

**Place Division / Development Management**

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Ben Fry  
Casa Tertia  
Old Farm Road  
Hampton  
TW12 3RL  
United Kingdom

Letter Printed 4 December 2024

**FOR DECISION DATED**  
4 December 2024

**The Town and Country Planning Act 1990, (as amended)**  
**Decision Notice**

**Application:** 24/2360/FUL  
**Your ref:** 5 Kendal Court  
**Our ref:** DC/JMA/24/2360/FUL/FUL  
**Applicant:** Ben Fry  
**Agent:**

**WHEREAS** in accordance with the provisions of the Town and Country Planning Act 1990 and the orders made thereunder, you have made an application received on **19 September 2024** and illustrated by plans for the permission of the Local Planning Authority to develop land situated at:

**Flat 5 Kendal Court 10 Rosemary Lane Mortlake**

for

**Installation of two electrical extractor fans**

NOW THEREFORE WE THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND UPON THAMES acting by the Council of the said Borough, the Local Planning Authority HEREBY GIVE YOU NOTICE pursuant to the said Act and the Orders made thereunder that permission to develop the said land in accordance with the said application is hereby **GRANTED** subject to the conditions and informatives summarised and listed on the attached schedule.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ben Fry', with a long horizontal flourish extending to the right.

Robert Angus  
Head of Development Management

# SCHEDULE OF CONDITIONS AND INFORMATIVES FOR APPLICATION 24/2360/FUL

## APPLICANT NAME

Ben Fry  
Casa Tertia  
Old Farm Road  
Hampton  
TW12 3RL  
United Kingdom

## AGENT NAME

## SITE

Flat 5 Kendal Court 10 Rosemary Lane Mortlake

## PROPOSAL

Installation of two electrical extractor fans

## SUMMARY OF CONDITIONS AND INFORMATIVES

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### CONDITIONS

|          |                                  |
|----------|----------------------------------|
| U0193337 | Noise                            |
| U0193336 | Approved Documents               |
| U0193334 | Fire Safety                      |
| AT01     | Development begun within 3 years |

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### INFORMATIVES

|          |  |
|----------|--|
| BNG02    | Biodiversity Gain Plan No Pre-Approval |
| U0095820 | Composite Informative                  |
| U0095819 | NPPF Approval Paras. 38-42             |

# DETAILED CONDITIONS AND INFORMATIVES

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## DETAILED CONDITIONS

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### **U0193337     Noise**

The rating level of the noise from the extract systems determined by the cumulative sound emissions of the plant hereby permitted shall be at least 5dBA lower than the existing background noise level at any given time of operation. The noise levels shall be measured or predicted 1m externally to any window at the nearest residential facade. Measurements and assessment shall be made according to British Standard 4142:2014.

REASON: To safeguard the amenity of neighbouring properties.

### **U0193336     Approved Documents**

The development hereby permitted shall be carried out in accordance with the following plans and documents, where applicable:

Location plan and Floor Plan entitled 'Rosemary Lane, Mortlake' received 19th September 2024; Extractor Fan image received 26th September 2024; detailed floor plan entitled 'Rosemary Lane, Mortlake' received 26th September 2024; photographs 1, 2 and 3 received 19th Sept, and photograph 4 received 26th September.

REASON: To accord with the terms of the application, for the avoidance of doubt and in the interests of proper planning.

### **U0193334     Fire Safety**

The Reasonable Exception Statement submitted on the 23rd Sep 2024, is considered satisfactory for Policy D12 of the London Plan.

### **AT01     Development begun within 3 years**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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## DETAILED INFORMATIVES

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### **BNG02     Biodiversity Gain Plan No Pre-Approval**

Approval of a Biodiversity Gain Plan will not be required before development commences

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition ('biodiversity gain condition') that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be the London Borough of Richmond upon Thames.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or
  - (ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
  - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
    - (i) the application for planning permission was made before 2 April 2024;
    - (ii) planning permission is granted which has effect before 2 April 2024; or
    - (iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).
  - 4.2 Development below the de minimis threshold, meaning development which:
    - (i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
    - (ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
  - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A 'householder application' means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
  - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
  - 4.5 Self and Custom Build Development, meaning development which:
    - (i) consists of no more than 9 dwellings;
    - (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
    - (iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).
  - 4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

\* 'original planning permission means the permission to which the section 73 planning permission relates' means a planning permission which is the first in a sequence of two

or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

#### Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ('the earlier Biodiversity Gain Plan') there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- (i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

#### **U0095820      Composite Informative**

##### **Reason for granting:**

The proposal has been considered in the light of the Development Plan, comments from statutory consultees and third parties (where relevant) and compliance with Supplementary Planning Guidance as appropriate. It has been concluded that there is not a demonstrable harm to interests of acknowledged importance caused by the development that justifies withholding planning permission.

##### **Principal Policies:**

Where relevant, the following have been taken into account in the consideration of this proposal:-

London Plan Policies: D4, D14;

Local Plan Policies: LP1, LP8, LP10;

Supplementary Planning Guidance: Development Control for Noise Generating and Noise Sensitive Development, Shopfronts, Twickenham Village Plan;

##### **Building Regulations:**

The applicant is advised that the erection of new buildings or alterations to existing buildings should comply with the Building Regulations. This permission is NOT a consent under the Building Regulations for which a separate application should be

made. For application forms and advice please contact the Building Control department, 2nd floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ. (Tel: 020 8891 1411). If you alter your proposals in any way, including to comply with the Building Regulations, a further planning application may be required. If you wish to deviate in any way from the proposals shown on the approved drawings you should contact the Development Management department, 2nd floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ. (Tel: 020 8891 1411).

**Damage to the public highway:**

Care should be taken to ensure that no damage is caused to the public highway adjacent to the site during demolition and (or) construction. The Council will seek to recover any expenses incurred in repairing or making good such damage from the owner of the land in question or the person causing or responsible for the damage.

BEFORE ANY WORK COMMENCES you MUST contact the London Borough of Richmond upon Thames, 44 York Street, Twickenham TW1 3BZ, Telephone 020 8891 1411 to arrange a pre-commencement photographic survey of the public highways adjacent to and within the vicinity of the site. The precondition survey will ensure you are not charged for any damage which existed prior to commencement of your works.

If you fail to contact us to arrange a pre commencement survey then it will be assumed that any damage to the highway was caused by your activities and you will be charged the full cost of repair.

Once the site works are completed you need to contact us again to arrange for a post construction inspection to be carried out. If there is no further damage then the case will be closed. If damage or further damage is found to have occurred then you will be asked to pay for repairs to be carried out.

**Noise control - Building sites:**

The attention of the applicant is drawn to the requirements of Section 60 of the Control of Pollution Act 1974 in respect of the minimisation of noise and vibration on construction and demolition sites. Application, under section 61 of the Act for prior consent to the works, can be made to the Environmental Health department.

Under the Act the Council has certain powers to control noise from construction sites. Typically the council will limit the times during which sites are permitted to make noise that their neighbours can hear.

For general construction works the Council usually imposes (when necessary) the following limits on noisy works:-

Monday to Friday 8am to 6pm

Saturdays 8am to 1pm

Sundays and Public Holidays - No noisy activities allowed

Applicants should also be aware of the guidance contained in British Standard BS 5228-1:2009+A1:2014 - Noise and vibration control on construction and open sites.

Any enquiries for further information should be made to the Noise & Nuisance Team, Regulatory Services Partnership NoiseandNuisance@merton.gov.uk.

**U0095819 NPPF Approval Paras. 38-42**

In accordance with paragraphs 38-42 of the National Planning Policy Framework, Richmond upon Thames Borough Council takes a positive and proactive approach to the delivery of sustainable development, by:

- Providing a formal pre-application service
- Providing written policies and guidance, all of which is available to view on the Council's website

- o Where appropriate, negotiating amendments to secure a positive decision
- o Determining applications in a timely manner.

In this instance:

- o The application was acceptable as submitted, and approved without delay.

END OF SCHEDULE OF CONDITIONS AND INFORMATIVES FOR APPLICATION  
24/2360/FUL

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# **FUL Applications**

## **Making an Appeal – Summary Guidance**

### **Whether to appeal**

If the Local Planning Authority (LPA) turn down your application, you should look carefully at the reasons why they turned it down before you make an appeal. You should speak to the LPA to see if you can sort out the problem - perhaps by changing your proposal. An appeal should only ever be a last resort.

### **Type of appeal:**

Planning Application

### **Appeal time:**

Within six months of the date of the council's decision letter.

### **Who can appeal?**

The applicant or their agent may lodge an appeal.

### **The right of appeal:**

You can appeal against the council's decision:

- If you applied to the Local Planning Authority and they:
  - Refused permission;
  - Gave permission but with conditions you think are inappropriate;
  - Haven't approved the details of a scheme which they or the Secretary of State have already given outline planning permission for or;
  - Have approved the details of a scheme but with conditions you think are inappropriate or unreasonable.
  
- If the LPA rejected a proposal arising from a condition or limitation on a planning permission.
- If the LPA don't decide your application within the time allowed. Normally the time allowed is eight weeks from when they accept your application.
- If the LPA told you they needed more information before they could decide your outline planning application, but you do not want to supply this.

You will make your appeal to the Department for Communities and Local Government of which the Planning Inspectorate is a part. Most are decided by specialist officers in the Planning Inspectorate. Only the person or business applying for consent to display an advertisement may appeal. If the council issues a discontinuance notice, only those on whom the notice is served may appeal.

### **The appeal process:**

Appeals must be made

- Online at [www.planninginspectorate.gov.uk](http://www.planninginspectorate.gov.uk), or
- Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN.

It will be expected that all appeal documentation will be submitted electronically.

The process is fully documented on the website of the Planning Inspectorate [www.planninginspectorate.gov.uk](http://www.planninginspectorate.gov.uk), however in summary there are three main types of appeal:

#### **Written procedure:**

Written evidence is considered from the applicant/agent/business and the council. The council will send copies of any letters of objection or support they received when considering your application. Within six weeks of the Inspectorate receiving your appeal forms the council will send a copy of their statement to the Inspectorate. You must make any comment on these within three weeks.

**Hearing procedure:**

Hearings allow you and the council to exchange views and discuss your appeal. Before the hearing the council will send a copy of their statement to you and the Inspectorate. You can comment on their statement in writing otherwise the Inspectorate will treat the reasons given in your appeal form as the basis of your case for discussion.

Hearings are usually held in council offices. The Inspector leads the discussion and invites the people involved to put their points across. The Inspector will visit the site unaccompanied before the hearing and will make a further accompanied visit as part of the hearing.

**Inquiry procedure:**

Inquiries are normally for large-scale applications. A public inquiry is a formal procedure in which both parties have legal representation.

**Making your views known on someone else's appeal:**

The LPA will notify anyone who took part in the consultations when you first applied for permission that you are appealing. For appeals decided by hearing or inquiry the LPA will tell interested people when and where this will be and let them know that they can attend. The Inspectorate will also take account of the views of certain groups who have a right to comment, for example, owners of a site, local amenity groups and so on.

**Costs:**

Normally you and the council will pay for your own expenses in an appeal. You can only claim costs when you can show that the council have behaved in an unreasonable way causing unnecessary expense.

**Who to contact?**

The Planning Inspectorate

Website [www.planninginspectorate.gov.uk](http://www.planninginspectorate.gov.uk)

Email [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Telephone 0303 444 5000

Write to Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN

London Borough of Richmond upon Thames

Website [www.richmond.gov.uk/planning](http://www.richmond.gov.uk/planning)

Email [planningappeals@richmond.gov.uk](mailto:planningappeals@richmond.gov.uk)

Telephone 020 8891 1411 for advice

Write to The Appeals Officer, Development Control, Civic Centre, 44 York Street, Twickenham TW1 3BZ