



Appeal Decision

Site Visit made on 14 September 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/K5600/W/21/3271348

271 Kensal Road, London W10 5DB

- 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 Ben Youcef Bouchenak against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/06452, dated 15 November 2020, was refused by notice dated 4 February 2021.
 - The development proposed is the installation of new shop front and rolling shutter.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of the submission of the application to the Council, the evidence indicates that a replacement shop front and a roller shutter had been installed to the ground floor of the appeal premises. The box which housed the roller shutter, as then installed, showed that it projected out from the front elevation. This was a detail of the scheme shown on the submitted plans which were before the Council.
3. Subsequently, works were undertaken on site and the roller shutter box has been recessed back closer to the fascia. The Council has commented on this alteration in their Planning Report. However, the Council does not appear to have accepted this change as a revision to the application and the application plans were not amended. The plans which have been submitted at the appeal stage still show the projecting shutter box, although the accompanying appeal statement includes a photograph of the revised shutter box and a planning case for approval is made in respect of this revision.
4. The Procedural Guide: Planning Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which the views of interested parties were sought.
5. The revisions to the shutter box materially alter the nature of the proposal from the submitted plans and upon which local residents made their representations. I consider that if I were to accept the revisions to the shutter box, for which I do not have amended plans and only a photograph, this could lead to possible prejudice to interested parties, for example, neighbours in the vicinity of the appeal site. I therefore conclude that this proposed revision should not be considered and that the appeal has to be decided on the basis of the proposal as set out in the application plans.

6. Furthermore, at my site visit I noted that the shop front had been further altered from that shown on the originally submitted plans, and indeed the photograph submitted with the appeal papers. The originally submitted plans showed the door to the ground floor commercial space to the right hand side when looking at the appeal building from Kensal Road. This front door has now been rearranged with it positioned to a more central location. Again this is not part of the original plans submitted to the Council. Consequently, for the reasons already explained, I will determine the appeal based on the plans which were before the Council.

Main Issue

7. The main issue is the effect of the proposed shop front and roller shutter on the character and appearance of the host building and area.

Reasons

8. Kensal Road is a fairly busy urban street with a wide range of buildings and mix of uses. 271 Kensal Road is a building within a reasonably short terrace of three storey, Victorian-like buildings. They form a reasonably pleasant element of the street scene including the regular pattern of upper floor windows with their painted lintels. The ground floor of this run of buildings appears to have been originally individual commercial units.
9. At my site visit, most of the ground floor commercial uses appeared to have ceased trading with some behind shutters and some others where the space may now have residential uses on the ground floor. Nevertheless, architectural elements of some of the frontages remain such as the stall risers and slim fascias with mouldings. Although changes have eroded the consistency of the row, they still generally contribute a positive feature that relates well to the upper floors and the Victorian-like appearance of the terrace.
10. The evidence indicates that, before the changes to No 271, the ground floor frontage had a stall riser, a central, vertical glazing bar to the window and small panes at the top of the glazing area. The fascia was reasonably slim with an advert that fitted within the horizontal form of the space. The overall appearance was fairly traditional and complemented the appearance of the building itself and the terrace as a whole. The Council has explained in its Planning Report that this short parade is one of the last vestiges of historic interest in Kensal Road. The original shop front made a positive contribution to that historic interest of the area.
11. The drawings show that the replacement frontage would have large, glazed areas to the window and door, no stall riser and the aluminium frame would have little detailing to its form and appearance. These are all elements that would not be locally distinctive, would produce a glazing pattern with little character and which would harmfully contrast with the appearance of the more positive elements of the adjoining properties. Furthermore, the large depth of the new fascia would obscure the original slim fascia and would interrupt the general consistency of the horizontal form of the adjoining fascias. The projecting box for the shutter, as shown on the submitted plans, would be a discordant, bulky and fairly crude addition that would not be sympathetic to the appearance of the building.

12. Taken together, the scheme would result in a combination of elements that would detract from the form and appearance of the host building and the terrace as a whole. The details of the proposal, as shown on the submitted plans, pay little regard to the detailed advice for shopfront design as set out in Policy CL10 of the Kensington and Chelsea Local Plan (2019) (the Local Plan) and the Shopfront Design Guidelines Supplementary Planning Document (the Shopfronts SPD)
13. Furthermore, it would appear from the submissions that when the roller shutter is in use it extends down to the ground and is solid in appearance. While the security of the business is important, when in use the shutter would create a dead frontage. This would cause harm to the character and appearance of the building and the adjoining area. This is another element of the scheme which would be contrary to Policy CL10 of the Local Plan and the Shopfronts SPD which seeks to resist external security shutters that have a solid appearance.
14. I have noted the surrounding business premises and that they also have solid shutters, although these do not all extend to the ground and stall risers generally remain visible. The food and wine shop at No 277 has been raised as an example to justify the appeal proposal. However, that frontage has a reasonably slim fascia and a stall riser (albeit obscured by meter boxes) and therefore the components of that shop front retain some traditional elements that the appeal proposal is lacking. While I have had regard to the examples of shop fronts elsewhere and the influence they have on the character of the area, they would not in themselves justify the appeal proposal which would be harmful for the reasons explained. Planning conditions attached to any approval could not overcome this harm.
15. I appreciate that the premises are one of only a small number which are operating commercially in this row and such businesses should be generally supported. However, I see no reason why the business could not trade successfully with a shopfront that was sympathetic to the character and appearance of the area and therefore the presence and support for the business provides only minor weight in justification of the appeal proposal.
16. In the light of the above analysis, I conclude that the effect of the development, as set out in the submitted plans, would be to unacceptably harm the character and appearance of the host building and area. Accordingly, the scheme would conflict with Policies CL1, CL2, CL6 and CL10 of the Local Plan and the Shopfronts SPD which seek, amongst other things, that new shopfronts should have a positive visual impact on the appearance of the building or street scene.

Conclusion

17. For the reasons given above, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR