



# Appeal Decision

Site visit made on 9 November 2009

by **Lynn Heffernan BA (Hons) MSc MRTPI**

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

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**Decision date:**  
**24 November 2009**

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## Appeal Ref: APP/X5210/A/09/2106567

### 4 Windmill Street, London, W1T 2HZ

- 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 Markham & Froggatt Ltd against the decision of the Council of the London Borough of Camden.
- The application Ref. 2008/4464/P, dated 15 August 2008, was refused by notice dated 19 December 2008.
- The development proposed is a "change of use of ground floor only from A1 retail to B2 office use".

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### Decision

1. I dismiss the appeal.

### Main issue

2. The main issue is the effect of the change of use on the vitality and viability of the *Windmill Street* retail frontage.

### Procedural matters

3. I have taken the above description of the development from the planning application form. However, the change of use to an office has already taken place and both the decision notice and appeal form describe the development as the "retention of the change of use of the ground floor from retail (Class A1) to office (Class B1) in connection with the existing office use of the upper floors". This is a more accurate description and I have determined the appeal on this basis.

### Reasons

4. The appeal property is a ground floor shop unit. It, together with the basement, was used as an art gallery (Class A1) until around 2005 since when it has been used as offices (Class B1) by a theatrical agency that occupies the remainder of the building. *Windmill Street* is close to the major West End shopping streets of *Tottenham Court Road* and *Oxford Street*. It is not designated as a Central London Frontage in the *Camden Replacement Unitary Development Plan (2006)* (UDP) but it is within a Protected Retail Frontage as defined in the Council's Supplementary Planning Document *Revised Planning Guidance for Central London – Food, Drink and Entertainment, Specialist and Retail Uses (2007)* (SPG). The SPG records that the specialist retail uses in and around *Windmill Street* make an important contribution both to the special character of the area and to the West End shopping function.
  5. Both the UDP and SPG recognise the pressures on shop units in Central London and seek to protect them. The SPG advises that the function of areas such as
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*Windmill Street* would be harmed by any reduction in the stock of retail premises and that planning permission will not be granted for development involving the loss of retail uses in Protected Retail Frontages. This SPG was adopted following public consultation and carries significant weight. UDP Policy R7C, which applies to shop units in the appeal location, also indicates that the Council will only grant planning permission for development involving a net loss of shopping floorspace if the new development contributes to the local character, function, vitality, viability and amenity of the area including housing and/or essential services for residents and businesses. The term 'essential services' is defined as non-A1 uses that serve the area's residents and businesses on a regular basis such as launderettes, professional and financial services, and community facilities.

6. I recognise that the Appellant Company is long-established and has close links with the Central London entertainments industry. Its employees, clients and visitors would also be likely to use nearby facilities and thus support the local economy. However, the UDP recognises that specialist retailers contribute to the special character of Central London and that shops within these areas tend to experience greater pressures for conversion to non-retail uses. There are already a number of ground floor offices in *Windmill Street* although shops such as art galleries, hairdressing salons and general shops such as clothing companies are also present. A dominance of office uses would reduce the number and range of shops available and could result in 'dead' frontages which would be harmful to the retail character and vitality of the area. The Appellant has not produced any evidence to demonstrate either that there is no demand for a Class A1 shop in the area (such as marketing information), or that the use requires a ground floor location, or that suitable Class B1 office accommodation is not available elsewhere in the locality. I do not consider that a private office falls within the definition of an essential service envisaged by UDP Policy R7C. The Appellant Company has suggested in the Grounds of Appeal that it may be possible to use the front of the ground floor as a shop and the rear as office accommodation (with storage in the basement) but that is not the proposal before me for determination. I conclude that the appeal proposal would harm the vitality and viability of the *Windmill Street* retail frontage unacceptably and would thereby conflict with UDP Policy R7C and SPG.
7. The appeal property is situated within the *Charlotte Street Conservation Area*. The Council did not cite the effect on the Conservation Area as a reason for refusing planning permission but I am required by statute to have regard to the desirability of preserving or enhancing its character or appearance in determining this appeal. The external appearance of the appeal building would remain unchanged by the proposal and, in my opinion, the effect of the proposal on the character and appearance of the Conservation Area would be neutral.
8. I have considered all other matters raised. From the evidence available, I accept that the proposal would not adversely affect neighbours' living conditions or highway capacity. However, for the reasons given on the main issue, I conclude that the appeal should not succeed.

*Lynn Heffernan*

INSPECTOR