



Appeal Decision

Site visit made on 5 December 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/K5600/W/23/3317137

Ground Floor, 120 Talbot Road, Kensington and Chelsea, London W11 1JR

- 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 Manbir Nahal against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/04035, dated 27 June 2022, was refused by notice dated 23 August 2022.
 - The development proposed is the change of use of the ground floor from laundrette (Sui Generis) to commercial unit (Use Class E).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the ground floor from laundrette (Sui Generis) to commercial unit (Use Class E) at Ground Floor, 120 Talbot Road, Kensington and Chelsea, London W11 1JR in accordance with the terms of the application, Ref PP/22/04035, dated 27 June 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1502 Revision B; 1530 Revision E; 4003 Revision D; 4004 Revision E and 4002 Revision C.

Procedural Matters

2. Although the Council was aware of the marketing report for the appeal property covering the period to 21 February 2023¹, which accompanied the appellant's appeal statement, the appellant submitted an update on the marketing exercise² for the period to the 1 September 2023, at the final comments stage. As this update continues to indicate that no expressions of interest in the appeal premises were received from potential laundrette operators or occupiers seeking premises for social and community uses, I am satisfied that no party would be unfairly prejudiced by me taking it into account in determining the appeal.
3. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. There are no material changes relevant to the substance of this appeal and therefore I am satisfied that no party would be unfairly prejudiced by the changes to the national policy context. All references to the Framework in this decision relate to the revised document.

¹ Letter from Knight Commercial dated 21 February 2023

² Letter from Knight Commercial dated 1 September 2023

4. The Council has advised that the examination of the New Local Plan Review is ongoing, and it attaches limited weight to the emerging policies. Based on the evidence before me, I see no reasons to disagree and therefore I also afford limited weight to the emerging policies drawn to my attention by the parties.

Background and Main Issue

5. This appeal follows a previously unsuccessful appeal³ to change the use of the laundrette at the appeal site to a dentist/doctor surgery. The Inspector found that detailed evidence demonstrating that there is no need within the local area for such services or no demand within the market to take up the existing laundrette use was lacking, resulting in conflict with Policy CK1 of the Royal Borough of Kensington and Chelsea Local Plan, September 2019.
6. The main issue in this case is whether or not the loss of the existing social and community use would be acceptable, with particular regard to local planning policies.

Reasons

7. The appeal relates to a ground floor unit located on the corner of Talbot Road and Powis Terrace, and within the primary frontage of the Talbot Road Neighbourhood Centre. The unit has a shop style frontage and was last used as a laundrette, which ceased operating in late 2019. Since then, the basement beneath the laundrette has gained planning permission for conversion to a residential unit. At the time of my visit the interior of the ground floor unit appeared to have been stripped-out and was in the process of renovation.
8. Policy CK1 of the Royal Borough of Kensington and Chelsea Local Plan, September 2019 ("the LP"), seeks to ensure that social and community uses are protected. It sets out that a sequential approach will be applied, firstly to protect buildings that are or were last used as a social and community use to be reused for the same, similar or a related use. The Policy then seeks to permit changes of use to a different social and community use, where it can be demonstrated that the resulting use would provide significant and greater benefit to the Borough and its residents. Lastly in the sequence, the Policy permits enabling development to deliver a significant improvement to social and community uses on the site or elsewhere in the Borough, where demonstrably of greater benefit. Laundrettes are included amongst the uses in the LP, which contribute to the stock of social infrastructure and the functioning of the community.
9. The evidence indicates that the appeal property has been subject to a sustained marketing campaign that began in 2019. However, the Council considers that the marketing of the property was not effective due to the rental price advertised being too high for potential laundrette operators, and occupiers seeking premises for social and community uses, and the absence of a 'strap-line' in the marketing particulars targeting those particular uses.
10. The evidence indicates that the previous deficiencies with the marketing exercise have been rectified for the latest phase of marketing. This began in September 2022, and continued until at least the date of the latest update from the marketing agent dated 1 September 2023, and is said to be ongoing. During that time the property has been advertised on the property agent's

³ APP/K5600/W/19/3239906

website, and the Rightmove Commercial and Co-Star platforms. The marketing particulars include the requested 'strap-line', to target potential laundrette operators, and occupiers seeking premises for social and community uses. Whilst there is nothing before me to stipulate that marketing should take a particular format or duration, I find that on the evidence before me the duration of the appellant's marketing exercise covered a sufficiently prolonged period of time in order to assess the level of interest in the property from the aforementioned operators/occupiers.

11. Although the appeal property was marketed at the upper end of the rental price range suggested by the Council as typical for laundrette businesses in the area, it nonetheless fell within that price range. I have no substantive evidence to suggest that the asking price dissuaded potential laundrette operators or occupiers for other social and community uses from enquiring about the property, or making an offer at a lower rental price. As such, I have no basis on the evidence before me to find the rental asking price to be unreasonable.
12. Whilst the social and community uses in the LP include health care and medical uses, I see no reason why operators active in those sectors would not search general commercial property platforms when seeking premises in a particular area. In any case, I find no evidential basis, including in the planning policies before me, to justify marketing the appeal premises through specific channels relating to those uses.
13. I have no substantive evidence that the residential uses of the units directly below and above the ground floor appeal unit, have dissuaded potential operators of laundrettes or social and community uses from renting it. Whether or not the 'agent of change' principle was applied in granting planning permission for the ground floor unit has limited relevance to my considerations in this appeal as that use has already been granted.
14. For these reasons, I find that the marketing of the appeal premises as a laundrette, and for social and community uses has been sufficiently robust. The lack of enquiries from prospective operators of those uses demonstrates that there is no need or market demand for the appeal unit in either its current use or for other social and community uses. As such, it is no longer viable for such uses and would not cause unjustified harm to the functioning of the community.
15. I note that the previous Inspector found that a laundrette was a necessary social and community facility. Several laundrettes in the Borough have been lost over the years and I am advised that loss of the laundrette use at the appeal premises would leave a single laundrette within a 10-minute walk from the appeal site; a distance which may discourage potential users from travelling to that laundrette with bags of heavy washing. Nonetheless, for the reasons given above, these factors do not alter my conclusion that there is no demonstrable need or demand from the market for the appeal premises as either a laundrette or for social and community uses.
16. In terms of LP Policy CK1, there are uses within Use Class E⁴, which would appear to align with a number of social and community uses listed in the supporting text to the Policy. Therefore, the proposed use of the appeal premises would not necessarily conflict with this Policy. Even if the appeal site

⁴ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No.757).

was used for a purpose in Use Class E that did not fall within those uses listed in the LP, given my conclusions above, I attach limited weight to the resultant conflict with LP Policy CK1.

17. The main parties agree that the appeal proposal could benefit the function and vitality of the area in which it is located. I am directed to LP Policy CK2, which seeks to ensure that opportunities exist for convenience shopping and other facilities which contribute to keeping life local in the Borough, including some that appear to fall within Use Class E. I see no basis to disagree with the main parties in this regard and the marketing evidence before me indicates interest from several potential operators for purposes within Use Class E. For these reasons, I find that the benefits of the appeal proposal are sufficient to outweigh any conflict with LP Policy CK1 that would arise.
18. In having regard to the Framework and based on my conclusions above, I find that the appeal proposal would not result in the unnecessary loss of a valued facility or service. As such, I find no conflict with Framework Paragraph 97, which states that planning decisions should, amongst others, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
19. Taking all the above into account, I conclude that the loss of the existing social and community use would be acceptable.

Other matters

20. The site lies within the Colville Conservation Area ("the CA") and in determining this appeal I have had regard to my statutory duty under s72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ("the Act"), to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
21. No external changes to the building are proposed and therefore its appearance, and thus the appearance of the CA, would be preserved. Furthermore, given the position of the appeal building at the end of a row of commercial ground floor units, the appeal proposal would be consistent with the character of the CA. As such, I am satisfied that the appeal proposal would preserve (leave unharmed) the character or appearance of the CA as a whole, and therefore accord with the requirements of s72(1) of the Act.
22. Planning permission has been granted for a basement residential unit beneath the appeal unit. The Council did not find that harm to the living conditions of the existing or future occupiers of nearby properties would arise through the appeal proposal. I have no substantive evidence before me to justify reaching a contrary view.
23. By its nature the Government's consultation on permitted development rights seeks views from interested parties as opposed to setting policy or guidance, and the extract from the consultation relates to allowing local consideration of a proposed change of use of a laundrette. In this instance the appeal proposal has been considered locally and for these reasons the Government's consultation has limited relevance to my considerations in this appeal.
24. I have limited information on the refusal of planning permission at 52 Golborne Road for a change of use of a laundrette and therefore it has limited relevance

to my considerations in this appeal, which is based on the specific evidence before me.

25. I have necessarily determined the appeal based on the description of the proposed development before me, which is not for a residential use. Therefore, concerns over any future change of use of the appeal premises to a residential use have no bearing on my consideration of the main issue in this appeal.

Conditions

26. The Council has suggested a number of planning conditions in the event of the appeal being allowed. I have considered them in accordance with the tests for imposing conditions set out in the Framework and the Planning Practice Guidance. In the interests of certainty of the planning permission granted, conditions are imposed to specify the time limit for implementation and the approved plans.
27. Waste would be stored within the appeal unit, and I have limited substantive evidence that this arrangement would have unacceptable impacts on the living conditions of nearby occupiers. Furthermore, I am not aware of any basis to require details of the waste that would be generated by the proposed use. As such, I find the Council's recommended condition to be unnecessary and therefore I have not imposed it.
28. The appeal site is located within an area where commercial uses in ground floor units are common. In this context, there is limited substantive evidence to justify that servicing of the appeal property and deliveries associated with it, which is relatively modest in scale, would need controlling to avoid harms. As such, I find that in this instance, the suggested condition would not be necessary and therefore I have not imposed it.

Conclusion

29. Based on the evidence before me, there is no demonstrable need or market demand for the appeal premises in its current laundrette use or for social or community uses. Therefore, the loss of the existing social and community use would be acceptable. To the extent that there would be a conflict with LP Policy CK1, and the development plan as a whole, I find that the conflict would be outweighed by the benefits of the appeal proposal. Therefore, having taken account of all matters raised, I conclude that the appeal should be allowed.

G Sylvester

INSPECTOR