



Appeal Decision

Site visit made on 7 February 2023

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2023

Appeal Ref: APP/K5600/W/22/3303817

137-139 Notting Hill Gate, Kensington and Chelsea, London W11 3LB

- 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 Pizza Express Restaurants Ltd against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/02727, dated 25 April 2022, was refused by notice dated 28 June 2022.
 - The development proposed is removal of section of shopfront next to doorway and replacement with sliding sash window and fixed window panel.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of section of shopfront next to doorway and replacement with sliding sash window and fixed window panel at 137-139 Notting Hill Gate, Kensington and Chelsea, London W11 3LB in accordance with the terms of Application Ref PP/22/02727, dated 25 April 2022, and subject to conditions set out below:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawing numbers and information: 2186/PO1; 2186/PO1 Rev A and Pavement Management Plan dated July 2022.
 - 3) The external surfaces of the development hereby permitted shall match those of the existing building in respect of materials, colour, texture and profile.

Preliminary Matters

2. The description of development in my decision has been taken from the appeal form and the Council's decision notice as it describes the appeal scheme more precisely and comprehensively than the description in the application form.
3. The appeal has been accompanied by a Pavement Management Plan (PMP) which was not assessed by the Council when it made its decision. The PMP includes details of average delivery numbers and waiting times, along with procedures that could be adopted where delivery drivers and customers are required to wait for food collections. This, in part, represents new information. The appeals' procedural guide makes it clear 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 interested people's views were sought¹.

4. Nevertheless, it is my view, that the additional information does not fundamentally alter the scheme in terms of its design, scale and layout. Additionally, the information is not particularly technical in nature given that it relates to procedures for managing deliveries at the premises, and the Council have had sight of it and had the opportunity to comment. I have therefore assessed the appeal on the basis of the additional information.

Main Issue

5. The main issue is the suitability of the proposed development's location with particular reference to pedestrian activity and the vitality and attractiveness of the Notting Hill District Shopping Centre.

Reasons

6. The appeal site, a ground floor restaurant, is located within a commercial frontage facing Notting Hill Gate, a vibrant street consisting of numerous shops, restaurants and services. These are well connected to bus stops along the street as well as the London Underground system.
7. There is a wide pavement between the appeal site and the vehicular highway. A short line of existing tables and chairs adjacent to the premises' frontage, provide outdoor seating for the restaurant. Due to their proximity to the premises and the walkway's above average width, these do not inhibit the high volumes of pedestrians I saw using the thoroughfare. Although only a snapshot in time, it is likely that the level of activity I observed during my site visit was typical for a street containing such a high variety and volume of commercial premises.
8. The proposal would allow delivery drivers and customers ordering takeaways to collect meals from a new service hatch adjacent to the premises' entrance, thus segregating takeaway collections from the restaurant and minimising disruption to diners and staff.
9. The premises received around 300 collection/takeaway orders a week during one three-month period in 2022. Although this would equate to around 4 collections per hour, it is reasonable to expect this figure to be higher during the evenings and particularly towards the end of the week when takeaways are traditionally consumed.
10. The PMP indicates that during collection times, the table and chairs outside the premises would be removed, allowing people to wait in that area prior to collecting their meals. To prevent the build-up of queuing customers the restaurant would carefully manage the number of orders received to ensure they are evenly distributed.
11. There would, as a result of the new service hatch, inevitably be some people waiting outside the restaurant to collect meals, but with the high turnover and short waiting times envisaged, lengthy queues and large numbers of people congregating on the street would be unlikely. Nonetheless, a waiting area would be allocated, according to the PMP, where the existing table and chairs

¹ Annex M, M.2.1, The Planning Inspectorate Procedural Guide, Planning Appeals – England, August 2019

are situated, away from the main desire line that pedestrians would likely take along the wide pavement fronting the premises. Similarly, I would not expect the number of waiting customers to block the entrance to the restaurant given the size of the pavement area. Moreover, the procedures outlined in the PMP provide a sensible means of controlling the build-up of orders and people awaiting collection. Taking these factors into account the proposal would not lead to the pavement becoming obstructed in the way envisaged by the Council.

12. The Council has provided limited evidence of how the proposal would impact the vitality and attractiveness of Notting Hill Gate's District Shopping Centre. There are no details of how such an activity would affect businesses in the locality financially or how it would deter patrons from visiting the area. In any event, I have found that, the volume of customers awaiting orders outside the appeal site would not be significant, and their presence would be observed in context with other activity along the street, for example, people boarding and alighting buses nearby, small groups congregating and chatting, shoppers, and other delivery drivers picking up and dispensing goods. In this respect the proposal would add to, rather than harm, the street's general activity and vibrancy.
13. Therefore, the proposed development's location with particular reference to pedestrian activity and the vitality and attractiveness of the Notting Hill District Shopping Centre would be acceptable. It would accord with Policies CT1 and CR3 of the Local Plan, September 2019, which amongst other things, require proposals to maintain the free, safe and secure passage of pedestrians whilst ensuring the development does not reduce access to, or the attractiveness of existing footways used by the public.

Other Matters

14. The appeal site is within the Kensington Conservation Area. The proposal involves modest alterations to the shopfront that would not noticeably alter the arrangement and general appearance of the glazing across the frontage. Accordingly, there would be a negligible effect on the CA's character and appearance, and consequently it would be preserved.

Conditions

15. In addition to the standard time limit condition, I have considered it necessary to include a schedule of plans and information that the development relates to, for the avoidance of doubt and in the interests of certainty. Also, a condition relating to the construction of the works in materials to match the exterior of the existing building is necessary to safeguard the character and appearance of the area.
16. I have not included the Council's suggested hours of opening condition, as the use of the service hatch would align with the existing opening and closing times relating to the restaurant.

Conclusion

17. For the reasons given I conclude that the appeal should succeed.

RE Jones INSPECTOR