



Appeal Decision

Site visit made on 4 November 2019

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/K5600/C/19/3225457

Public House at 95-97 Portobello Road, London W11 2QB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Portobello 95 Trade Limited against an enforcement notice issued by The Council of The Royal Borough of Kensington & Chelsea.
 - The enforcement notice was issued on 13 February 2019.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the rendering of the exposed brickwork to the front elevation.
 - The requirements of the notice are:
 - (i) Completely remove all rendering to the front elevation (including any residual matter within the brick face and pointing).
 - (ii) On completion of step (i) repoint and repair any damaged brickwork and pointing.
 - (iii) Remove from the land all resulting debris.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the rendering of the exposed brickwork to the front elevation on land at the Public House at 95-97 Portobello Road, London W11 2QB referred to in the notice.

The appeal on ground (a) – that planning permission should be granted

Main Issue

2. Whether the development preserves or enhances the character or appearance of the Ladbroke Conservation Area, and the effect on the setting of the adjacent Pembridge Conservation Area.

Reasons

3. The appeal site lies in a part of the Ladbroke Conservation Area that was designated in 1975, and the Council's Conservation Area Appraisal shows it as being part of a terrace with retail uses at ground floor level that was built in the mid-19th century. However, more detailed information from the Ladbroke Association indicates that the appeal property was rebuilt in the 1920s, one of the few of that era in the vicinity, and its design appears to bear this out. It is

on the edge of the conservation area close to the boundary with the Pembridge Conservation Area on the east side of Portobello Road, although the more modern buildings opposite the site are excluded from it.

4. The Conservation Area Appraisal identifies Portobello Road as the oldest and longest shopping street in the conservation area and home of one of London's most famous street markets. In the south part of the road, where the appeal site lies, it notes that the terraces have in recent years been painted bright colours, and that some shops have significant historic parts but much of the lively character in this street is derived from the traders' stock festooning the frontages and the tables on the street. I consider that the vibrancy and colour of this part of the road contributes to its character and to its significance as a heritage asset.
5. The majority of the buildings on this side of Portobello Road have rendered frontages above ground floor level, and are painted in a variety of colours, which contribute to the attractiveness and distinctiveness of this part of the conservation area. The appeal building, whilst typical of its era, and of some interest to the historic development of the street, makes only a minor contribution to the significance of the conservation area. It has retained its metal framed windows, and whilst these are not as obvious as previously was the case, their contribution to the overall historic significance of the building has not been lost or even seriously diminished.
6. The mural has been designed by the graffiti/street artist Alexandre Farto, who goes by the street name of Vhils, and his work has been displayed in many London locations as well as internationally. The mural has been created by rendering over the whole of the front wall, and then parts have been painted over, whilst other areas have had the render removed, exposing the brick beneath. Large areas of unpainted grey-brown render have been left exposed, in places complete with score lines and with glimpses of the underlying metal lath mesh and beading. When seen close to, the appearance is not attractive. Objectors have made comparisons with bomb damage and vandalism and it is not hard to see some similarities.
7. However, when seen from just a few metres away, rather like a trompe l'oeil, the mural can be seen as a whole, and it takes on a very different character. The patterns and images can be resolved by eye more easily, and the whole frontage appears more as an artwork. I appreciate that it may not be to everyone's taste, as evidenced by the objections submitted in response to the appeal, but the contrary view is taken by those who made representations in support submitted on the appellants' website, many of which came from people living in the W11 postcode area, within a few minutes' walk of the appeal site.
8. Although the mural is visually striking, it is not especially dominant in the street scene. To the south of the site there is a row of 14 terraced properties of similar design, with stucco frontages above ground floor level, all painted in different colours, and cumulatively, this run of properties dominates the street scene when seen from the south. There is a smaller run of stucco finished properties to the north of the building, ending with brick buildings at 99-103 Portobello Road.
9. The appeal building in its brick form would have disrupted the prevalent design, and the mural does likewise. However, it does so in a lively manner, which reflects the vibrancy and quirkiness of Portobello Road, and the interest of the

medium and longer distance views outweighs what appears in short-range views as poor execution.

10. I also have taken into account that the bright and varied colours of the painted stucco frontages are relatively recent changes to the conservation area, and would not have been part of the original Victorian character. Nevertheless, they are now a distinctive feature, and I feel that the addition of the mural complements this visually exciting street scene. Whilst this kind of innovative finish could be repeated too often, as a single element in a varied street scene, I consider that it would at least preserve the character and appearance of the conservation area.
11. Some objectors say that they have found the pair of eyes featured in the mural as unsettling or even sinister. Whilst I do not share that feeling, I recognise that different people may react differently to such images. However, I have to have regard to the fallback position that even if the enforcement notice were to be upheld, there would be nothing to prevent the same images being painted directly onto the brickwork.
12. As it is, I consider that the use of the textured render adds depth to the mural and contributes to its overall integrity as an artwork. It also has the advantage that it is reversible, in that the render could be removed in future, returning the building to its previous state, albeit that I recognise that such work would need to be carried out with care and that damage to the brickwork may need to be repaired.
13. I have had regard to the Council officer's recommendation for approval on a related application for planning permission for a rendered mural on the site, which was subsequently refused by the Council. The Ladbroke Association suggests that the recommendation to approve the application was one made "on balance" but there is nothing in the forthright language of the report which indicates that this was the case. Whilst I recognise that the mural as created may not be identical to the one for which planning permission was sought, I nevertheless share the view that a rendered mural can complement the street scene, and that the mural subject of the notice does so.
14. I therefore conclude on the main issue that the mural at least preserves the character and appearance of the Ladbroke Conservation Area and does not harm the setting of the Pembridge Conservation Area. The development does not materially conflict with Policies CL 1, CL 2, CL 3 or CL 11 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan, which respectively deal with context and character, design quality, conservation areas and historic spaces and views. Neither the Conservation Area Appraisal nor the Council's Shopfronts Design Guide offer any specific advice about developments of this type, and I find no conflict with the more general design guidance contained in them.
15. Accordingly, the appeal on ground (a) succeeds, and planning permission is granted for the development subject of the notice. The Council has not suggested the imposition of any conditions, and I consider that none are necessary. As the appeal succeeds on this ground, and the notice is quashed, it is unnecessary for me to address the appeal on ground (g).

Conclusion

16. For the reasons given above, the appeal is allowed, planning permission is granted on the application deemed to have been made under S177(5) of the Act, and the enforcement notice is quashed.

JP Roberts

INSPECTOR