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# Appeal Decision

Site visit made on 7 March 2024

**by R Bartlett PGDip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 April 2024**

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**Appeal Ref: APP/X5990/W/23/3327283**

**1 Clifton Road, London, W9 1SZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Zeynep Derya and Leyla Kusat of Lilly Dilly against the decision of the Council of the City of Westminster.
  - The application Ref is 23/01479/FULL.
  - The development is use of part of forecourt area in association with a florist business, together with construction of a service kiosk, low level storage units, planters and display units following removal of existing timber frame and perspex roof.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development in the banner heading above is taken from the application form. However, as the term 'retention of' does not relate to an act of development, I have amended this to 'use of'.

## Main Issues

3. The main issues are the effect of the development on i) pedestrian movement and ii) designated and undesignated heritage assets.

## Reasons

### *Pedestrian movement*

4. The site is located on the busy corner of Maida Vale and Clifton Road and is adjacent to a traffic light controlled pedestrian crossing point.
5. The florist business is currently served by the pedestrian access gate on Maida Vale, with the pedestrian gate on Clifton Road providing access to residential properties within the building at No.1 Clifton Road.
6. At the time of my visit, the forecourt area outside of the boundary wall on Clifton Road was not being used in connection with the florist business. As I have not been provided with any details to confirm how it is proposed to use this area in connection with the business, I can only assume that it is proposed to use this area to display flowers that are for sale, as shown in the 2015 Google street view images provided by the Council.
7. The main parties disagree whether the forecourt area on Clifton Road forms part of the public highway or not. However, regardless of the ownership of this

area, there is no substantial evidence before me to demonstrate that it has been lawfully or continuously used for anything else in recent years. Even if this area of land is not public highway, displaying goods within it would purposefully result in by passers stopping to look at these, and in doing so they would obstruct the pavement for other pedestrians, in an area which is already somewhat cluttered by the presence of various structures such as the telephone box, equipment cabinets and street signs, in close proximity to pedestrian crossing points on a busy junction. The display of goods outside of other shops elsewhere along Clifton Road does not lead me to a different view on this matter.

8. Consequently, the use of the area outside of the boundary wall in connection with the business would result in obstructions to pedestrian movement in the area. This would be contrary to Policies 25 and 43 of the City of Westminster City Plan 2019-2040, which seek amongst other things to ensure that new development prioritises and improves the pedestrian environment and contributes towards achieving a high quality and clutter free public realm, particularly in areas of kerbside stress. However, I find no direct conflict with Policy 26, which relates to public transport and infrastructure.

#### *Heritage Assets*

9. The site is within the grounds of No.1 Clifton Road, which is a non-designated heritage asset. It is also within the Maida Vale Conservation Area (CA), wherein there is a statutory duty to preserve or enhance the character or appearance of that area.
10. The significance of the CA is derived, in part, from the age and architectural detailing of the mid-19<sup>th</sup> century, classically designed buildings within it. Although most front gardens have been replaced with incidental parking and bin storage areas, the frontages of properties onto Maida Vale are generally free from built development and remain ancillary to the use of the buildings they serve. These open frontages make a positive contribution to the appearance of the area and the setting of the buildings.
11. Following the removal of the existing unauthorised structure that spans the full width of the site frontage, it is proposed to sub-divide the front garden of the property, using low level planters with a new tall gate and a new tall section of fencing in between. Overtime, the planting would be likely to increase in height to match that of the taller gate and fence. It is also proposed to site low level cabinets against the inside of the existing boundary walls and railings, which would not exceed the height of the solid wall. A kiosk, clad with dark stained vertical timber boarding would be sited directly in front of the basement stairs and lightwell at the front of the building. A large awning would provide shelter over most of the remaining area during the day and would be stored away at night.
12. The cabinets would not be visually prominent from outside of the existing boundary walls and would not obscure views of the building frontage or sub-divide it. Likewise, the planters and a lightweight non-permanent awning that would be removed each night, would preserve the setting of the non-designated building and the CA.
13. However, the kiosk, due to its size and location, would partially obscure ground floor views of one of the principal elevations of the property and its

architectural features. The kiosk, gate and new fencing, together with the sub-division of the Maida Vale frontage, would also appear incongruous and would harmfully detract from the appearance of the building and the layout of spaces in the area. These elements of the proposal would all be visually prominent in the street scene through the existing railings, following the removal of the unauthorised structures.

14. I therefore conclude that the proposal would not preserve or enhance the character or appearance, or the setting of the designated and non-designated heritage assets. Consequently, it would be contrary to Policies 38, 39 and 40 of the City of Westminster City Plan 2019-2040, which seek amongst other things to ensure that new development is of high-quality design and that heritage assets and their settings and features are conserved and enhanced in a manner appropriate to their significance.
15. Whilst the harm to the historic significance of the CA when taken as a whole would be less than substantial, it would not be outweighed by the very limited public benefits, in terms of employment generation and the contribution to the vitality of the retail area that would be generated by this small-scale development.

### **Other Matters**

16. The site is identified on the proposals map in the City Plan as being within the Clifton Road Local Shopping Area. As such it may be suitable for some form of retail or ancillary retail use. However, the inclusion of the site within the proposals map does not necessarily mean that new buildings for retail use should automatically be considered appropriate.
17. I acknowledge that a florist business has operated from the site for some time. However, based upon the evidence before me, this use has not been continuous and has been undertaken from a variety of unauthorised buildings as the business outgrew the site, which from the historic Google street view images provided by the Council, appears to have started out as more of a temporary market stall nature.
18. Whilst there is a structure on the Maida Vale frontage of the building on the opposite side of Clifton Road, I am unaware of the planning status of that structure or the circumstances surrounding it. Its presence does not justify granting planning permission for other new structures in this area that would further erode its heritage significance.

### **Conclusion**

19. For the reasons given above, the appeal is dismissed.

*R Bartlett*

INSPECTOR