



Appeal Decision

Site visit made on 4 April 2013

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 May 2013

Appeal Ref: APP/K5600/A/12/2188064

Memories of China Kensington Ltd, 353 Kensington High Street, London W8 6NW

- 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 Lochstill Ltd against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/12/00724, dated 1 March 2012, was refused by notice dated 23 May 2012.
 - The development proposed is the conversion from restaurant and flats to single dwelling, internal and external alterations and reconstruction of rear wing (within existing envelope).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the locality; and on the functioning, vitality and viability of the Neighbourhood Shopping Centre; along with consideration of whether suitable parking and access arrangements would be provided.

Reasons

Character and appearance

3. The appeal property is an end of terrace corner building with a restaurant at ground floor level and flats on the upper 3 floors. The early 19th century building was originally a town house and the appeal proposal, as described above, is intended to effectively return it to this form.
4. The site lies within Edwardes Square, Scarsdale and Abingdon Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Policy CL3 of the Core Strategy (CS) broadly reflects this.
5. As with the appeal property, the five properties running to the north-east now include commercial premises at ground floor and residential use over. This mixed parade has a character and appearance differing from the surrounding built environment which is residential in use. It is a unique terrace locally. To

this end, even with the ground floor units not being original in use or design, it adds both visual interest and a stretch of relatively lively character to the wider locality. The loss of part of this mix would impact upon the character of the area. The stretch is designated a Neighbourhood Shopping Centre and has that appearance. There would be an erosion of the character and visual qualities if one sixth of the ground floor of this parade was to be changed to, effectively, 'inactive frontage' residential use. I say this even though the scheme with its architectural integrity seeks to return to the building to its roots. In this instance, right along this terrace, time and uses have moved on, the pattern has evolved and even though one could criticise the architectural quality of the actual 'shop' fronts the overall effect is pleasing on the eye and brings life and commercial functionality to the heart of this locality. Whilst investment in refurbishment generally would be commendable a move to return completely to the original form and use here would, perhaps somewhat ironically, be a retrograde step for this Conservation Area.

6. I turn now to the detailed architectural changes proposed, setting aside my major concerns over the 'inactive frontage' issue. I do not agree with the Council on the points of detail it criticises (for the reasons given by the appellant) other than on the introduction of the front lightwell. These do exist nearby on other terraces, and may well have been part of this terrace in the past, but do not feature on any of the six properties. Again time has moved on and the introduction of a single lightwell so close to the rear of footway and abutting the raised entrance way to the neighbouring commercial premises would look ill at ease and lead to a building frontage which did not respect its immediate context.
7. Having regard to all of the above I conclude that there would be conflict with S72(1) of the Act and CS Policy CL3; there would not be preservation of the character and appearance of the Conservation Area. Additionally, taken together, CS Policies CL1 and CL2 require development to respect existing context, character and appearance, and the way an area functions and to contribute positively to local distinctiveness; given the nature of the appeal scheme, I conclude that the proposal would run contrary to these policies.

Vitality and Viability

8. The appeal property and its terrace form the Kensington High Street West Neighbourhood Shopping Centre. This is intended to provide local facilities for residents. Whilst the focus would naturally be on shopping opportunities it would be illogical to suggest that other commercial and service facilities do not play a part in both serving the local people and in helping to give a critical operational and visual mass to the parade. Restaurants do not dominate over shops here, the split is 50/50. Certainly there are a number of restaurants locally but no evidence is brought on lack of viability in what appears as a densely populated neighbourhood. One can debate the fine print within the quoted policies and their supporting text and whether restaurants are covered by protective policies, or intended to be covered but missed out of 'examples' lists, or deliberately not included; but in my opinion the physical nature and customer attraction of having a restaurant here will do more to safeguard the functionality, vitality and viability of the shopping centre than having a purely residential use.
9. Furthermore the ground floor premises as they presently stand would offer scope for other alternative commercial uses which could well make a positive

contribution to the parade's well-being. After re-modelling and conversion works a residential use at ground floor would seem highly unlikely to revert to commercial premises. I am not surprised the CS makes it clear (para 31.3.24) that restaurants and drinking establishments do have a role to play in supporting the diversity of the Borough's centres and providing local service. In this instance there is no evidence of residential amenity issues being a problem. Restaurants can and do support retail uses and I have already found that they do not dominate in this commercial stretch.

10. CS Policy CF3 seeks to secure the diversity of uses and the vitality of centres and provide for a range of uses complimentary to the area and retailing. My conclusion is that the appeal proposal would run contrary to the aims of this policy.

Parking and access

11. The Council is concerned that the proposed parking arrangements lack clarity, may lead to over-provision and could resulting potential traffic issues due to access spill-over waiting on the adjoining highway. From my perspective the plans are relatively clear (and relevant conditions could be applied in any event), the garage capacity at its maximum would not exceed normally applied levels for this scale of dwelling and the applicable side road is a quiet cul-de-sac which could well see more manoeuvring and waiting for the restaurant use than the proposed dwelling with its potential car lift arrangement. Cycle storage is not shown but space would exist for this and it is a matter which could be subject to a planning condition. I conclude that the development would not run contrary to CS Policy CT1.

Overall conclusion

12. Whilst I find there to be suitable parking and access arrangements this is outweighed by my conclusions that, for the reasons given above, the appeal proposal would have unacceptable adverse effects on the character and appearance of the locality and on the functioning, vitality and viability of the Neighbourhood Shopping Centre. Accordingly the appeal is dismissed.

D Cramond

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