on the transmission path from source to receiver."

OTHER MATERIAL CONSIDERATIONS

National Planning Policy Framework

4.12 The National Planning Policy Framework ("NPPF") sets out the Government's planning policies for England and how they should be applied in plan making and decision taking.

4.1 **Paragraph 8** of the Framework sets out that there are three overarching objectives to achieving sustainable development through the planning system, which are interdependent and need to be pursued in mutually supportive ways:

- *"An economic role – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- *A social role – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations, and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- *An environmental role – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."*

4.2 At the heart of the Framework is a presumption in favour of sustainable development. **Paragraph 11** states that plans and decisions should apply a presumption in favour of sustainable development. In respect of the latter, paragraph 11 continues:

"For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".

4.3 **Paragraph 12** states:

4.4 *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*

4.5 **Paragraph 38** requires Local planning authorities to approach decisions on proposed development in a positive and creative way. They should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and decision-makers at every level should seek to approve applications for sustainable development where possible.

4.6 **Paragraph 47** confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

4.7 **Paragraphs 54-56** concern the use of planning conditions and obligations, setting out how conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

4.8 **Paragraph 80** seeks to *"help create the conditions in which businesses can invest, expand and adapt*. It states that *"significant weight should be placed on the need to support economic growth and productivity, taking into account both local*

business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future”.

- 4.9 **Paragraph 180** seeks to ensure that new development is appropriate for its location, which involves consideration for the likely effects of pollution on health, living conditions and the natural environment. Paragraph (a) relates to noise, it states that planning decisions should:

“mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”

National Planning Practice Guidance (PPG)

- 4.10 In relation to noise the PPG states that neither the Noise Policy Statement for England nor the National Planning Policy Framework expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. It also notes that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected, and correspondingly depends on how various factors combine in any particular situation.
- 4.11 The PPG provides further guidance to ensure that the six tests as set out in Paragraphs 54-56 of the NPPF are met. In relation to the test of necessity, the PPG states that a condition must not be imposed unless there is a definitive planning reason for it, i.e. it is needed to make the development acceptable in planning terms.

Development Control for Noise Generating and Noise Sensitive Development SPD

- 4.12 The Development Control for Noise Generating and Noise Sensitive Development SPD was produced by Richmond Upon Thames, Hounslow and Hillingdon. The SPD itself states that the document supplements each of the Borough’s Local Plans. It is dated April 2016, but is not present on Hounslow’s SPD website page. The document is referenced under Policy EQ5 in the notes section of the adopted Local Plan.

4.13 The SPD provides further guidance in applying Policy EQ5 of the Local Plan. Section 3 outlines six principles of noise and vibration that will be applied in the planning process:

- *"Avoid significant adverse effects of noise on people living and working in the Boroughs;*
- *Mitigate and reduce to a minimum the adverse effects of noise within the context of sustainable development;*
- *Prevent development which is unacceptable in terms of noise;*
- *Encourage good acoustic design as far as is reasonably practical;*
- *Improve living and working conditions where the acoustic environment already has a significant adverse effect on people's quality of life; and*
- *Improve and enhance the acoustic environment and promote soundscapes that are appropriate for the local context, including the promotion of a vibrant acoustic environment where this is appropriate and the protection of relative tranquillity and quietness where such features are valued."*

4.14 Paragraph 3.3 relates to existing businesses, it states:

"It is our intention that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because future noise sensitive uses are subsequently permitted (including by a change of use) and where people may object to the inevitable noise that is produced. The Boroughs will therefore expect proposed new noise sensitive developments to follow good acoustic design principles and to incorporate adequate mitigation measures to ensure appropriate acoustic conditions in the new developments."

4.15 Paragraph 3.6 outlines the general approach to be taken on noise generating development:

"[...] In some circumstances noise may be an inevitable consequence of an essential or desirable activity. The planning system should not place unjustifiable obstacles in the way of such development.

The LPA will consider carefully in each case whether proposals for new development that may generate noise (including by a change of use) would be incompatible with

existing noise sensitive activities and any noise sensitive activities that may reasonably be expected in the foreseeable future. The applicant will be expected to demonstrate, as part of the planning application, that noise has been mitigated and reduced to a minimum and that the principles of good acoustic design have been followed.

For schemes that may generate noise, developers must consider the cumulative noise impact from their proposed scheme and the existing acoustic environment; and where appropriate the future cumulative impact of any already permitted or proposed noise generating development in the vicinity. There will be a general presumption against development which gives rise to significant adverse effects from noise unless it can be demonstrated that the economic and/or social and/or environmental benefits associated with the proposed development outweigh the adverse effects."

- 4.16 Section 4 of the SPD provides further guidance on assessing Noise Assessments in order to come to a decision, six points are noted that help Planning Officers form a position on the likely Noise Impact:

"Determining the Noise Impact and Effect:

- Whether or not an unacceptable adverse effect is occurring or likely to occur;*
- Whether or not a significant adverse effect is occurring or likely to occur;*
- Whether or not an adverse effect is occurring or likely to occur;*
- Whether or not a good standard of amenity can be achieved;*
- Whether or not a good acoustic design process has been followed and whether or not appropriate acoustic standards have been achieved; and*
- Whether or not opportunities have been taken to improve or protect the existing acoustic environment where relevant."*

- 4.17 In assessing the Noise Assessment and application against the above criteria, the following planning decisions can be made:

- a) Planning consent may be granted without any need for noise conditions;*

- b) *Planning consent may be granted subject to the inclusion of suitable noise conditions;*
- c) *Planning consent should be refused on noise grounds unless there are reasons to the contrary ("avoid");*
- d) *Planning consent should be refused on noise grounds regardless of other considerations ("prevent").*

4.18 With regard to outcomes (b), (c) and (d), the SPD provides guidance on when these decisions can be applied:

"4.2 B- GRANT CONSENT WITH SUITABLE NOISE CONDITIONS

In some circumstances it may be necessary to make a recommendation that planning consent may be granted subject to the inclusion of suitable noise conditions, for example to address specific acoustic design aspects of a particular site.

In most circumstances it is likely that adopting the SPD guidance, in particular following a good acoustic design process and producing an accompanying noise report including an Acoustic Design Statement, should reduce delays and reduce the need for noise conditions.

4.3 C- REFUSAL OF NEW RESIDENTIAL DEVELOPMENT ON NOISE GROUNDS-AVOID

Unless there are overwhelming reasons to the contrary, the Boroughs will recommend that a new housing development or new noise generating proposal should be refused on noise grounds if:

- *There is a failure to follow a good acoustic design process OR*
- *There is a failure to observe SPD internal LAeq noise guidelines (i.e. failure to achieve internal noise levels); OR*
- *There is an unacceptable "external amenity area noise assessment"*

4.4 D- REFUSAL OF NEW RESIDENTIAL DEVELOPMENT ON NOISE GROUNDS-REFUSE

In the particular circumstances where high noise levels or otherwise unacceptable acoustic conditions remain despite following a good acoustic design process, then the proposed NSD or NGD should be prevented on noise grounds, notwithstanding any case for the development to proceed in the context of Government policy on sustainable development, if:

- *There is a failure to observe SPD internal LAeq noise guidelines by $\geq +5$ dB (i.e. "unreasonable" internal noise levels) AND either there is an unacceptable "external amenity area noise assessment" or an unacceptable "assessment of other relevant issues"; OR*

There is a failure to observe SPD internal LAeq noise guidelines by $\geq +10$ dB (i.e. "unacceptable" internal noise levels)."

Emerging West of the Borough Local Plan

- 4.19 The West of the Borough Local Plan went out to consultation for the Preferred Options stage in October 2017, this sets out the future vision and policies for West Hounslow. This forms part of a wider Local Plan review to replace the existing Local Plan by early 2020. As it is at an early stage with no definitive future policies, the draft document has not been considered in this appeal submission.

5. APPELLANT'S CASE

- 5.1 The Appellant argues that this proposal is acceptable in planning terms and that this appeal should be allowed, and planning permission granted for the proposal, subject to additional conditions relating to recommended mitigation measures, as discussed in detail below.
- 5.2 The Application (submitted 15th February 2018) seeks to vary condition 3 (Trading Hours) of planning permission 00707/558/P2 to allow trading during 09.00 - 05.00 daily. The LPA amended the application's description to include the variation of condition 4 (Air Conditioning Hours) of planning permission 00707/558/P11 to allow use of air conditioning equipment during the proposed extended hours of operation (09.00 hours to 05.00 hours daily).
- 5.3 Condition 3 (trading hours) of planning permission reference 00707/558/P2 was imposed to protect the amenity of nearby residents. Condition 4 (Air conditioning) of 00707/558/P11 was also imposed to protect the amenity of nearby residents.
- 5.4 Procedurally, permission could be granted for this proposal varying condition 3 of planning permission 00707/558/P2, and imposing additional conditions, including a condition restricting the operation of air conditioning equipment to the same hours as proposed as part of this appeal.
- 5.5 The reason for refusal of the Application, the subject of this appeal, is as follows:
- "The proposed opening hours of the hot food takeaway are likely to result in increased noise and disturbance affecting nearby residents during the night. This would harm living conditions. The application therefore conflicts with Local Plan policies CC2 (Urban design and architecture), TC5 (Managing neighbourhood centres and isolated local shops) and EQ5 (Noise)."***
- 5.6 This reason for refusal is relatively broad in nature and therefore it is necessary to seek the specific allegations within this reason for refusal.
- 5.7 As noted previously in this Statement, no comments or evidence was received from the LPA's Environmental Health team nor the Police. The LPA have not provided any detailed evidence to justify its reason for refusal and dispute the findings of the Noise Assessment submitted as part of the Application.

- 5.8 As such, the Delegated Report (see **Appendix 5**) provides the sole justification for the LPA's reason for refusal. The Delegated Report states that:

"Notwithstanding the findings of Noise Report submitted, the operation as a takeaway fast food outlet with delivery service until 5 am each day would increase activity at the site during the night. The proposal is likely to result in customers being attracted to and talking in and around the site at late hours with residents directly above the business. The starting of mopeds by delivery drivers so close to dwellings is also likely to cause disturbance. This is not a normal facet of the noise environment in a small neighbourhood centre (even on a busy through route)".

- 5.9 The objection above relating to the noise impact from customer comings and goings during the extended opening hours was reiterated during further correspondence with the LPA following the refusal of the Application (contained at **Appendix 7**) in which the Case officer of the Application stated *"it is hard to see how disturbance issues related to customers visiting the site late at night can be overcome"*, suggesting that the comings and goings of customers during the proposed extended hours is the primary concern of the LPA and that if customers could be prevented from visiting the site during the extended hours then this would satisfy the LPA's concern in this regard.

- 5.10 The Delegated Report also states that:

"Vibration caused by the operational equipment may affect the flats above. This continuing overnight would be harmful to residents' quality of life".

- 5.11 It is therefore considered that the part of the reason for refusal relating to the alleged noise impact of the proposal, specifically relates to activity from customer comings and goings during the extended opening hours, and also from the starting of mopeds by delivery drivers.

- 5.12 It is also considered that impact from vibration is also another specific allegation of the reason for refusal.

- 5.13 No other issues have been raised by the LPA or any statutory consultees. With consideration to additional comments from local residents during the application process, the proposal would have a negligible impact in transport terms due to the nature of the proposal and location on London Road, and my virtue of the proposed restriction of walk-in sales and customer collections (i.e. deliveries only) during the

extended hours, the proposal would not result in additional people congregating at the site and would not result in an increase in anti-social behaviour.

Noise Impact of the Proposal

- 5.14 As already noted, a Noise Assessment accompanied the Application, which assessed the noise and disturbance issues related to proposed extension of opening hours. The Noise Assessment provided an assessment of potential noise impact from plant equipment and delivery activity. The report recommended atmospheric side silencers on the air conditioning and extraction fans to meet plant noise limits. This included providing *"anti-vibration mechanisms and flexible connections to rigid ductwork to minimise structural borne sound transmission"* as well as environmental enclosures on the rear roof around the condensers of the unit. The report found that the proposed delivery operations relating to the extension of hours will have a negligible impact on the noise climate at existing noise sensitive receptors, given that London Road already maintains traffic throughout the night, including large HGVs, and therefore the comparatively small addition of delivery vehicles would not have any significant influence on the ambient noise climate. The report concluded that on implementing the specified mitigation measures recommended in the report, which could be covered by suitably worded planning conditions, the *"proposed extension of opening hours is not expected to have a detrimental effect on the amenity of the existing receptors in terms of noise"*.
- 5.15 Despite the conclusions of the Noise Assessment, and despite no detailed comments or evidence being put forward to dispute the finding of the Noise Assessment by the LPA, with no comments received from either the LPA's Environmental Health team nor the Police, the Council proceeded to refuse the Application on the grounds of noise and disturbance.
- 5.16 The Delegated Report (see **Appendix 5**) states that:
- "Notwithstanding the findings of Noise Report submitted, the operation as a takeaway fast food outlet with delivery service until 5 am each day would increase activity at the site during the night. The proposal is likely to result in customers being attracted to and talking in and around the site at late hours with residents directly above the business. The starting of mopeds by delivery drivers so close to dwellings is also likely to cause disturbance. This is not a normal facet of the noise environment in a small neighbourhood centre (even on a busy through route)".*

- 5.17 The LPA's objection relating to noise impact from customer comings and goings during the extended opening hours was reiterated during further correspondence with the LPA following the refusal of the Application (contained at **Appendix 7**) in which the Case Officer of the Application stated "*it is hard to see how disturbance issues related to customers visiting the site late at night can be overcome*"; suggesting that the comings and goings of customers during the proposed extended hours is the primary concern of the LPA and that if customers could be prevented from visiting the site during the extended hours then this would satisfy the LPA's concern in this regard.
- 5.18 In response to these concerns, the Appellant intends to prevent walk-in sales during the proposed extended trading hours (between 2230 and 0500 hours Monday to Saturday, and between 2200 and 0500 hours Sundays and Bank Holidays), with deliveries only during these hours of operation. The Appellant currently uses electric vehicles for undertaking deliveries and it is intended that only electric vehicles will be used during the extended trading hours sought through this proposal (between 2230 and 0500 hours Monday to Saturday, and between 2200 and 0500 hours Sundays and Bank Holidays), which generate considerably less noise impact compared to 'standard' internal combustion engine vehicles (as demonstrated in the Review of Potential Noise Impact report contained at **Appendix 6**). Additional conditions could be imposed on a new planning permission in order to ensure that these intended measures are imposed and controlled to ensure the amenity of neighbouring residents is safeguarded and noise is reduced to an absolute minimum.
- 5.19 In light of these measures relating to walk-in sales and the use of electric vehicles, and in response to the LPA's reason for refusal relating to noise and disturbance, a Review of Potential Noise Impact has been produced and is contained at **Appendix 6** to provide an additional, independent view on the results of the initial noise assessment. The report provides further demonstration that the appeal proposal would not result in harm to the living conditions of neighbouring residents, subject to recommended mitigation set out in Review of Potential Noise Impact, including the measures noted above. The report agrees with the findings of the Noise Assessment submitted with the Application in that the proposals will significantly reduce noise and vibration arising from plant and equipment in line with the local authority's requirements, and in line with Policy EQ5 of the adopted Local Plan. It then goes on to provide further recommendations in relation to controlling activities from customer walk-in sales and in relation to delivery activity.

5.20 The Review of Potential Noise Impact report concludes that;

"It has been established that the proposed extension of trading hours, subject to the recommendations highlighted in this report, which can be covered by suitably worded planning conditions, will not harm the living conditions of nearby residents as a result of noise and disturbance".

5.21 For clarification, the report recommends the following measures that could be covered by suitably worded conditions:

1. *"Before first use, a Noise Management Plan to submitted and approved by the local planning authority. The requirements of the plan shall be adhered to thereafter"*
2. *"No customer collections shall take place after 22:30 Monday to Saturday and after 22:00 on Sundays and Bank Holidays"*
3. *"For deliveries, the applicant must only use electric powered vehicles between the hours of 22:30 and 05:00 Monday to Saturday and between 22:00 and 05:00 Sundays and Bank Holidays"*
4. *"Noise from all plant and equipment shall not exceed a value of 28 dB LAeq as assessed at the rear first floor façade of the property"*
5. *"Vibration arising from all plant should be controlled to a level associated with a low probability of adverse comment when assessed using BS 6472-1: 2008) as assessed within adjoining residential properties"*

5.22 These recommended mitigation measures would appropriately meet the requirements of Policy EQ2 of the adopted Local Plan, Policy 7.15 of the London Plan and Paragraph 180 of the NPPF; by minimising noise disturbance through the use of appropriate insulation and operational mitigation measures.

5.23 It is therefore considered that conditions covering these recommendations would satisfy the LPA's specific allegations relating to noise impact from activity from customer comings and goings during the extended opening hours, and also from the starting of mopeds by delivery drivers.

5.24 With these primary concerns relating to noise impact being able to be satisfied and controlled via additional conditions to a new permission, and with two separate professional noise consultants concluding that the proposal would not harm the

living conditions of neighbouring residents, the Appellant strongly refutes this element of the reason for refusal.

- 5.25 It is contended that the LPA's approach to the Application fell short of the obligation on local planning authorities to work with applicants in a positive and proactive manner based on seeking solutions to problems arising in relation to planning applications. Paragraph 54 is clear that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions (or planning obligations), and given the nature of the allegations relating to noise impact in this instance, it is considered that the LPA has failed to meet this requirement and the LPA's concerns could have easily and satisfactorily been addressed by suitably worded planning conditions, as recommended above.

Vibration Impact of the Proposal

- 5.26 As noted, the Delegated Report contained at **Appendix 5** states that "*Vibration caused by the operational equipment may affect the flats above. This continuing overnight would be harmful to residents' quality of life*". It is also considered that impact from vibration is also another specific allegation of the reason for refusal of the Application.
- 5.27 The Noise Assessment submitted with the Application sets out mitigation measures for the plant and equipment as noted at Section 5.3 of the report. These measures have been supported by the Review of Potential Noise Impact contained at **Appendix 6**. These measures would control both noise impact and vibration impact with anti-vibration mechanisms recommended. In line with these mitigation measures that would be implemented as part of this proposal, the Review of Potential Noise Impact suggests the following condition in order to safeguard the amenity of neighbouring residents in relation to vibration:

"Vibration arising from all plant should be controlled to a level associated with a low probability of adverse comment when assessed using BS 6472-1: 2008) as assessed within adjoining residential properties"

- 5.28 With this condition imposed, and measures implemented in line with Section 5.3 of the Noise Assessment by Cole Jarman, it is considered that the proposal would not harm the living conditions of neighbouring residents as a result of vibration impact.

- 5.29 In a similar vein to the above rebuttal in relation to the LPA's contentions relating to noise impact of the proposal, it is considered that the LPA's approach to the Application fell short of the obligation on local planning authorities to work with applicants in a positive and proactive manner based on seeking solutions to problems arising in relation to planning applications. Paragraph 54 is clear that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions (or planning obligations), and given the nature of the allegations relating to vibration impact in this instance, it is considered that the LPA has failed to meet this requirement and the LPA's concerns could easily and satisfactorily addressed by suitably worded planning condition, as recommended above.

Sustainable Development

- 5.30 The Application was submitted in order to extend the opening times of the appeal premises as discussed above. The proposal would increase the viability of the business and contribute to the existing night-time economy in the area. As such, the proposal would enhance the vitality and viability of the area. This would accord with Policy 2.7 of the London Plan.
- 5.31 Social and economic benefits would arise from the proposal through increased employment and creation of jobs, and the establishment of an active frontage at night providing further natural surveillance for the area and reducing the fear of crime through the proposed controlled activity at the site.
- 5.32 The environmental impact of the proposal is discussed above, and it is concluded that the proposal will not have an adverse impact on the living conditions of neighbouring residents, subject to the recommended mitigation measures and associated conditions discussed above.
- 5.33 In relation to noise, the National Planning Practice Guidance (PPG) states that neither the Noise Policy Statement for England nor the National Planning Policy Framework expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. It also notes that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected, and correspondingly depends on how various factors combine in any particular situation.

- 5.34 In this regard, the proposal would result in clear benefits to the area, and it has been demonstrated that the proposal would not harm the amenity of neighbouring residents in accordance with policies EQ5, CC2 and TC5 of the adopted Local Plan, relating to noise and amenity, policies 2.7 and 7.15 of the London Plan, and with relevant material considerations including the NPPF, NPPG and the Development Control for Noise Generating and Noise Sensitive Development SPD.
- 5.35 It is considered that the condition in question (condition 3 of planning permission 00707/558/P2) is neither reasonable nor necessary to safeguard the living conditions of neighbouring residents, with regard to Paragraph 55 of the NPPF, and there would not be conflict with the Development Plan or national planning policy if the condition was amended as proposed, subject to conditions being imposed in relation to mitigation measures set out above and in the accompanying Review of Potential Noise Impact contained at **Appendix 6**.
- 5.36 The LPA have chosen to also include the variation of another condition attached to a separate planning permission (condition 4 of Planning Permission 00707/558/P11) within the Application's description. Procedurally, permission could be granted for this proposal varying condition 3 of planning permission 00707/558/P2, and imposing additional conditions, including a condition restricting the operation of air conditioning equipment to the same hours as proposed as part of this appeal, in addition to those suggested above. The mitigation measures proposed relating to the control of plant and equipment would ensure that this would not adversely affect the amenity of neighbouring residents.

6. CONCLUSION

- 6.1 This appeal relates to the refusal of application reference 00707/558/P13 and seeks the variation of condition no. 3 (trading hours) of planning permission 00707/558/P2 to allow trading hours of 0900 hours to 0500 hours daily.
- 6.2 This Statement demonstrates that contrary to the LPA's reason for refusal, the proposal would not result in harm to the living conditions of neighbouring residents, as a result of increased noise and disturbance.
- 6.3 Notably, during the application process the LPA have not contemplated or been willing to discuss the use of planning conditions in order to satisfy specific concerns with the proposal and to make the proposal acceptable, in line with Paragraph 54 of the NPPF. The Appellant strongly argues that conditions could be imposed in this instance which satisfy the LPA's concerns and ensure that the development can be acceptable in planning terms. In line with recommendations contained within the Review of Potential Noise Impact contained at **Appendix 6** and the Noise Assessment submitted with the Application, the Appellant argues that suitably worded conditions could be imposed on a new planning permission extending opening times to 0900 hours to 0500 hours daily, in relation to the following:
- Restricting the operation of air conditioning equipment to 0900 hours to 0500 hours daily;
 - Before first use, a Noise Management Plan should be submitted to and approved by the local planning authority. The requirements of the plan shall be adhered to thereafter;
 - Preventing walk-in counter sales and customer collections between 2230 hours and 0500 hours Monday to Saturday and 2200 hours and 0500 hours on Sundays and Bank Holidays;
 - Ensuring electric vehicles are the only form of motor vehicle used for the purpose of deliveries between 2230 hours and 0500 hours Monday to Saturday and 2200 hours and 0500 hours on Sundays and Bank Holidays;
 - Ensuring that noise from all plant and equipment shall not exceed a value of 28 dB LAeq as assessed at the rear first floor façade of the property; and

- Ensuring vibration arising from all plant should be controlled to a level associated with a low probability of adverse comment when assessed using BS 6472-1: 2008 as assessed within adjoining residential properties.

- 6.4 The current wording of condition no. 3 (trading hours) of planning permission 00707/558/P2 has been shown to be unreasonable and unnecessary, and therefore the proposed variation is requested.
- 6.5 The proposal would accord with the Development Plan and represent the achievement of sustainable development in line with the NPPF.
- 6.6 It is therefore respectfully requested that the appeal be allowed.
- 6.7 The Appellant reserves the right to make further submissions in response to the LPA's Statement of Case and to amend, change, alter, add to or remove any elements set out in this Statement of Case to respond to the publication of documents, figures and policy etc. that become relevant subsequently to the submission of this Statement.

APPENDIX 1

The Schedule referred to overleaf

Rights of Applicants Aggrieved by Decision of Local Planning Authority

If the applicant is aggrieved by the decision of the local planning authority to refuse permission for approval for the proposed development or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with section 78 of the Town and Country Planning Act 1990 within six months of receipt of this notice.

(Appeals must be made on a form which is obtainable from the Secretary of State for the Environment). * The Secretary of State has power to allow a longer period for the giving of notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements to the provisions of the development order and to any directions given under the order.

- 2 If permission to develop land is refused or granted subject to conditions whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Common Council or on the Council of the county borough London borough or county district in which the land is situated as the case may be a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- 3 In certain circumstances a claim may be made against the local planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Part V of the Town and Country Planning Act 1990.

* Present address

Tollgate House, Houlton Street, Bristol BS2 9DJ

Provisions for disabled persons

The applicant's attention is drawn to the following informative if appropriate to the development hereby approved:

Disabled Persons Act 1981

In accordance with section 70A of the Town and Country Planning Act 1990 attention is drawn to the relevant provisions of the Chronically Sick and Disabled Persons Act 1970 (i.e. sections 4 and 7 and/or 7 and 8a) and the Code of Practice for Access for the Disabled to Buildings (i.e. British Standard No.5810 of 1979).

The Civic Centre Lampton Road
Hounslow TW3 4DN
Telephone 0181-570 7728

Town and Country Planning Act 1990

707/558/P4

To Richard Unwin
of 10 Green Fold Abbey
HEY
Manchester M18 8RJ

Whereas in accordance with the provisions of the Town and Country Planning Act 1990 and the orders in force thereunder you have made application dated 12 March 1995 and illustrated by plans for the permission of the Local Planning Authority to develop land situated at 558 London Road, Isleworth, Middlesex (reference to the application is made in the notice served on you on 12 March 1995);

by Variation of condition No. 3 (trading hours) of approved permission 707/558/P2 dated 29/5/84 to allow trading 09.00 - 22.30 Monday and Saturday and 09.00 - 22.00 Sundays and Bank Holidays in accordance with the Applicant's letter dated 12/5/95;

we therefore we The Mayor and Burgesses of the London Borough of Hounslow acting by the Council of the said Borough hereby give you notice pursuant to the said Act and the Orders in force thereunder that permission to develop the said land in accordance with the said application is hereby granted.

Dated this 23 May 1995

Signature

Director of Planning and Transport

* Notes:

Attention is particularly drawn to the Schedule to this Notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.

- (ii) This decision does not purport to convey any approval or consent which may be required under the Building Regulations, 1991 any bye-laws or under any enactment other than the Town and Country Planning Act 1990. The Building Regulations 1991 apply to "building work" where it is necessary to submit separate full plans or a building notice before any works are commenced. Plans and details should be submitted together with appropriate forms and the relevant fee.

APPENDIX 2

To Mr S.S. Loyal
of 558 London Road, Isleworth, Middlesex

Whereas in accordance with the provisions of the Town and Country Planning Acts 1971 to 1974 and the Orders in force thereunder you have made application dated 19 March 1984 and illustrated by plans for the permission of the Local Planning Authority to develop land situated at 558 London Road, Isleworth

by Use of shop as cafe including 'Take-away' facility.

Now therefore we The Mayor and Burgesses of the London Borough of Hounslow acting by the Council of the said Borough hereby give you notice pursuant to the said Acts and the Orders in force thereunder that permission to develop the said land in accordance with the said application is hereby granted.

Strike out if
unconditional
consent issued.

(a) Subject to the following conditions:—

1. The development hereby permitted must be begun not later than the expiration of five years beginning with the date of this permission.
2. A suitable means of covered enclosure shall be provided for dustbins or other refuse containers in accordance with details to be submitted to and approved by the Local Planning Authority.
3. The cafe and 'take-away' hereby approved shall not be open for business at any time other than between 9am and 10pm on Mondays to Fridays inclusive and from 9am to 3pm on Saturdays.
4. Details of the ventilation equipment to serve the cooking facilities shall be submitted to and approved by the Local Planning Authority before the use commences.

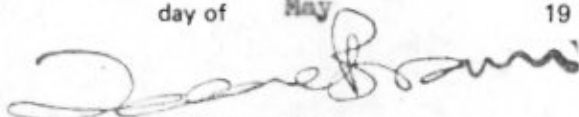
(b) Strike out if
unconditional
consent issued.

(b) The reasons why the conditions are imposed are as follows:—

1. To accord with the provisions of S.41 (1) of the Town and Country Planning Act 1971.
2. To safeguard the amenities of the area.
3. To protect the amenities of nearby residential occupiers.
4. In order that the Local Planning Authority may be satisfied as to the arrangements for preventing loss of amenity to neighbouring premises from smell of cooking.

Dated this 29th day of May 19 84

Signature



Head of Chief Executive's Office

Notes:

- (i) Attention is particularly drawn to the Schedule to this Notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
- (ii) This decision does not purport to convey any approval or consent which may be required under the Building Regulations, 1972, any bye-laws or under any enactment other than the Town and Country Planning Acts 1971 to 1974.

The Schedule referred to overleaf

Rights of Applicants Aggrieved by Decision of Local Planning Authority

- 1 If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development or to grant permission or approval subject to conditions he may appeal to the Secretary of State for the Environment in accordance with section 36 of the Town and Country Planning Act, 1971 within six months of receipt of this notice.
(Appeals must be made on a form which is obtainable from the Secretary of State for the Environment).^{*} The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements to the provisions of the development order and to any directions given under the order.
- 2 If permission to develop land is refused or granted subject to conditions whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Common Council or on the Council of the county borough London borough or county district in which the land is situated as the case may be a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act, 1971.
- 3 In certain circumstances a claim may be made against the local planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Part VII of the Town and Country Planning Act, 1971.

^{*} Present address

Tollgate House, Houlton Street, Bristol BS2 9DJ

Provisions for disabled persons

The applicant's attention is drawn to the following informative if appropriate to the development hereby approved:

Disabled Persons Act 1981

In accordance with Section 29A of the Town and Country Planning Act 1971 attention is drawn to the relevant provisions of the Chronically Sick and Disabled Persons Act 1970 (i.e. Sections 4 and 7 and/or 7 and 8a) and the Code of Practice for Access for the Disabled to Buildings (i.e. British Standard No.5810 of 1979).

APPENDIX 3



Environment Department
Michael Jordan
Director of Environment
Email: planningcomments@hounslow.gov.uk

Development Control
London Borough of Hounslow
The Civic Centre, Lampton Road
Hounslow TW3 4DN

Domino's Pizza Group Ltd
Mrs Helen Bray
Lasborough Road
Kingston
Milton Keynes
Bucks
MK10 0AB

Reference 00707/558/P11



DECTP2

Town and Country Planning Act 1990

Whereas in accordance with the provisions of the Town and Country Planning Act 1990 and the Orders in force thereunder you have made application dated 26 October 2010 and illustrated by plans for permission to the Local Planning Authority to develop land situated at; **558 London Road Isleworth London TW7 4EP**

By: Installation of an air conditioning condensor unit to the rear roof of the premises.

Drawing numbers: Plan 28094/EO1/0001 and 28094/PO2. Received: 27/10/10.

Plan 28094/PO4 001. Received: 19/11/10, Manufacturers Specification 27/10/10.

Now therefore we The Mayor and Burgesses of the London Borough of Hounslow acting by the Council of the said Borough hereby give you notice pursuant to the said Acts and the Orders in force thereunder that permission to develop the said land in accordance with the said application is hereby Full Planning Permission Approved.

With appropriate safeguarding conditions, it is considered that this application for the installation of an air conditioning unit to the rear of this building would have no adverse impact on neighbours' living conditions and would preserve the character of the Conservation Area. The development is in accordance with the Unitary Development Plan Policies ENV B.1.1 (New Development) and ENV-B.2.2 (Conservation Areas) and the London Plan Policy 3B.11(Improving Employment Opportunities for Londoners).

Subject to the following conditions and reasons.

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**
(Reason. To accord with the provisions of Section 92(1) of the Town and Country Planning Act 1990.)
- 2. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.**
(Reason. In order to safeguard the visual amenity of the area and building in particular and to satisfy the requirements of policies ENV B.1.1 (New Development) and H.6.4 (Extensions and alterations)

3. The proposed development shall be carried out in all respects in accordance with the proposals contained in the application and the plans submitted therewith Plan 28094/EO1/0001 and 28094/PO2 received: 27/10/10, plan 28094/PO4 001 received: 19/11/10 and Manufacturers Specification received 27/10/10 and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority before the building is used.

(Reason. To ensure the development is carried out in accordance with the planning permission)

4. The air conditioning shall not be in operation between the hours of 11pm-7am.

(Reason: In the interests of neighbours' living condition in accordance with Policy ENV-P1.5)

5. The noise level generated by the air conditioning unit shall not exceed the levels define din the supporting manufacturers specification.

(Reason. In the interests of neighbours' living condition in accordance with Policy ENV-P1.5)

Dated 22 December 2010



C Gallagher

Assistant Director - Environment Department Regulatory & Development Services

Notes and Schedule Follow



Notes:

- (i) Attention is particularly drawn to the Schedule to this Notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
- (ii) This decision does not purport to convey any approval or consent which may be required under the Building Regulations, 1991 any bye-laws or under any enactment other than the Town and Country Planning Act 1990. The Building Regulations 1991 apply to "building work" where it is necessary to submit separate full plans or a building notice before any works are commenced. Plans and details should be submitted together with appropriate forms and the relevant fee.

The Schedule referred to overleaf

Rights of Applicants Aggrieved by Decision of Local Planning Authority

- 1 If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development or to grant permission or approval subject to conditions he may appeal to the Secretary of State for the Environment in accordance with section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice.

(Appeals must be made on a form which is obtainable from the Secretary of State for the Environment).* The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements to the provisions of the development order and to any directions given under the order.

- 2 If permission to develop land is refused or granted subject to conditions whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Common Council or on the Council of the county borough London borough or county district in which the land is situated as the case may be a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- 3 In certain circumstances a claim may be made against the local planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Part IV of the Town and Country Planning Act 1990.

* Present address: The Planning Inspectorate, Room 3/01 (Customer Support/Scanning Team), Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN

Provisions for disabled persons

The applicant's attention is drawn to the following informative if appropriate to the development hereby approved:

Disabled Persons Act 1981

In accordance with section 70A of the Town and Country Planning Act 1990 attention is drawn to the relevant provisions of the Chronically Sick and Disabled Persons Act 1970 (i.e. sections 4 and 7 and/or 7 and 8a) and the Code of Practice for Access for the Disabled to Buildings (i.e. British Standard No.5810 of 1979).

APPENDIX 4



DPP Planning,
Osian Roberts
Sophia House
28 Cathedral Road
Cardiff
CF11 9LJ

Reference

00707/558/P13

R

DECTP3

Town and Country Planning Act 1990

Whereas in accordance with the provisions of the Town and Country Planning Act 1990 and the Orders in force thereunder you have made application dated 30 January 2018 and illustrated by plans for the permission of the Local Planning Authority to develop land situated at: **558 LONDON ROAD ISLEWORTH TW7 4EP.**

Proposal: Variation of Condition 3 (Trading Hours) of planning permission 00707/558/P2 to allow trading during 09.00 - 05.00 daily and variation of Condition 4 (Air Conditioning Hours) of planning permission 00707/558/P11 to allow use during 09.00 - 05.00 daily. **Drawing Numbers:** Unnumbered Cover Letter, Noise Assessment 17/0118/R1. Received 30/01/2018.

Now therefore we The Mayor and Burgesses of the London Borough of Hounslow acting by the Council of the said Borough hereby give you notice pursuant to the said Act and the Orders in force thereunder that permission to develop the said land in accordance with the said application **is hereby Refused Planning Permission.**

The reasons why permission is **refused** are as follows:

The proposed opening hours of the hot food takeaway are likely to result in increased noise and disturbance affecting nearby residents during the night. This would harm living conditions. The application therefore conflicts with Local Plan policies CC2 (Urban design and architecture), TC5 (Managing neighbourhood centres and isolated local shops) and EQ5 (Noise).

Informative:

1. We collect the Mayor of London's Community Infrastructure Levy (CIL) at the rate of £35 per sq.m of new floor space. Hounslow's Community Infrastructure Levy (CIL) came into force on the 24th July 2015. For details of the rates please refer to our web page:

http://www.hounslow.gov.uk/community_infrastructure_levy_preliminary_draft_charging_schedule_march_2013.pdf

Your development may be liable to pay the Community Infrastructure Levy. For more information on the Community Infrastructure Levy please look at the planning portal web page. Link:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

If you do not receive a liability notice but like confirmation that you are not CIL liable please email:

planningcil@hounslow.gov.uk

2. To assist applicants, the London Borough of Hounslow has produced planning policies and written guidance, which are available on the Council's website. The Council also offers a pre-application advice service. In this case, the scheme does not comply with guidance and no pre application discussions were entered into. The Council is ready to enter into discussions with the applicants to assist in the preparation of a new planning application if necessary. The decision was made in a timely manner and clear reasons for refusal were given to assist in any prospective future development of the site.

Your attention is particularly drawn to the Schedule to this Notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.

Dated 03 September 2018

JG

Marilyn Smith
Chief Planning Officer

The Schedule referred to overleaf

Rights of Applicants Aggrieved by Decision of Local Planning Authority

- 1 If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development or to grant permission or approval subject to conditions he may appeal to the Secretary of State for the Environment in accordance with section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice.

(Appeals must be made on a form which is obtainable from the Secretary of State for the Environment).* The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them having regard to the statutory requirements to the provisions of the development order and to any directions given under the order.

- 2 If permission to develop land is refused or granted subject to conditions whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Common Council or on the Council of the county borough London borough or county district in which the land is situated as the case may be a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- 3 In certain circumstances a claim may be made against the local planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Part IV of the Town and Country Planning Act 1990.

- * Present address: The Planning Inspectorate, Room 3/01 (Customer Support/Scanning Team), Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN

Provisions for disabled persons

The applicant's attention is drawn to the following informative if appropriate to the development hereby approved:

Disabled Persons Act 1981

In accordance with section 70A of the Town and Country Planning Act 1990 attention is drawn to the relevant provisions of the Chronically Sick and Disabled Persons Act 1970 (i.e. sections 4 and 7 and/or 7 and 8a) and the Code of Practice for Access for the Disabled to Buildings (i.e. British Standard No.5810 of 1979).

KWN

APPENDIX 5

References: P/2018/0741 00707/558/P13

Address: 558 London Road, Isleworth, TW7 4EP

Proposal: Variation of condition 3 (trading hours) of planning permission 00707/558/P2 to allow trading during 09.00 - 05.00 daily and variation of condition 4 (air conditioning hours) of planning permission 00707/558/P11 to allow use during 09.00 - 05.00 daily

Drawing numbers: Unnumbered Cover Letter, Noise Assessment 17/0118/R1.
Received 30/01/2018

Application received: 30/01/2018

1.0 SITE DESCRIPTION



- 1.1 558 London Road is a mid-terrace three storey building. The ground floor is used as a pizza takeaway with two flats on the upper floors. The adjoining neighbours are of a similar mixed use. The site is within the Spring Grove Conservation Area. 15 and 15a Pembroke Place back onto the applicant site.

Relevant history

- 2.1 **00707/558/P1** Erection of extension to shop
Granted 12/2/53
- 2.2 **00707/558/P2** Use of shop as café
Granted 29/5/84
- 2.3 **00707/558/P3** Use of ground floor as amusement arcade
Refused 5/10/87

- | | | |
|------|----------------------|---|
| 2.4 | 00707/558/P4 | Variation of condition (trading hours).

Granted 23/5/95 |
| 2.5 | 00707/558/P5 | Change of use from first floor maisonette to two one-bedroom flats

Granted 1/8/95 |
| 2.6 | 00707/558/P6 | Erection of shop front

Granted 12/9/96 |
| 2.7 | 00707/558/P7 | Installation of duct to premises

Granted 12/9/96 |
| 2.8 | 00707/558/P8 | Removal of condition 4 (disabled access)

Refused 6/2/97 |
| 2.9 | 00707/558/P9 | Use of first floor extension as offices to warehouse.

Granted 5/9/2002 |
| 2.10 | 00707/558/P10 | Erection of first floor extension to create a one bedroom self-contained unit above warehouse.

Granted 4/5/2004 |
| 2.11 | 00707/558/P11 | Installation of an air conditioning condenser unit to the rear of the premises

Granted 3/2/2011 |

2.0 DETAILS

- 2.1 The proposal seeks to vary condition 3 of permission 00707/558/P2 and condition 4 of permission 00707/558/P11 by changing the opening hours.
- 2.2 The original wording of condition 3 of 00707/558/P2 is as follows:
- 'The café and 'takeaway' hereby approved shall not be open for business at any time other than between 9am and 10pm on Mondays to Fridays inclusive and from 9am to 3pm on Saturdays.*
- Reason: To protect the amenities of nearby residential occupiers'*
- 2.3 Approved application 00707/558/P4 amended the opening hours to between 09.00 and 22:30 Monday to Saturday and 09:00 to 22:00 Sundays and Bank Holidays.

- 2.4 The original wording of condition 4 of 00707/558/P11 is as follows:

'The air conditioning shall not be in operation between the hours of 11pm-7am.

Reason: In the interests of neighbours' living condition in accordance with Policy ENV-P1.5'

- 2.5 The proposed opening hours would be:

09.00 – 05.00 Daily

3.0 CONSULTATIONS

- 3.1 Fifty-three neighbouring residents were notified on 08/05/2018. Four neighbours sent letters of objection and a petition against the scheme was submitted with twelve signatures. The Osterley and Wyke Green Residents Association also objected. The content of objections is summarised below:

Comment	Response
The fans and machinery are extremely noisy and create vibration	See section 5.0
Delivery scooters take up car parking spaces and park on the pavement	See section 5.0
Noisy conversations outside shop at late hours	See section 5.0
The noise from the shop would be intolerable if it were to continue all night	See section 5.0
Residential area which is unsuitable for almost 24 hour opening time	See section 5.0
Delivery activity occurs from the rear of the site creating noise and disturbance to nearby residents	See section 5.0

- 3.2 **Osterley and Wyke Green Residents Association:**

Comment	Response
Local residents are already affected by customers, staff and delivery companies using London Road and Pembroke Place for that branch and extending the hours would mean their peace is disturbed even more with anti-social behaviour and crime in the early hours.	See section 5.0

- 3.3 The application was placed on the Pending Decisions List dated June 2018 (Week 26) for refusal and there was no request for the application to be considered by committee.

4.0 POLICY

Determining applications for full or outline planning permission

- 4.1 The determination must be made in accordance with the development plan unless material considerations indicate otherwise. Local finance considerations must also be assessed.

The National Planning Policy Framework

- 4.2 The National Planning Policy Framework (NPPF) was first published on 27 March 2012 and the revised version was published on 24 July 2018, and from April 2014 National Planning Practice Guidance (NPPG) in the form of an online guidance resource to support the NPPF came into effect. The Local Planning Authority (LPA) considers that, where pertinent, the NPPF and NPPG are material considerations and as such, will be taken into account in decision-making as appropriate.

The Development Plan

- 4.3 The Development Plan for the Borough comprises the Council's Local Plan (adopted by the Council on 15 September 2015), the West London Waste Plan and the London Plan Consolidated with Alterations since 2011.
- 4.4 The Local Plan documents can be viewed on the Planning Policy pages of the Hounslow website.

5.0 PLANNING ISSUES

Is the proposal acceptable?

- 5.1 The applicant has submitted a Noise Report in support of their application for increased opening hours. The document concludes that with mitigation measures including silencers and acoustic enclosures for plant equipment the proposal would accord with the Local Plan. The report also states that the extra deliveries would have a 'negligible impact on the noise climate' in an 'already noisy environment'.
- 5.2 Local Plan Policy EQ5 seeks to reduce the impact of noise generating uses on other surrounding uses such as housing. 558 London Road is in a sensitive location as there are dwellings directly above the ground floor unit subject to this application and others of Pembroke Place backing onto the site.
- 5.3 Policy TC5 is concerned with managing neighbourhood centres and isolated local shops. Part of this policy requires the consideration of the amenity of local residents and makes specific reference to hot-food takeaways. Although the use is established in this case it has not been operational overnight which raises new amenity considerations.
- 5.4 Notwithstanding the findings of Noise Report submitted, the operation as a takeaway fast food outlet with delivery service until 5 am each day would increase activity at the site during the night. The proposal is likely to result in customers being attracted to and talking in and around the site at late hours with residents

directly above the business. The starting of mopeds by delivery drivers so close to dwellings is also likely to cause disturbance. This is not a normal facet of the noise environment in a small neighbourhood centre (even on a busy through route)

- 5.5 Vibration caused by the operational equipment may affect the flats above. This continuing overnight would be harmful to residents' quality of life.
- 5.6 In summary it is considered that the extended opening hours as proposed would be excessive for the location and likely to cause disturbance to nearby residents during the late evening and early hours of the morning, harming living conditions.

6.0 EQUALITIES DUTIES IMPLICATIONS

- 6.1 The Council has to have due regard to its Equalities Duties and in particular with respect to its duties arising pursuant to the Equality Act 2010, section 149. It is considered that there will be no specific implications with regard to the Council's duty in respect of its equalities duties and that if approving or refusing this proposal the Council will be acting in compliance with its duties.

7.0 COMMUNITY INFRASTRUCTURE LEVY

- 7.1 This proposal would not be liable to pay Community Infrastructure Levy.

1.0 RECOMMENDATION: REFUSE (FPREFUSAL)

Reasons:

The proposed opening hours of the hot food takeaway are likely to result in increased noise and disturbance affecting nearby residents during the night. This would harm living conditions. The application therefore conflicts with Local Plan policies CC2 (Urban design and architecture), TC5 (Managing neighbourhood centres and isolated local shops) and EQ5 (Noise).

Informative:

To assist applicants, the London Borough of Hounslow has produced planning policies and written guidance, which are available on the Council's website. The Council also offers a pre-application advice service. In this case, the scheme does not comply with guidance and no pre application discussions were entered into. The Council is ready to enter into discussions with the applicants to assist in the preparation of a new planning application if necessary. The decision was made in a timely manner and clear reasons for refusal were given to assist in any prospective future development of the site.

CONSULTATIONS CHECKED		<input checked="" type="checkbox"/>	
CIL LIABLE	YES	<input type="checkbox"/>	NO <input checked="" type="checkbox"/>
DRAFT LIABILITY NOTICE		<input type="checkbox"/>	LIABILITY NOTICE <input type="checkbox"/>
ADVISE ENFORCEMENT OF DECISION	YES	<input type="checkbox"/>	NO <input checked="" type="checkbox"/>
PENDING LIST – WEEK NUMBER	26		
LANDFILL	YES	<input type="checkbox"/>	NO <input checked="" type="checkbox"/>
AUTHORITY TO ISSUE (Initials)		RPC	

APPENDIX 6



Armstrong House
3 Bassett Avenue
Southampton
SO16 7DP

T: 02381 555000

**DOMINO'S PIZZA
558 LONDON ROAD
ISLEWORTH**

REVIEW OF POTENTIAL NOISE IMPACT

Technical Report: R7864-1 Rev 0

Date: 28th February 2019

For: Delmon Pizza Ltd

24 Acoustics Document Control Sheet

Project Title: Domino's Pizza, 558 London Road, Isleworth: Review Of Potential Noise Impact

Report Ref: R7864-1 Rev 0

Date: 28th February 2019

	Name	Position	Signature	Date
Prepared by	Stephen Gosling BEng MIOA	Principal Consultant		28/02/2019
Approved by	Neil McLeod BA Hons MIOA	Senior Consultant		28/02/2019
For and on behalf of 24 Acoustics Ltd				

Document Status and Approval Schedule

Revision	Description	Prepared By	Approved By
0	Approved for issue	Stephen Gosling	Neil McLeod

DISCLAIMER

This report was completed by 24 Acoustics Ltd on the basis of a defined programme of work and terms and conditions agreed with the Client. The report has been prepared with all reasonable skill, care and diligence within the terms of the Contract with the Client and taking into account the project objectives, the agreed scope of works, prevailing site conditions and the degree of manpower and resources allocated to the project.

24 Acoustics Ltd accepts no responsibility whatsoever, following the issue of the report, for any matters arising outside the agreed scope of the works.

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2	Assessment Criteria
3	Environmental Noise Measurements
4	Assessment
5	Conclusions
Figure 1	Site Plan and Measurement Position
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Appendix A	Acoustic Terminology
Appendix B	Measured Noise Levels

1.0 INTRODUCTION

1.1 24 Acoustics has been instructed by Delmon Pizza Ltd to assess the noise implications associated with the proposed extension of trading hours at Domino's Pizza, 558 London Road (A315), Isleworth.

1.2 The current permitted hours are 09:00 to 22:30 Monday to Saturday and 09:00 to 22:00 Sundays and Bank Holidays. The proposed delivery hours are until 05:00 daily. An application for extension of hours was refused by the London Borough of Hounslow in September 2018. The refusal noted:

The proposed opening hours of the hot food takeaway are likely to result in increased noise and disturbance affecting nearby residents during the night. This would harm living conditions. The application therefore conflicts with Local Plan policies CC2 (Urban design and architecture), TC5 (Managing neighbourhood centres and isolated local shops) and EQ5 (Noise).

1.3 A noise assessment report was prepared and submitted with the application by Cole Jarman Associates dated June 2017. Section 5.3 of the report reviewed and highlighted mitigation measures for the plant and equipment. 24 Acoustics has reviewed these proposals and agrees that the proposals will significantly reduce noise and vibration arising from plant and equipment – in line with the local authority's requirements. To ensure an acceptable outcome, it is recommended that the following condition be applied in respect of plant noise:

- a) *Noise from all plant and equipment shall not exceed a value of 28 dB L_{Aeq} as assessed at the rear first floor façade of the property.*
- b) *Vibration arising from all plant should be controlled to a level associated with a low probability of adverse comment when assessed using BS 6472-1: 2008) as assessed within adjoining residential properties.*

1.4 In terms of noise from deliveries, the applicant has since moved to electric powered vehicles which are significantly quieter in use. Accordingly, this noise impact assessment has included:

- Ambient noise monitoring;
- Consideration of the noise generated by the proposed extension of hours.

- 1.5 The proposal is to vary the existing planning conditions (reference 00707/558/P2 and P11) to operate in accordance with the following hours:

Daily 09:00 to 05:00

- 1.6 The nearest residential properties to the premises are located in flats above the premises. The site location and surrounding area are shown in Figure 1.

- 1.7 It is proposed that deliveries only would take place until 05:00 under a managed regime to minimise noise disturbance. A restriction on customer collections during the extended hours would be formally imposed to minimise the risk of noise disturbance. It is recommended that these mitigation measures be controlled by conditions (outline wording below):

- a) Before first use, a noise management plan to submitted and approved by the local planning authority*
- b) No customer collections shall take place after 22:30 Monday to Saturday and 22:00 on Sundays and Bank Holidays*
- c) For deliveries, the applicant must only use electric powered vehicles between the hours of 22:30 and 05:00 Monday to Saturday and between 22:00 and 05:00 Sundays and Bank Holidays.*

- 1.8 An explanation of acoustical terms used in this report is provided in Appendix A.

2.0 ASSESSMENT CRITERIA

National Planning Policy Framework and Noise Policy Statement for England

- 2.1 The National Planning Policy Framework (NPPF), revised in February 2019, states (paragraph 180) in relation to noise that planning policies and decisions should aim to:

- Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- Identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

2.2 The NPPF also refers to the Noise Policy Statement for England (NPSE) which is intended to apply to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise. The NPSE sets out the Government's long-term vision to 'promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development' which is supported by the following aims.

- Avoid significant adverse impacts on health and quality of life;
- Mitigate and minimise adverse impacts on health and quality of life.

2.3 The NPSE defines the concept of a 'significant observed adverse effect level' (SOAEL) as 'the level above which significant adverse effects on health and quality of life occur'. The following guidance is provided within the NPSE:

"It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available."

2.4 In 2014 the Planning Practice Guidance (PPG) was finalised. This is written to support the NPPF with more specific planning guidance. The PPG reflects the NPSE and states that noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. It also states that opportunities should be taken, where practicable, to achieve improvements to the acoustic environment. The PPG states that noise can over-ride other planning concerns but should not be considered in isolation from the other economic, social and environmental dimensions of the proposed development.

2.5 The PPG expands upon the concept of SOAEL (together with Lowest Observable Adverse Effect Level, LOAEL and No Observed Effect Level, NOEL) as introduced in the NPSE and provides a table of noise exposure hierarchy for use in noise impact assessments in the planning system. Table 1 is reproduced from the NPPG and summarises the noise exposure hierarchy, based on the likely average response.

Perception	Examples of Outcomes	Increasing Effect Level	Action
Not noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life	No Observed Adverse Effect	No specific measures required
Lowest Observable Adverse Effect Level (LOAEL)			
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/ or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life	Observed Adverse Effect	Mitigate and reduce to a minimum
Significant Observed Adverse Effect Level (SOAEL)			
Noticeable and disruptive	The noise causes a material change in behaviour and/ or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Noticeable and very disruptive	Extension and regular changes in behaviour and/ or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/ awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory	Unacceptable Adverse Effect	Prevent

Table 1: PPG Noise Exposure Hierarchy.

- 2.6 In general terms, it is considered that a noise impact with an effects level which is lower than SOAEL is acceptable (providing the effect is mitigated to a minimum). There is currently, however, a major discontinuity between the above guidance and objective technical criteria for use in planning noise impact assessments.

Noise Assessment Criteria

- 2.7 There is no government recommended objective method of assessing the potential for noise impact arising from light vehicles associated with a commercial premises. The general approach adopted in this assessment has been to assess the impact of the vehicle noise on the prevailing average ambient L_{eq} and maximum L_{max} noise levels in the area. This approach has been accepted in a number of similar appeal decisions.

3.0 ENVIRONMENTAL NOISE MEASUREMENTS

- 3.1 Ambient noise surveys were undertaken between 20th and 22nd February 2019 to establish the prevailing noise climate at a position representative of the nearest potentially affected properties in London Road (see Figure 1).

- 3.2 Environmental noise levels were measured using the following instrumentation:

Rion Class 1 precision sound level meter	Type NL52
Bruel and Kjaer acoustic calibrator	Type 4231

- 3.3 The noise monitor was configured to measure and store overall A-weighted statistical parameters such as L_{Aeq} and $L_{Amax, f}$ (all measured on fast response). The weather was dry throughout and the windspeed was less than 5 m/s. Measurements were made in accordance with BS 7445: 1991 "Description and measurement of environmental noise Part 2 - Acquisition of data pertinent to land use.
- 3.4 The calibration of the instrumentation was checked before and after the measurements and no variation in signal occurred. Calibration of 24 Acoustics' equipment is traceable to National Standards.
- 3.5 The principal noise source during the survey was vehicles using London Road.

4.0 RESULTS AND ASSESSMENT

Results

- 4.1 The results of the noise survey are summarised below and shown in Figure B1.
- 4.2 The results show that prevailing noise levels in the vicinity are high with typical ambient noise levels in the range 70 to 73 dB L_{Aeq} 1 hour during the hours 07:00 – 19:00. Evening levels (19:00 – 23:00) were in the range 65 to 70 dB L_{Aeq} 1 hour and night-time levels were in the range 60 – 65 dB L_{Aeq} 1 hour. Prevailing maximum noise levels were usually 10 dB greater and were principally controlled by individual events arising from road traffic.
- 4.3 It is understood that the number of deliveries from Domino's Pizza is generally highest on Fridays and Saturdays with approximately 60 deliveries during the period 22:00 to 05:00 and approximately 50% occurring before midnight.

Start of Hour	Moped movements
22:00	7
23:00	16
00:00	16
01:00	4
02:00	8
03:00	9
04:00	1

Assessment

- 4.4 Ambient noise levels remain relatively high between night-time and early morning being in the range 60 – 65 dB L_{Aeq} .
- 4.5 For the purposes of the noise impact assessment, data has been used from 24 Acoustics' in-house database for a slow moving electric vehicle movement. A source noise level of 51 dB L_{Aeq} at 7.5m is typical with a duration of 10 seconds per movement and four movements per single 15 minute period (ie, two in / two out). A comparison between existing ambient levels and calculated levels, taking into account use of the electric vehicles, is shown below in Table 2.

Existing Level	Predicted Level	Resultant Level	Increase
60 dB L_{Aeq} 15 min	38 dB L_{Aeq} 15 min	60 dB L_{Aeq} 15 min	0 dB

Table 2: Resultant External Noise

- 4.6 As can be seen from Table 2, when taking into account the predicted noise level from deliveries, the prevailing ambient noise level of 60 dB L_{Aeq} 15 min would be unaffected.
- 4.7 The internal event noise level at the nearest property would be in the order of 23 dB L_{Aeq} (assuming a 15 dB loss for an open window) which meets the requirements of BS 8233: 2014 and is considered acceptable in the context of the values shown in Table 1.

Maximum Noise Levels

- 4.8 The measured prevailing maximum noise levels during the early morning of 70 to 75 dB $L_{Amax, f}$ already exceed the WHO guidance values (arising from road vehicles). It is therefore important that any new source not cause further exceedances. The predicted maximum noise level externally at the nearest property from an electric vehicle delivery would be 53 dB $L_{Amax, f}$. Levels internally would be lower than 45 dB $L_{Amax, f}$ (WHO 2000 guidance) and therefore acceptable.
- 4.9 It is considered that the small number of night-time movements will be acceptable on the basis that drivers comply with the terms of the Noise Management Plan which requires that they enter and operate their vehicles quietly and considerately.
- 4.10 Accordingly it is considered that the proposed variation would not cause an unacceptable loss in amenity at the nearest residential properties as a result of disturbance from noise.

5.0 CONCLUSIONS

5.1 24 Acoustics has been instructed to review the potential noise impact associated with extended trading hours at Domino's Pizza, 558 London Road, Isleworth.

5.2 A noise assessment report was prepared and submitted with the application by Cole Jarman Associates dated June 2017. Section 5.3 of the report reviewed and highlighted mitigation measures for the plant and equipment. 24 Acoustics has reviewed these proposals and agrees that the proposals will significantly reduce noise arising from plant and equipment – in line with the local authority's requirements. To ensure an acceptable outcome, it is recommended that a the following condition be applied in respect of plant noise:

- a) Noise from all plant and equipment shall not exceed a value of 28 dB L_{Aeq} as assessed at the rear first floor façade of the property.*
- b) Vibration arising from all plant should be controlled to a level associated with a low probability of adverse comment when assessed using BS 6472-1: 2008) as assessed within adjoining residential properties.*

5.3 The proposal is to vary an existing condition to allow deliveries to take place until 05:00 each day, using electric vehicles.


5.4 Accordingly, this review has established the existing noise environment during the night-time and early morning periods. The prevailing noise climate in the area is primarily controlled by road traffic using London Road.

5.5 It is proposed that deliveries only would take place until 05:00 under a managed regime to minimise noise disturbance. A restriction on customer collections after 22:30 hours would be formally imposed to minimise the risk of noise disturbance. It is recommended that these mitigation measures be controlled by conditions (outline wording below):

- a) Before first use, a Noise Management Plan to submitted and approved by the local planning authority. The requirements of the plan shall be adhered to thereafter.*
- b) No customer collections shall take place after 22:30 Monday to Saturday and after 22:00 on Sundays and Bank Holidays.*
- c) For deliveries, the applicant must only use electric powered vehicles between the hours of 22:30 and 05:00 Monday to Saturday and between 22:00 and 05:00 Sundays and Bank Holidays.*

- 5.6 It has been established that the proposed extension of trading hours, subject to the recommendations highlighted in this report, which can be covered by suitably worded planning conditions, will not harm the living conditions of nearby residents as a result of noise and disturbance.



Project: Domino’s Pizza, Isleworth	Title: Site Plan and Measurement Position		
DWG No: Figure 1	Scale: N.T.S.	Rev: A	
Date: 28-02-19	Drawn By: SG	Job No: 7864-1	

APPENDIX A: ACOUSTIC TERMINOLOGY

Noise is defined as unwanted sound. The range of audible sound is from 0 to 140 dB. The frequency response of the ear is usually taken to be around 18 Hz (number of oscillations per second) to 18000 Hz. The ear does not respond equally to different frequencies at the same level. It is more sensitive in the mid-frequency range than the lower and higher frequencies and because of this, the low and high frequency components of a sound are reduced in importance by applying a weighting (filtering) circuit to the noise measuring instrument. The weighting which is most widely used and which correlates best with subjective response to noise is the dBA weighting. This is an internationally accepted standard for noise measurements.

For variable sources, such as traffic, a difference of 3 dBA is just distinguishable. In addition, a doubling of traffic flow will increase the overall noise by 3 dBA. The 'loudness' of a noise is a purely subjective parameter, but it is generally accepted that an increase/ decrease of 10 dBA corresponds to a doubling/ halving in perceived loudness.

External noise levels are rarely steady, but rise and fall according to activities within an area. In attempt to produce a figure that relates this variable noise level to subjective response, a number of noise indices have been developed. These include:

i) The L_{Amax} noise level

This is the maximum noise level recorded over the measurement period.

ii) The L_{Aeq} noise level

This is "equivalent continuous A-weighted sound pressure level, in decibels" and is defined in British Standard BS 7445 as the "value of the A-weighted sound pressure level of a continuous, steady sound that, within a specified time interval, T , has the same mean square sound pressure as a sound under consideration whose level varies with time".

It is a unit commonly used to describe construction noise and noise from industrial premises and is the most suitable unit for the description of other forms of environmental noise. In more straightforward terms, it is a measure of energy within the varying noise.

iii) The L_{A10} noise level

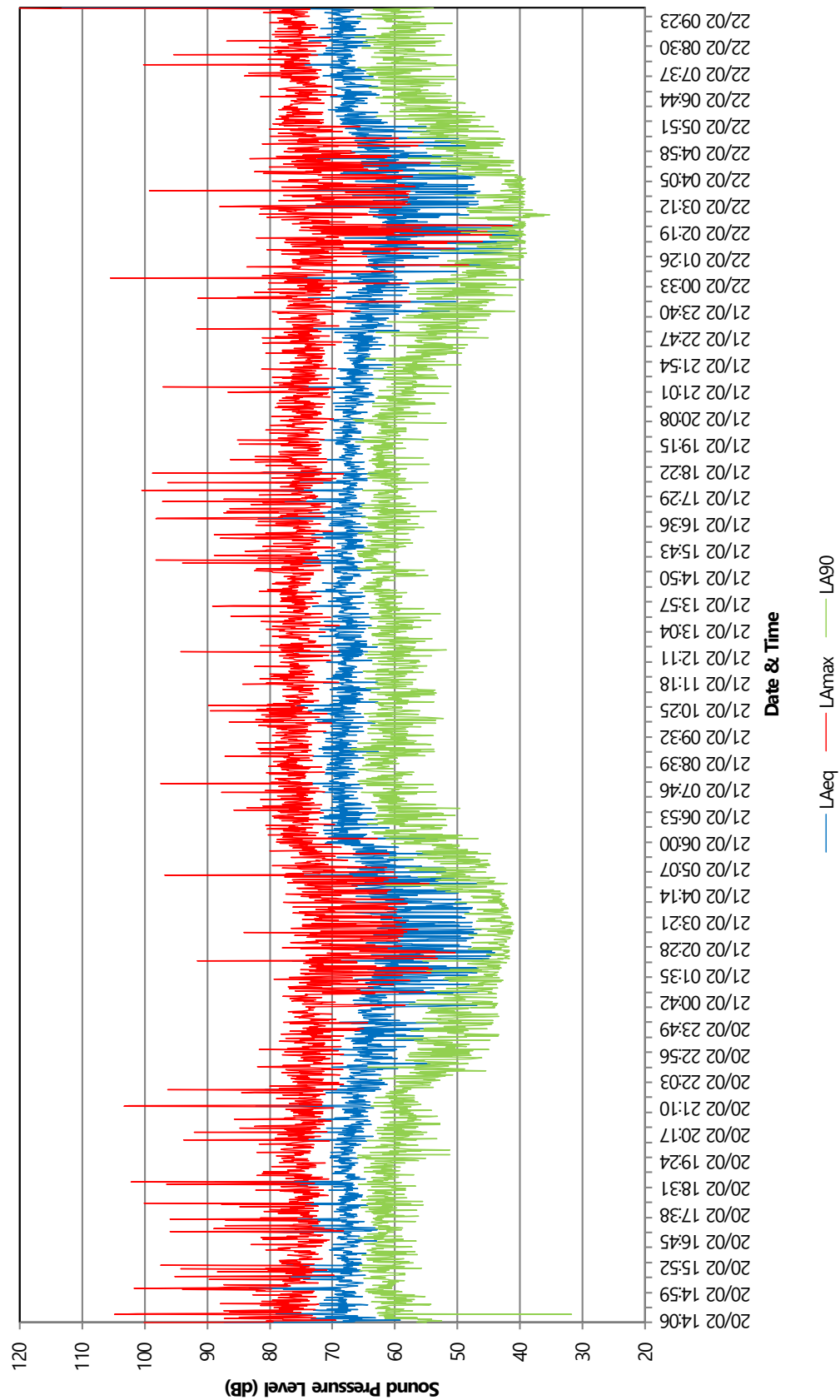
This is the noise level that is exceeded for 10% of the measurement period and gives an indication of the noisier levels. It is a unit that has been used over many years for the measurement and assessment of road traffic noise.

iv) The L_{A90} noise level

This is the noise level that is exceeded for 90% of the measurement period and gives an indication of the noise level during the quieter periods. It is often referred to as the background noise level and is used in the assessment of disturbance from industrial noise.

APPENDIX B: MEASURED NOISE LEVELS

Figure B1: Measured Noise Levels - 20th - 22nd February 2019
London Road, Isleworth



APPENDIX 7

Luke Thorpe

From: George Clarke <George.Clarke@hounslow.gov.uk>
Sent: 22 January 2019 15:50
To: Luke Thorpe
Subject: RE: Planning ref. 00707/558/P13 (558 London Road, Isleworth, TW7 4EP)

Hi Luke,

We didn't have any comments from EHO.

I'm leaving the Council at the end of this month and if your client wishes to pursue further I recommend pre application advice: https://www.hounslow.gov.uk/info/20063/pre-application_advice/1154/pre-application_advice

Thanks,

George Clarke
Planning Officer
East Team

Housing, Planning and Communities
London Borough of Hounslow
Orange Zone, Civic Centre,
Lampton Road,
Hounslow, TW3 4DN
Office: 0208 583 4993

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From: Luke Thorpe [mailto:Luke.Thorpe@pegasusgroup.co.uk]
Sent: 22 January 2019 15:29
To: George Clarke
Subject: RE: Planning ref. 00707/558/P13 (558 London Road, Isleworth, TW7 4EP)

Hi George

Please see my email below in case you missed it. I have tried to call but have been unable to get through to you.

If you would be able to could you call me back for a quick chat it would be greatly appreciated.

Many thanks

Luke Thorpe
Graduate Planner

Pegasus Group

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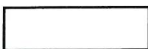
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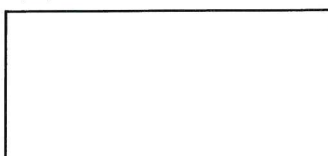
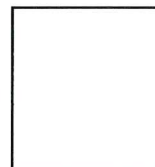
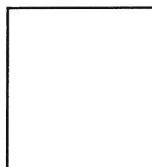
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From: Luke Thorpe

Sent: 17 January 2019 11:16

To: 'George Clarke' <George.Clarke@hounslow.gov.uk>

Subject: RE: Planning ref. 00707/558/P13 (558 London Road, Isleworth, TW7 4EP)

Hi George

Thank you for getting back to me on this so quickly,

Was a response received from the EHO to provide further input on these concerns, could you forward this over if so?

Many thanks

Luke Thorpe
Graduate Planner

Pegasus Group

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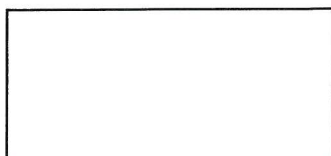
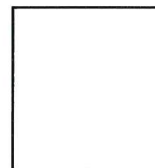
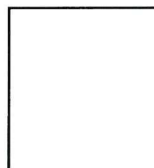
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From: George Clarke <George.Clarke@hounslow.gov.uk>
Sent: 17 January 2019 11:08
To: Luke Thorpe <Luke.Thorpe@pegasusgroup.co.uk>
Subject: RE: Planning ref. 00707/558/P13 (558 London Road, Isleworth, TW7 4EP)

Hi Luke,

I think an application to extend the opening hours into the night is always likely to attract local opposition as with the submission last year.
It is hard to see how disturbance issues related to customers visiting the site late at night can be overcome.

Kind regards,

George Clarke
Planning Officer
East Team

Housing, Planning and Communities
London Borough of Hounslow
Orange Zone, Civic Centre,
Lampton Road,
Hounslow, TW3 4DN
Office: 0208 583 4993

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From: Luke Thorpe [<mailto:Luke.Thorpe@pegasusgroup.co.uk>]
Sent: 17 January 2019 10:48
To: George Clarke
Subject: Planning ref. 00707/558/P13 (558 London Road, Isleworth, TW7 4EP)

Dear George

I tried to call this morning to discuss the above application for which I understand that you were the case officer. The application was refused in September 2018 on noise and disturbance grounds, I was hoping to discuss this with you and understand the issues / concerns with this application.

If you could call me as soon as possible it would be greatly appreciated, although I will look to try you again soon.

Kind regards

Luke Thorpe
Graduate Planner
Pegasus Group
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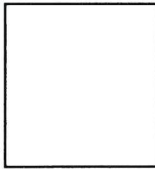
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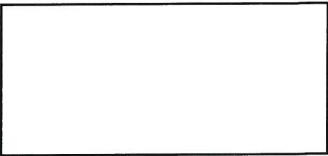


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