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## Appeal Decisions

Site visit made on 3 December 2019

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 07 January 2020

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### **Appeal A: APP/H5960/W/19/3230641**

#### **Alchemist, 225 St Johns Hill, London SW11 1TH**

- 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 V U Chem against the decision of the Council of the London Borough of Wandsworth.
  - The application Ref 2018/4683, dated 28 September 2018, was refused by notice dated 10 December 2018.
  - The development proposed is change of use from Use Class A4 to Use Class A1, A2, A3, A5 and D2.
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### **Appeal B: APP/H5960/W/19/3238915**

#### **225 St Johns Hill, London SW11 1TH**

- 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 Cashco UK Ltd against the decision of the Council of the London Borough of Wandsworth.
  - The application Ref 2019/0643, dated 13 February 2019, was refused by notice dated 10 April 2019.
  - The development proposed is change of use of ground floor from Use Class A4 to Use Class D2.
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## Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed, and planning permission is granted for change of use of ground floor from Use Class A4 to Use Class D2, at 225 St Johns Hill, London SW11 1TH, in accordance with the terms of the application ref 2019/0643, dated 13 February 2019, subject to the following condition:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

## Procedural Matters

3. Applications for costs in relation to Appeal A and Appeal B were made by V U Chem and Cashco UK Ltd respectively against the Council of the London Borough of Wandsworth. These applications are the subject of a separate Decision.
4. The application form relating to Appeal A carried no details of the applicant. The applicant was however subsequently identified as V U Chem, and the appeal is proceeding in this name.

5. The application form for Appeal B also failed to identify the applicant, carrying instead the details of the agent. Other details submitted with the application however identified Cashco UK Ltd, which is also named as the Appellant on the appeal form. I have therefore identified Cashco UK Ltd as appellant in relation to Appeal B.

### **Main Issues**

6. The main issues are the effect of the development on:
  - social and community vitality; and
  - the character and appearance of the area, including whether the development would preserve or enhance the character or appearance of St Johns Hill Grove Conservation Area (the Conservation Area).

### **Reasons**

#### *Background*

7. The area within which the appeal site is located is subject of Article 4 Direction which restricts the permitted change of use of public houses, their demolition or alteration. Public houses of historic or architectural interest and/or community value are subject of further protection by Policy DMTS 8 of the Wandsworth Local Plan Development Management Policies Document 2016 (the DMP), which is interpreted with reference to guidance set out in the Town Centre Uses Supplementary Planning Document 2015 (the SPD).
8. At a more general level, Policy DMC 1 of the DMP seeks to prevent loss of community facilities, setting out a requirement for marketing, including in relation to alternative community uses. Emerging Policy HC7 of the Draft London Plan July 2019 (DLP) overlaps Policies DMC 1 and DMTS 8 insofar as it also seeks to protect public houses whilst requiring marketing evidence where changes of use are proposed. Its remit is however broader than Policy DMTS 8 in that heritage, economic, social or cultural values are applicable. The DLP is now at an advanced stage and thus attracts significant weight. Though emerging Policy HC7 it is only cited in the decision notice attached to Appeal B, I consider that it also has clear relevance to Appeal A.
9. The approach within these policies is broadly consistent with national policy set out in paragraph 92 of the National Planning Policy Framework (the Framework), which lists public houses amongst 'community facilities', and states that decisions should guard against the unnecessary loss of valued facilities and services.

#### *Vitality*

10. Emerging Policy HC7 of the DLP and the SPD each set out a range of considerations for assessing the social/community value of public house uses. The SPD scores public houses in the Borough against 4 community value criteria. The pub is listed as meeting criteria 1: "has a licence for entertainment/events/performance/sports (e.g. darts)". Its identified community value is therefore less than that of pubs recorded as meeting more than one of the criteria. Community value is nonetheless identified.
11. In this regard I acknowledge that the pub has not held such a license for a several years. However, this is largely explained by the unauthorised

demolition of the building in 2015, which, though reconstructed by 2018, was not then refitted as a pub, or therefore subject of any active use as such after this date. Whilst the license may have lapsed prior to demolition of the building and adoption of the SPD, this does not alter the fact that the pub held a license at the point of its assessment, or the fact that the license could have been renewed had other circumstances not prevented this after 2015. As such I find that both Policy DMTS 8 of the DMP and emerging Policy HC7 of the DLP are applicable.

12. Considered in broader terms, pubs intrinsically function as places to meet, and provide a focus for social gatherings, and in each regard they hold social and community value. Indeed, this is reflected in the general classification of public houses as 'community facilities' in paragraph 92 of the Framework as noted above. I therefore see no reason to believe that the pub performed anything other than a socially valuable role when it was both standing and operational, regardless of how many other meeting places might have existed locally, or how the particular theme or management of the pub might have changed over time. As such, and in view of my findings above, the pub should be considered as a community facility, and thus Policy DMC 1 of the DMP is also applicable.
13. I attach little weight to the ongoing hiatus in the active community use of the building, whose value as a community resource is vested in its value as venue for community uses.
14. In response to the requirements of Policy DMC 1 of the DMP, and emerging Policy HC7 of the DLP, the pub has been marketed. Here the Council placed greater weight on the 18 month requirement set out in relation to Policy DMC 1 of the DMP, than the 24 month period set out in relation to emerging Policy HC7 of the DLP. This appears reasonable on account of the fact that the DMP represents the adopted position. The marketing evidence has been subject to specialist review by the Council, and on this basis the Council accepts that there is no demonstrable or future need for the public house use. I see no reason to disagree. Despite continued general conflict with Policy DMTS 8 of the DMP therefore, loss of the public house use must logically be considered acceptable.
15. The marketing evidence does not however demonstrate that the pub has been subject of marketing for other community uses. Whether or not one or other of the uses for which permission is sought in relation to Appeal A could potentially enable meetings and other social activities to take place, there is no certainty of this. The value of the building as a community resource and venue for community uses could thus be lost, and harm to the social vitality of the local community would be caused. Though the Council suggests that this could be addressed by a condition restricting the change of use to Class D2, this would not be appropriate. This is because, though Class D2 is one of the proposed uses, restriction of all the other uses for which permission is sought would contradict the terms of the permission.
16. As the scheme subject of Appeal B proposes a change in use to Class D2, it addresses the shortcoming in the scheme subject of Appeal. This would allow resumption in use of the building for purposes which would be of some social and community value. It follows that the scheme subject of Appeal B would be acceptable with regard to its effects on social and community vitality.

17. For the reasons outlined above I conclude that the scheme subject of Appeal A would lead to the loss of the community use of the appeal site, causing unacceptable harm to social and community vitality in conflict with Policy DMC 1 of the DMP as set out above. The scheme subject of Appeal B would however deliver a replacement community use, and thus no harm to social and community vitality would be caused, and no conflict with Policy DMC 1 of the DMP would arise. Though the Council has identified the continued conflict of both schemes with Policy DMTS 8 of the DMP, I am satisfied that in relation to Appeal B, the loss of public house use would comply with the development plan when taken as a whole.

#### *Character and appearance*

18. The building is a prominent feature at west end of the historic frontage lining the south side of St. Johns Hill. This is located within the Conservation Area, whose significance partly resides in the collection of historic buildings which front St Johns Hill, including some purpose-built commercial designs. In this context the Council has identified that the building makes a positive contribution to the character and appearance of the Conservation Area. Notwithstanding the fact that very little historic fabric now survives, and most of the façade is a replica, I see no reason to disagree.
19. As outlined above, Policy DMTS 8 of the DMP is also triggered by historic or architectural interest. Emerging Policy HC7 of the DLP similarly applies to public houses of heritage interest. Insofar as Policy DMTS 8 of the DMP is however interpreted in accordance with the SPD, the SPD indicates that the building holds no historic value. Policy DMTS 8 of the DMP is not therefore triggered in relation to this matter for either Appeal A or Appeal B.
20. Such a finding is somewhat at odds with the identified contribution the building makes to the Conservation Area. Nonetheless, in this regard the Council's view is that the change of use would have no effect given that the exterior of the building would be unaltered. Considered purely in terms of the appearance of the building, I see no reason to disagree.
21. The use is however identified as historic, and in this regard the fact that a public house has actively operated on the site for around 160 years clearly confirms this. The character of the Conservation Area is informed in part by the uses which occur within it. In this context the historic contribution made by the public house use to the commercial frontage along St John's Hill is of note.
22. Continued use as a public house has nonetheless been ruled out by marketing, as considered in relation to the matter of vitality above. An alternative community use would potentially complement the history of the site best. However, the façade of the building is no longer readily identified as belonging to a public house, and little else remains which might otherwise indicate such use. As such some other commercial use could be readily accommodated without any particular loss of interest, or diminution in character or appearance of the frontage along St John's Hill.
23. For the reasons outlined above I conclude that the developments subject to both Appeal A and Appeal B would not have an unacceptable effect on the character and appearance of the area, and would, furthermore, preserve the Conservation Area. No demonstrable conflict with the adopted development plan would arise.

### **Other Matters**

24. My attention has been drawn to paragraph 87 of the Framework, which forms a component of national policy setting out the sequential approach for locating main town centre uses. However, as this is most clearly understood in terms of new development rather than changes of use, its relevance is unclear, and does not alter my view in relation to Appeal A.
25. The appellant sets out a range of benefits in relation to Appeal A, including employment and a return to activity. These benefits would not however outweigh the harm that would be caused to social and community vitality, particularly in view of the fact that the Appeal B scheme would not cause such harm, and would otherwise deliver much the same range of benefits as cited in relation to Appeal A.

### **Conditions**

26. I have attached a condition setting out the time limit for commencement of development for sake of certainty.
27. Though the Council has requested a condition requiring the development to be carried out in accordance with the 'reports, specifications and drawings', it is unclear what these are as they are not specified. As the permission relates solely to a change of use it is not otherwise appropriate to attach a plans condition. The plans in any case carry no details.
28. The Council has proposed a condition restricting opening hours. However, the hours specified appear to be more limited than those which would have applied had the public house use continued. It is furthermore unclear on what basis the restriction would be imposed given that the approved use itself is no more than broadly specified as falling within Class D2. In this regard I have been provided with no grounds to consider that the use would be likely to open outside the hours specified by the Council. Whilst the restriction could therefore be considered unreasonable, it is also not demonstrably necessary.
29. The Council has also requested 2 conditions relating to the insulation of flats on the upper floors of the building against noise. The necessity of this in relation to the approved use is once again unclear. Furthermore, the flats were built as part of the reconstruction of the building, which occurred in relation to a retained Class A4 use on the ground floor. I consider it likely that the need for noise insulation would have been taken into account in this context, and would indeed have been required in order to meet the requirements of the building regulations. There is therefore no demonstrable necessity for these conditions.

### **Conclusion**

30. For the reasons set out above I conclude that Appeal A should be dismissed, and Appeal B should be allowed.

*Benjamin Webb*

INSPECTOR