



Appeal Decision

Site visit made on 14 March 2012

by Kevin Ward BA (Hons) MRTPI

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

Decision date: 24 April 2012

Appeal Ref: APP/X5210/A/11/2166573
260 Tottenham Court Road, London W1T 7RF

- 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 John Murphy against the decision of the Council of the London Borough of Camden.
 - The application Ref 2011/2900/P, dated 19 July 2011, was refused by notice dated 10 October 2011.
 - The development proposed is change of use from A1 retail to A3 restaurant with associated duct work and plant at roof level.
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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. Two of the Council's reasons for refusal refer to a lack of information in relation to mitigation measures to control odour, smoke and noise from the proposed extraction system and the potential impact on residential amenity. I am satisfied that given the position of the appeal property in relation to residential uses appropriate mitigation could be put in place. The provision of additional information and details of mitigation measures are matters that could be dealt with adequately by conditions.
4. With this in mind I consider that the main issue is the effect of the proposal on the character, function, vitality and viability of the Tottenham Court Road/Charing Cross Road Central London Frontage.

Reasons

5. The appeal property is within the Tottenham Court Road/Charing Cross Road Central London Frontage, one of the centres identified in Policy CS7 of the Camden Core Strategy (the Core Strategy). Whilst recognising the role of food, drink and entertainment uses in such centres, Policy CS7 and Policy DP12 of the Camden Development Policies Development Plan Document (the Development Policies DPD) emphasise the need to avoid harm to their character, function, vitality and viability.

6. The centre specific planning objectives within the Core Strategy identify Tottenham Court Road as having a specialist retail role due to the concentration of furniture and electrical shops and set out the need to promote and preserve this specialist retail character by managing the level of shop and food, drink and entertainment uses.
7. The Revised Planning Guidance for Central London: Food, Drink and Entertainment, Specialist and Retail Uses (the SPD) was adopted as a Supplementary Planning Document by the Council in 2007 and provides more detailed guidance. In relation to Tottenham Court Road/New Oxford Street, Paragraph 15.20 of the SPD makes it clear that changes of use from retail at ground floor level will only be permitted in exceptional circumstances. In order to avoid an undue concentration of food, drink and entertainment uses, Paragraph 15.21 of the SPD explains that planning permission will not normally be granted for development that would result in more than 25% of the units in an individual frontage being in such use or where more than two such uses would be located consecutively in a frontage.
8. The appeal property forms part of a distinct frontage between Bedford Avenue and Great Russell Street. It occupies a prominent corner position and takes up approximately half of the frontage along Tottenham Court Road. I saw that whilst there are a number of other uses, this part of Tottenham Court Road predominantly functions as a shopping street which is to a large extent characterised by a concentration of electrical shops, including the appeal property. The rest of the frontage is taken up by a betting shop and casino which the Council consider to be two units although they share an entrance. The casino use also occupies the first floor above the appeal property. In terms of the specific guidance within the SPD, it is appropriate to consider the individual frontage between Bedford Avenue and Great Russell Street rather than Tottenham Court Road as a whole.
9. Whilst retail uses would remain dominant along Tottenham Court Road, the proposal would result in the loss of the only shop (Class A1) in the frontage and the proportion of units in food, drink and entertainment use would be far in excess of the 25% guideline. It would have a very significant effect on the character and function of the frontage.
10. I accept that the proposal would add further variety to the uses along Tottenham Court Road. However, the key intention of adopted policy and guidance is to ensure that the retail character and function of the area is protected. Although the use could revert back to a shop in future, there is no certainty that this would occur and clearly the intention of the appeal is to allow for Class A3 use. A tenant for the appeal property is currently being sought and I note the appellant's view that retail use is not viable. However, the shop is currently occupied and trading and there is no substantive evidence in terms of marketing information which demonstrates that continued retail use is unviable.
11. I consider therefore that the proposal would adversely affect the character, function, vitality and viability of the Tottenham Court Road/Charing Cross Road Central London Frontage.

Conclusion

12. For the above reasons and taking account of other matters raised I find that the proposal would be contrary to Policy CS7 of the Core Strategy, Policy DP12 of the Development Policies DPD and guidance within the SPD. I conclude therefore that the appeal should be dismissed.

Kevin Ward

INSPECTOR