



Appeal Decision

Site visit made on 3 May 2012

by Kevin Ward BA (Hons) MRTPI

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

Decision date: 23 May 2012

Appeal Ref: APP/X5210/A/11/2163548
14 Warren Street, London W1T 5LL

- 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 John H King Developments Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2011/3456/P, dated 20 June 2011, was refused by notice dated 14 September 2011.
 - The development proposed is change of use from A1 to A3/A4.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published the National Planning Policy Framework on 27 March 2012 and I have taken it into account in determining the appeal. In the light of the particular facts of this case, it does not alter my conclusion.

Main Issue

3. The Council does not object in principle to the loss of a Class A1 use or raise concerns about the effect on the vitality and viability of the commercial frontage. The proposal would not involve external alterations and so would preserve the character and appearance of the Bloomsbury Conservation Area. I am satisfied that in principle adequate arrangements for odour extraction could be put in place and that this could be the subject of a condition.
4. I consider therefore that the main issue is the effect of the proposal on the living conditions of local residents in terms of noise and disturbance.

Reasons

5. Policy CS7 of the Core Strategy recognises that food, drink and entertainment uses can add variety and vibrancy to commercial areas. It also makes it clear however that this should not be at the expense of the living conditions of local residents. Policy DP12 of the Camden Development Policies Development Plan Document (the Development Policies DPD) sets out detailed criteria in relation to the potential effect of such uses on residential amenity. Policy CS5 of the Core Strategy and Policy DP26 of the Development Policies DPD deal with the effect of development on residential amenity in more general terms.

6. This section of Warren Street is largely commercial in character although there are dwellings directly opposite the appeal property and there appear to be flats above a number of the commercial premises. The commercial uses include a public house and a small number of restaurants/cafes which remain open late into the evening. Although the fast food restaurant at the end of Warren Street stays open until the early hours of the morning, this is some way from the appeal property on the corner of Tottenham Court Road. The restaurant on the opposite corner of Whitfield Street to the appeal property remains open until midnight.
7. There are a number of flats directly above and also immediately to the rear of the appeal property. Whitfield Street, whilst containing some commercial uses including a restaurant and cafe, is noticeably more residential in character, particularly towards the junction with Warren Street. It includes an area of public open space adjacent to the flats to the rear of the appeal property. Unlike existing food and drink uses in the locality, there are a significant number of dwellings in very close proximity to the appeal property.
8. Following the previous appeal decision (APP/X5210/A/10/2140732) the appellant commissioned a noise assessment. Noise measurements were taken from outside a nearby property on Warren Street. The assessment indicates that activity on Warren Street continues throughout the daytime and evening and that noise levels only fall away after 01.00 hours. It concludes that provided the proposed use did not operate after 01.00 hours the impact on ambient noise levels experienced by local residents would be minimal. The appellant has suggested that a condition to ensure that the premises did not operate beyond 23.30 hours could be imposed and has indicated that additional acoustic attenuation measures could be incorporated within the property.
9. I consider however that the noise assessment is of somewhat limited value in properly assessing the potential impact of the proposal on the living conditions of local residents. Noise measurements were not taken from Whitfield Street, in particular from outside residential property where ambient noise levels are likely to be less. Furthermore, no assessment was made of the likely noise generated from a Class A3 or A4 use at the appeal premises and the potential increase in noise experienced by local residents. No details of potential noise attenuation measures have been submitted and there is no indication of their likely effectiveness.
10. The proposed change of use would involve the basement and ground floor of the appeal premises giving it significant capacity to accommodate customers. Substantial activity is likely to be generated in and around the premises and the coming and going of customers is likely to be a source of noise and disturbance for local residents given the close proximity of dwellings. As I have noted, it is also not clear that effective attenuation measures could be introduced to avoid noise from within the premises having an adverse effect on those living directly above or adjacent.
11. I appreciate that those living in central locations such as this may well expect or at least become accustomed to a certain level of background noise. However, even if the hours of opening were limited to 23.30 as suggested by the appellant, the proposed uses would be likely to be a source of additional noise and disturbance to a significant number of local residents at times when they are entitled to a degree of tranquillity.

12. I consider therefore that the proposal would have a significant adverse effect on the living conditions of local residents in terms of noise and disturbance.

Conclusion

13. For the above reasons and taking account of other matters raised I consider that the proposal would be contrary to Policies CS5 and CS7 of the Core Strategy and Policies DP12 and DP26 of the Development Policies DPD. I conclude that the appeal should be dismissed.

Kevin Ward

INSPECTOR