

Appeal Decision

Site visit made on 6 December 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 January 2017

Appeal Ref: APP/X5210/W/16/3158351

325 Kentish Town Road, Camden, London NW5 2TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Amin Merali against the decision of the Council of the London Borough of Camden.
 - The application Ref 2015/7282/P, dated 18 December 2015, was refused by notice dated 10 March 2016.
 - The development proposed is change of use of ground floor from retail shop (use class A1) to coffee shop (mixed use A1/A3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character, function, vitality and viability of Kentish Town town centre.

Reasons

3. The appeal site comprises a ground floor retail unit with residential accommodation above. It is located centrally within a frontage of fourteen other ground floor commercial premises (Nos 317 to 347) and forms part of the wider Core Retail Frontage within Kentish Town town centre. At the time of my site visit two of the premises, including the appeal site, were vacant with the remainder of the premises in commercial use as shops, cafés/restaurants, takeaways and as a bookmaker. The main parties agree that the existing percentage of retail units within the frontage is 64%.
 4. Policy CS7 of the Camden Local Development Framework Core Strategy (CS) seeks to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located. It also seeks to protect and promote small and independent shops and resist the loss of shops where this would cause harm to the character and function of a centre. The CS defines specific objectives for each of the centres including Kentish Town. It states that the Council will support the character and retail role of Kentish Town by managing the proportions of non-retail premises, in line with the approach set out in the Council's Supplementary Planning Document.
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5. Policy DP12 of the Camden Local Development Framework Development Policies (DP) seeks to manage development to ensure that it does not cause harm, amongst other things, to the character, function, vitality and viability of a centre.
6. Camden Planning Guidance 5 (CPG5) Town Centres, Retail & Employment expands upon Policy CS7 of the CS and Policy DP12 of the DP and designates Core and Secondary Frontages in order to protect the retail function of Kentish Town. It states that the Council will generally resist proposals that would result in less than 75% of the premises in Core Frontages being in retail use and more than 2 consecutive premises within the Core Frontages being in non-retail use. CPG5 is a relatively recent adopted supplementary planning document and in reaching my decision I therefore afford it significant weight.
7. Although the proposal is for a mixed A1/A3 use, it would result in a further reduction in the percentage of premises within the Core Frontage in retail use from 64% to 57% and would be contrary to the guidance in CPG5. Whilst the retail unit at the appeal site is currently vacant, I have seen no evidence regarding how long it has been vacant and note that the Council resolved to approve an application which included an extension to an existing retail unit at the site in 2015 (Ref 2015/2605/P).
8. At the time of my visit the town centre was busy with pedestrians and I note that a recent study considers it to be performing well in relation to the provision of convenience and service units (GVA Grimley Camden Retail Study November 2013) and that a recent health check carried out by the appellant shows no significant changes to the centre since the GVA Study. I acknowledge that by bringing the premises back into use the proposal would offer some benefits in terms of increased pedestrian footfall, employment and the provision of a complementary service to the town centre. However there is no substantive evidence to suggest that the premises are unlikely to be brought back into retail use and indeed the appellant has stated that the premises would be used for an A1 retail use should the appeal be dismissed. The appeal site appears to provide a suitable unit and fulfils a role as a small shop in the context of CS Policy CS7.
9. The existing retail premises, albeit currently vacant, contributes to the retail character and function of the town centre and is within a frontage where the retail function is already threatened by the existence of a number of non-retail premises. In my view in this context the loss of any additional retail premises in this particular part of the town centre is likely to be harmful to the character and function of the town centre, notwithstanding the figures provided by the appellant regarding the percentage of A3-A5 uses in the wider town centre.
10. In reaching my decision I have considered the evidence submitted regarding the positive role that Starbucks outlets and other coffee shops can play within town centres and the benefits that they can bring, in particular in relation to pedestrian footfall. However for the reasons stated above, in this instance I do not consider that the benefits of the proposal would outweigh the harm to the town centre that would be likely to result from the loss of the retail premises. Whilst the appeal site is located in an accessible location close to Kentish Town station and whilst the Council raised no amenity concerns, I do not consider the proposal to be sustainable development having regard to the likely harm to the retail function of the town centre.

11. My attention has also been drawn by the appellant to numerous appeal decisions allowing proposals for mixed coffee shop and retail uses within centres. Whilst I have had regard to these in reaching my decision and whilst they provide a useful indication of how such uses have been considered by other Inspectors, I note that none of them relate to proposals within Camden and to the policies relevant to the proposal. A number of the appeal decisions were made some time ago and relate to existing uses where specific evidence was provided regarding the impact of these existing uses on the relevant centres. Whilst others are more recent, none appear to directly replicate the circumstances of the proposal and as such I afford them limited weight.
12. The Council has referred to three relatively recent appeal decisions relating to the loss of retail premises within Camden, one of which relates to 317 Kentish Town Road, though I note that none of the proposals involve a proposed A1/A3 use. I have not however been provided with copies of these decisions but understand that these appeals were dismissed due to concerns relating to the loss of the retail use and the impact of this on the vitality and viability of the relevant centres. However as I am not fully aware of the details or particular circumstances relating to these cases I afford them limited weight.
13. In any event I must determine the proposal before me on its own merits. Though the premises are relatively small and located towards the end of the Core Frontage on this side of the road I do not consider that this means that the impact of the proposal would be significantly lessened or allows for increased flexibility with regard to non-retail uses. Finally whilst the proposed use would incorporate an element of retail use and whilst I understand that in some cases Starbucks premises have been considered to be A1 retail uses, a mixed A1/A3 use is proposed in this case. Consequently there would be some loss of retail function at the appeal site. For the reasons stated this would be harmful to the town centre and whilst the proposal may comply with some aspects of some of the Council's policies and with some parts of the National Planning Policy Framework, I do not consider that the material considerations put forward in this particular case outweigh the harm identified and the conflict with the most relevant Council policies, namely CS Policy CS7 and DP Policy DP12.
14. Taking the above matters into consideration, I conclude that the proposal would be likely to adversely affect the character, function, vitality and viability of Kentish Town town centre. It is therefore contrary to the development plan and in particular Policy CS7 of the CS and Policy DP12 of the DP. These policies seek to amongst other things, protect and enhance the role and unique character of each of Camden's centres and to resist the loss of shops where this would cause harm to the character and function of a centre. The proposal is also contrary to the guidance contained within CPG5.

Other Matters

15. I note that the proposal also includes changes to the external appearance of the shopfront. The Council states that these changes were previously approved under the 2015 permission (Ref 2015/2605/P) and has raised no objections to the alterations. I have no reason to disagree with the Council's conclusions on this matter.

Conclusion

16. For the above reasons and having regard to all matters raised, I hereby conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR