
Appeal Decision

Site visit made on 14 February 2022

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/K5600/W/21/3284412

120 Kensington Park Road, London W11 2PW

- 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 Meghdad Farrokhzad against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/03454, dated 24 May 2021, was refused by notice dated 12 August 2021.
 - The development proposed is alterations to shopfront including installation of openable timber sash windows along Westbourne Grove elevation. Window opening along Kensington Park Road to be enlarged and openable timber sash windows. Removal of existing blocked up window. Replacement of main door with double doors comprising fixed side glazed panels. Installation of upgraded external lighting. Separate entrance to basement level. Bronzed metal surround to existing door opening and window. Existing door replaced with glazing above. Existing window adjacent to door increased in size.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the appeal form, as this comprehensively describes the proposal.

Main Issues

3. The main issues are the effect of the proposal on:
 - i) the living conditions of nearby occupiers, with particular regard to noise and disturbance, and
 - ii) the character and appearance of the building and surrounding area, bearing in mind the location within the Ladbroke Conservation Area.

Reasons

Living conditions

4. The appeal scheme proposes alterations to the ground floor of the building, which benefits from a certificate of lawfulness for uses falling within Class E. Above the ground floor, at first, second and third floor are residential properties. This appears to be common within the vicinity of the site, with commercial uses at ground floor and residential above.
5. The scheme would result in the introduction of openable windows to the ground floor, serving the commercial unit, which the submitted information sets out

would be used as a café/restaurant/bar as allowed within the permitted Class E usage. The use of the ground floor for such purposes, where there are residential uses above, raises the potential for the proposed use to impact on the living conditions of the nearby occupiers, through increased noise and disturbance. While I note the appellants comment that the end use is not for consideration, only the alterations to the building itself, the introduction of openable windows where there are currently none raises the consideration of neighbours living conditions.

6. I note that there are other similar uses within the vicinity of the site, but I observed none that have openable windows to the same extent as that proposed. The proposed use at the site with the windows openable to two elevations would result in significant potential for a harmful effect on the nearby occupiers as a result of noise emanating from the ground floor. This would be particularly so if the residents above also had their windows open.
7. The appellant highlights the presence of restrictions within the licence for the operation of the premises, however a copy of this has not been provided and from the evidence before me, there appears only to be a restriction on the times during which the doors to the premises are required to be closed, not any windows. As such, the presence of any licence does not provide sufficient protection to residents in this regard. Moreover, I have not been provided with the details of any condition that would accord with the required tests of a planning condition that would satisfactorily address this matter.
8. Therefore, I find that the proposal would result in an unacceptable effect on the living conditions of nearby occupiers, with particular regard to noise and disturbance. Thus, the scheme conflicts with policy CL5 of The Royal Borough of Kensington and Chelsea Local Plan (adopted 2019) (the Local Plan), insofar as it seeks to ensure that good living conditions are maintained for occupants.

Character and appearance

9. The appeal site lies within the Ladbroke Conservation Area. I observed that the significance of this designated heritage asset lies, in part, in the detailing and design of buildings which line the streets within the vicinity of the appeal site. The building subject of the appeal lies at the junction of Westbourne Grove and Kensington Park Road. To the east along Westbourne Grove is a parade of shops, many of which have traditionally proportioned and detailed shop fronts with display windows set within. This is replicated by the smaller parade of shops bordering the appeal site, that extends south on Kensington Park Road.
10. Currently, the ground floor of the appeal site is dominated by a large expanse of glass to Westbourne Grove which appears incongruous due to it not being framed within any shopfront feature. The appeal scheme would introduce three vertical divisions of glazing which would introduce a greater vertical emphasis to the window than it currently exhibits. In this respect, it would more appropriately integrate with the individual sliding sash windows to the first to third floors of the building above and would remove the current large expanse of glass.
11. Similarly, along Kensington Park Road, there is an incongruous smaller glazed pane set within the ground floor elevation, again not set within any shop front, with a large expanse of wall extending between this and the next building. The appeal scheme would result in the enlargement of this existing window,

reducing the large expanse of wall that is uncharacteristic at this location. The window would comprise three divisions of glazing, which would reflect the scale of the glazing to the floor above.

12. I note the concerns of the Council in respect of the creation of a partly open shopfront. However, the proposed pattern of glazing would not result in gaps in the frontage of the building, given the retention of areas of walling below the windows. Furthermore, the vertical divisions of the windows would ensure that the façade above the windows does not appear unsupported. In this regard, the scheme would not result in an open shopfront. While the windows would be openable to their lower halves, a feature that I observed was not present at other building within the area, the existing windows on the ground floor of the building are currently at odds with the prevailing characteristics of other shops in the parades, due to the lack of any framing shopfront features.
13. The proposed scheme would be viewed as appropriate alterations to a building located at a corner position. In this respect, I find that it would integrate more acceptably with the nearby properties than the existing building features do and would respond fittingly to the proportions and design of the existing building.
14. Accordingly, I find that the proposal would have an acceptable effect on the character and appearance of the building and surrounding area, which includes preserving the significance of the Ladbroke Conservation Area as a designated heritage asset. Thus, the proposal accords with policies CL1, CL2, CL3, CL6, CL10 and CL11 of the Local Plan. Together, and amongst other things, these seek to ensure development respects the existing context, is of a high design quality, preserves heritage assets, does not harm the character or appearance of a building, as well as that shopfronts relate well to surrounding buildings and that views within conservation areas are protected.
15. I also find no conflict with the guidance of the Councils Shopfront Design Guide, or the design and heritage asset protection aims of the National Planning Policy Framework.

Other Matters

16. I note comments in respect of the provision of fresh air to the interior of the premises, however this is not a matter that is sufficient to overcome the harm that I identify.

Conclusion

17. While I find no harm to the character or appearance of the host building or the area, including to the conservation area, I find that the scheme would result in harm to the living conditions of nearby occupiers through increased noise and disturbance. This matter is decisive.
18. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR