



Appeal Decision

Site visit made on 1 October 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2019

Appeal Ref: APP/X5990/Z/19/3233170
134 Edgware Road, London W2 2DZ

- 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 Hubert Attali (Amorino Ltd.) against the decision of City of Westminster Council.
 - The application Ref 19/02491/FULL, dated 3 April 2019, was refused by notice dated 15 May 2019.
 - The development proposed is the installation of a replacement shopfront and retractable awning and display of new internally illuminated fascia signage and internally illuminated projecting sign following removal of all existing signage.
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Decision

1. The appeal is dismissed insofar as it relates to the installation of a replacement shopfront. The appeal is allowed insofar as it relates to a retractable awning and planning permission is granted for a retractable awning at 134 Edgware Road, London W2 2DZ in accordance with the terms of the application, Ref 19/02491/FULL, dated 3 April 2019, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Procedural Matters

2. Despite the description set out above, I have based my assessment upon the description of development set out on both the Council's Decision Notice and the Appeal Form, namely "installation of replacement shopfront and retractable awning", as this more appropriately describes the appeal scheme. Moreover, the original description of the scheme set out in the banner heading above related to an application for planning permission and consent to display advertisements¹. The appeal before me relates only to the application for planning permission for a replacement shopfront and a new awning. I noted during my site visit that these works have been carried out. For the avoidance of doubt, I have therefore dealt with this appeal based on the development shown on the plans referenced: Site Location Plan; Layout Plan 0-1; Existing Front Elevation Plan 0-1; Existing Front Elevation Plan 0-2; Project Front Elevation Plan 2-3; Detail Shop Front Plan 2-4; Detail Shop Front Plan 0-5.

¹ Advertisement Consent has been given by the Council for the other works listed in the description of development in the banner heading (Reference 19/02492/ADV, approved 2 May 2019).

Main Issues

3. The main issues are the effect of the proposed replacement shopfront on:
- the character and appearance of the existing building and the surrounding area; and
 - the living conditions of nearby residents, with particular reference to noise and disturbance.

Reasons

Character and appearance

4. The appeal site is located on the eastern side of Edgware Road within a row of commercial premises at the ground floor of a ten-storey building incorporating residential accommodation above. The architecture of the building is very striking and strongly defined by the vertical alignment and spacing of windows and the interplay between the facing materials used in its construction. The shopfronts in the building include large areas of glazing with simple vertical divisions between fixed glazed panels. All but one of the shopfronts also have no stallriser and there are various approaches to openings within the shopfronts with recessed or double-width doorways. Whilst these features do not necessarily reflect the design features of the respective upper floors, they do add some visual interest to the ground floor of the building.
5. Beneath the transom light within the proposed replacement shopfront are a series of doors, identical in size. The primary door is hinged from the right but the remaining doors slide to the left. When the doors within the proposed replacement shopfront are closed, the composition of the shopfront will align vertically with the above floors of the building. I recognise that it is positive that the fascia sign of the proposed replacement shopfront has been raised up to the cornice and will not overhang the transom lights within the shopfront, which will have greater alignment with the above building than the previous shopfront. In addition, I note that careful consideration has been given to the materials of construction of the proposed replacement shopfront, particularly in relation to those of neighbouring shopfronts.
6. However, given the prominence of the building within the street and the established form of fixed shopfronts within the building, when the proposed replacement shopfront is open it will present a large void to the street which will disturb the rhythm of fixed glazed shopfronts within the building. Whilst the frequency of the doors being open is likely to be weather dependent, the intention is that the shopfront will be openable and it could be open on a frequent basis. This will be of detriment to the architectural integrity and visual interest of the building and weaken its contribution to this part of the City.
7. For the reasons outlined above, I conclude that the proposed replacement shopfront would have a harmful effect on the character and appearance of the existing building and the surrounding area. Hence, this element of the proposals will not accord with Saved Policies DES 1 and DES 5 of the City of Westminster Unitary Development Plan (adopted January 2007) (UDP); Policy S28 of the Westminster City Plan (Revised November 2016) (City Plan); and the City of Westminster guidance Shopfronts, Blinds and signs – A Guide to their Design. Together these policies and guidance indicate that development should be of the highest standards of architectural quality, including new

shopfronts which will be granted where they relate to the design of the upper parts of the building and are not designed to be entirely or largely openable, in the absence of local circumstances or established patterns of trading activity.

Living conditions

8. It strikes me that the character of the area surrounding the appeal site is one of hustle and bustle, with a mix of commercial and residential uses. This includes cafes and restaurants, some of which have external seating areas within the pavement area. Furthermore, the carriageway incorporates two lanes of traffic in either direction and appears to be a busy pedestrian and vehicular route.
9. Whilst the environment surrounding the appeal site is not a discreet residential area that would be more susceptible to change, the proposed replacement shopfront incorporates several doors so it will be openable across its frontage so noise from within the premises could be audible beyond the premises. The methodology employed in the Appellant's *Environmental Noise Survey Results and Customer Speech Noise Impact Assessment*, particularly in relation to the noise that could affect nearby sensitive receptors, appears to be practicable and well-related to the scale and nature of the use. In the assessment the recorded background noise levels, taken over a two-hour period on a Sunday evening, are related to the anticipated noise from patrons within premises that will be heard at the nearest noise sensitive receptors above.
10. Although I acknowledge the findings of the Appellant's noise assessment, these do not demonstrate policy compliance in this instance. Moreover, when the doors within the proposed replacement shopfront are open, the noise that will be audible from the premises at the façades of the nearest residential properties above, will be likely to exceed the threshold for noise in relation to existing background noise levels required by Policy ENV7 of the UDP. The noise levels will be unlikely to be sufficiently below the background noise levels to meet the requirements of that policy, so will be likely to be harmful to the occupants of those properties. Furthermore, as I have found nothing in the evidence to specify the intended operating hours for the premises, were the premises to remain open beyond the timeframe of the background readings, the noise levels experienced by the occupants of those properties would be likely to be more harmful.
11. Therefore, for the reasons outlined above, I conclude that the living conditions that nearby residents would reasonably expect to enjoy will be unacceptably harmed by noise and disturbance emanating from within the premises. Hence, the proposed replacement shopfront will not accord with Saved Policies ENV6 and ENV7 of the UDP and Policies S29 and S32 of the City Plan. Together these policies seek to avoid proposals that result in an unacceptable material loss of living conditions and therefore require design features and operational measures to minimise and contain noise from developments, to protect noise sensitive properties.

Other Matters

12. The proposal also includes a retractable awning beneath the fascia sign to Edgware Road. Awnings are a prominent feature within the locality and the design of the proposed retractable awning would contribute positively to the

character and appearance of the building and the surrounding area. I therefore find no harm in respect of this element of the proposal. I note that the Council raised no objection in this regard either. As this development is both physically and functionally severable from the proposed replacement shopfront, I consider a split decision would be a logical outcome.

13. I am referred to an application submitted to the Council² for use of part of the pavement for the siting of two tables and four chairs. Whilst I am not aware of the full circumstances behind the application or its outcome, this would not alter my conclusion regarding the harm I have identified. In addition, my attention has also been drawn to previous applications at the appeal site. I am not aware of the full circumstances of those cases or the policies that applied at the time of their consideration. In any event, I have determined the appeal scheme on its individual planning merits.
14. None of the other matters raised alter or outweigh my conclusion on the main issues.

Conditions

15. As the proposed retractable awning has been installed as per the submitted drawings, the standard three-year time limit and plans conditions; and the other conditions specified by the Council in respect of materials and hours of building work are not necessary.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the proposed retractable awning, but dismissed insofar as it relates to the proposed replacement shopfront.

Paul Thompson

INSPECTOR

² Reference 19/03967/TCH