

Appeal Decision

Site visit made on 16 May 2012

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 28 June 2012

Appeal Ref: APP/X5210/A/12/2170021

86 Plender Street, London NW1 0JN

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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 Kirill Toursin (Victorstone Property Consultants) against the

decision of the Council of the London Borough of Camden.

The application Ref 2011/5751/P, dated 14 November 2011, was refused by notice

dated 25 January 2012.

The development is a change of use of ground floor from retail (Class A1) to estate agency (Class A2).

Decision

1. The appeal is allowed and planning permission granted for a change of use of ground floor retail (Class A1) to estate agency (Class A2) at 86 Plender Street, London NW1 0JN in accordance with the terms of the application, Ref 2011/5751/P, dated 14 November 2011 and the plans submitted with it. Procedural Matters

2. Since the determination of the application by the Council and the submission of the appeal the National Planning Policy Framework (the Framework) has been published and is a material consideration upon which the parties have been able to comment.

3. For reasons of clarity, the description of development has been adopted from the decision notice.

Main Issue

4. It is considered that the main issue is the effect of the proposed development on the character, function, vitality and viability of Camden Town Centre.

Reasons

5. The appeal property is situated within Camden Town Centre which contains an extensive range of retail and non-retail uses, including several

small independent shops and market stalls. The property is situated on the periphery of the centre at the junction of Plender Street and Bayham Street and is within

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a secondary retail area identified in the Camden Planning Guidance 5: Town

Centres, Retail and Employment (CPG5).

6. The ground floor of the property is currently used as an estate agents and the evidence indicates that the previous Class A1 use ceased sometime in 2008.

No marketing evidence to establish whether there is any potential demand

from a retailer to occupy the premises has been provided.

Accordingly, the

appellant's claims about the lack of attractiveness of the property for Class A1

purposes cannot be fully substantiated and have been given little weight.

7. The definition of a retail frontage in CPG5 includes the buildings between 2

road junctions which the Council has defined in this case as between Camden

High Street and Bayham Street. The Council has not taken into account Kings

Terrace. The retail units identified by the appellant elsewhere along Plender

Street are not within the defined retail frontage.

8. Adopting the Council's figures, which reflect the observations made during the

site visit and taking into account the property's current use, none of the ground

floor premises within the defined frontage are used for Class A1 purposes. If

the property was used for Class A1 purposes then the percentage of such uses

would be about 20%. For the frontage on the opposite side of the road, the

percentage of Class A1 uses is 33%. For both frontages, the proportion of

Class A1 uses does not achieve the 50% threshold for such uses which is

referred to in CPG5 as the level below which changes of use would generally be

resisted by the Council.

9. Although referred to by the Council, and there are thresholds for other centres,

CPG5 does not include an explicit reference to a restriction on the

consecutive number of units along the secondary frontages within Camden Town Centre. However, there is already a run of 3 non retail uses along the frontage even if the property was used for Class A1 purposes. Overall, this part of the town centre does not possess a strong retail character or function.

10. On the opposite side of Bayham Street is a high density residential development. Based upon the site visit, there was a constant flow of pedestrians between Camden High Street, this residential development and the bus stops. Accordingly, from the observations made, the use of the property for Class A2 purposes did not appear to unacceptably affect the footfall along the road to such an extent so as to adversely harm the vitality and viability of the frontages either side of the road.

11. Accordingly, and taking into account the assessment undertaken by both parties, the current use of the property is judged not to be inconsistent with the requirements of CPG5 because the 50% threshold is not currently achieved even if the property was used for Class A1 purposes. It is judged that the non retail use of the property does not materially alter the character of either the frontage or the town centre and is not contrary to the aims of Policy DP12 of the Camden Development Policies 2010–2025 (CDP). A range of shops and other uses appropriate to a town centre will remain as required by Policy CS7 of the Camden Core Strategy 2010–2025 (CS) and the character, function, vibrancy and vitality of the town centre as a whole is not unduly harmed.

12. There will remain a significant number of small units within the town centre suitable for independent or specialist retailers and the appeal scheme does not

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materially undermine the encouragement provided by CDP Policy DP10(c) concerning occupation of shops by independent businesses. Other aspects of this policy are not considered to be of direct relevance to the

appeal scheme,
including those protecting shops outside centres.

13. The Council is concerned that the use of the premises establishes an unwelcome precedent. However, this appeal has been determined on its own merits taking into account the existing uses within the frontage and the location of the site. It is considered that an unwelcome precedent would not be established if this appeal was allowed. Accordingly, for the reasons given, it is concluded that the development does not materially harm the character, function, vitality and viability of Camden Town Centre and, as such, is not inconsistent with CS Policy CS7 and CDP Policies DP10(c) and DP12 and CPG5.

Other Matters

14. The property is within the Camden Town Conservation Area and there is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. By reason of the development only involving a change of use with no physical alterations to the property, it is judged that the appeal scheme preserves the character and appearance of the Conservation Area.

Conditions

15. The Council has not suggested any conditions and none are considered necessary.

Conclusion

16. Accordingly, and taking into account all other matters and the presumption in favour of sustainable development, it is concluded that this appeal should succeed.

D J Barnes
INSPECTOR