



Appeal Decision

Site visit made on 21 August 2017

by P W Clark MA MRTPI MCMI

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

Decision date: 30 August 2017

Appeal Ref: APP/X5990/W/17/3175603
24-25 Foley Street, London W1W 6DX

- 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 J & B Ashley Ltd against the decision of City of Westminster Council.
 - The application Ref 17/00487/FULL, dated 20 January 2017, was refused by notice dated 21 March 2017.
 - The development proposed is change of use of ground and lower ground floors from shop A1 (ground floor) and business use B1 (lower ground floor) to restaurant A3 with installation of kitchen extract duct to rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. The first is the effect of the proposal on the vitality and viability of the Great Titchfield Street Local Centre. The other is its effect on the character and appearance of the East Marylebone Conservation Area.

Reasons

Vitality and viability

3. The Great Titchfield Street Local Centre is continuous with a more extensive nexus of commercial premises much of which is in the defined Central Activities Zone (CAZ) so the statistics which show it to be a small centre, highly vulnerable to any change in its composition are misleading. It clearly functions as part of a much larger whole.
4. Even so, the character of the part of Great Titchfield Street which is within the CAZ is not so different from the part of Great Titchfield Street which is defined as a separate local centre so, although its identification as a small centre may be misleading, I do not demur from its identification in the Shopping Centre Health Check Survey 2014 as having a below average amount of retail A1 floorspace for local centres.
5. But I do not go as far as the appellant in claiming there to be now no other retail activity in the local centre. There is no longer any evidence of the good provision of food shops which was noted as one of its main strengths in the 2014 health check but there is a pharmacy, a dry cleaner and one if not two

clothes shops, so there remains some point to its definition. The three competing supermarkets mentioned by the appellant are all outside the local centre so the newsagent, confectioner and tobacconist which formerly operated here supplied what would otherwise be a gap in the range of goods and services provided, key to the functioning and attraction of this local centre in competition with its rivals.

6. Paragraph 8.4 of the appellant's appeal statement readily accepts that the premises would let as an A1 retail use so there is no long-term vacancy demonstrating a non-viable use which would provide justification for a change of use in accordance with Westminster City Plan policy S21. On the other hand, the limited range of remaining retail uses in the centre shows that a change of use would reduce the range of convenience shops still further and so be contrary to saved UDP policy SS7(C)2.
7. A Prior Notification in accordance with the General Permitted Development Order has been rejected so there remains no material consideration in this case which would indicate that the decision should be taken other than in accordance with the development plan. I therefore conclude that the proposal would have an adverse effect on the vitality and viability of the Great Titchfield Local Centre, contrary to the two development plan policies referred to.

Character and appearance

8. The site is in the northern part of the East Marylebone Conservation Area where, the Conservation Area appraisal tells us, there are restaurants and local shops all of which combine to create a well-rounded "village" atmosphere. The proposal would clearly be consistent with this, as was the previous use. The area's character as a light industrial centre at the time the appraisal was written may have changed somewhat in recent years but the strong local community is still apparent.
9. The rear of the street block, where the proposed fume extract duct would be located, has a functional, utilitarian character. White glazed brickwork on some buildings contributes to this character. Whilst there may be no other existing authorised ducts, there is a prominent collection of rainwater, wastewater and soil pipes on other buildings which also contribute to the functional character of the space. The extract duct may have been an innovation but it would not have looked out of place.
10. I conclude that the proposal would not have harmed and so would have preserved the character and appearance of the East Marylebone Conservation Area. It would have complied with Westminster City Plan policy S25 which seeks to have heritage assets conserved. Conditions could have required high quality durable materials in compliance with other policies of the plan. But this absence of harm would not have provided a benefit to outweigh the harm to the vitality and viability of the Local Centre and so, the appeal is dismissed.

P. W. Clark

Inspector