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## Appeal Decision

Site visit made on 11 March 2019

**by Baljit K Muston BA(Hons) PGDip MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 May 2019**

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**Appeal Ref: APP/X5210/W/18/3218699**  
**287 Finchley Road, London NW3 6ND**

- 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 Oosman Dadabhoy against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/3870/P, dated 8 August 2018, was refused by notice dated 15 October 2018.
  - The development is a change of use application from A1 to A2 and visual change of shop front.
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use application from A1 to A2 and visual change of shop front at 287 Finchley Road, London NW3 6ND, in accordance with the terms of the application, Ref 2018/3870/P, dated 8 August 2018, and the plans numbered SR-R00-EX-106 and FR[01][01].

### Procedural Matter

2. The application was made on the basis that the work or change of use applied for had not already occurred. On my site visit, it was clear that the change of use, together with the visual changes to the shopfront, had already taken place.

### Main Issue

3. The main issue is the effect of the proposal on the vitality and viability of the secondary frontage, within the Finchley Road Town Centre.

### Reasons

4. The parade of which the appeal site is a part is designated in the Camden Local Plan 2017 (CLP) as a secondary frontage. There is a dispute between the main parties as to how many retail uses remain in the parade, with the appellant arguing that there is only one, excluding the appeal site. This stems from the appellant defining a dry cleaners and two hairdressers as outside of any use class (*sui generis*). However, I agree with the Council that all three of these premises are in A1 (retail) use, and that, excluding the appeal site, there are therefore four existing uses within the parade that fall within the A1 use class.

5. Policy TC2 of the CLP says that the Council will "*protect the secondary frontages as locations for shops (A1) together with a broader range of other town centre uses to create centres with a range of shops, services, and food, drink and entertainment uses which support the viability and vitality of the centre.*" Appendix 4 to the Plan sets the minimum acceptable proportion of A1 shops in each individual frontage as 50%. The same guidance is also included in the Camden Planning Guidance 5 (CPG5) on Town Centres.
6. The proportion of retail uses had already fallen below the 50% level cited in the Local Plan, even before the change of use took place at the appeal site. The proposal is therefore contrary to Policy TC2 of the CLP, when read in conjunction with its Appendix 4.
7. The Council officer's report notes that no marketing evidence was submitted as part of the application. However, the appellant has submitted information as part of this appeal, which shows that the appeal property was marketed as a retail unit whilst the previous occupier, a charity shop, was still in operation. I am told that the unit was marketed online and by a board at the shop from November 2017, resulting in numerous enquiries but no offers, and that, by March 2018, the charity shop was running at a loss and was allowed to vacate the property. The unit remained on the market until at least August 2018, when it appears that terms were agreed with the appellant.
8. This information, which has not been challenged by the Council, suggests that the property was marketed as a retail unit for around nine months and that it was vacant for about five of these months. Class A2 uses, including estate agents, fall within the "*broader range of other town centre uses*" envisaged in secondary frontages by Policy TC2 of the CLP.
9. Given this evidence, I consider that the benefit of maintaining a town centre use in the unit, rather than it remaining vacant, outweighs any non-compliance with the CLP and CPG5.
10. In coming to that view I accept that, by allowing this appeal, it reduces the proportion of retail uses within this secondary frontage to only one third, contrary to the guidance in Appendix 4 of the CLP. However, I consider that an 'other town centre use' in this frontage is preferable to a vacant unit, even though this is now the third estate agents' premises in the parade.
11. For the above reasons I conclude that the proposal has not had an unacceptable effect on the vitality and viability of this secondary frontage, within the Finchley Road Town Centre.

### **Other matters**

12. The Council has not raised any objections to the visual alterations to the shopfront and I have no reason to disagree with that view.

### **Conditions**

13. Given that the development has already been carried out, and from my site visit appears visually acceptable, I consider that it is not necessary to impose any planning conditions despite the suggested conditions provided by the Council.

## **Conclusion**

14. For the reasons set out above, I conclude that the appeal should be allowed.

*Baljit K Muston*

INSPECTOR