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# Appeal Decision

Site visit made on 12 May 2015

**by Nicholas Taylor BA (Hons) MRTPI**

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

**Decision date: 20 July 2015**

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**Appeal Ref: APP/Y5420/W/14/3001921**

**The Alexandra, 98 Fortis Green, London N2 9EY.**

- 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 CLTX Ltd against the decision of the Council of the London Borough of Haringey.
  - The application Ref HGY/2014/1543, dated 30 May 2014, was refused by notice dated 19 December 2014.
  - The development proposed is the conversion of Public House with ancillary accommodation above to provide 2 no. 3 bed single family dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted for conversion of Public House with ancillary accommodation above to provide 2 no. 3 bed single family dwellings at The Alexandra, 98 Fortis Green, London N2 9EY in accordance with the terms of the application, Ref HGY/2014/1543, dated 30 May 2014, subject to the conditions set out in the schedule attached to this decision.

## Application for costs

2. An application for costs was made by CLTX Ltd against the Council of the London Borough of Haringey. This application is the subject of a separate Decision.

## Main Issue

3. The Council gave one, heritage-related reason for refusal. However, there is considerable third party interest, which ranges beyond heritage to more general planning considerations. Therefore, I consider that there are two main issues in this case:
  - the effect of the proposal on the public house as an undesignated heritage asset and whether the character or appearance of the Fortis Green Conservation Area would be preserved or enhanced; and
  - whether the proposal would be acceptable having regard to policies concerning community facilities.

## Reasons

### *Heritage*

4. The appeal premises are a small, detached former public house with a flat above, within the conservation area, on Fortis Green, a fairly busy road with a mixture of commercial and residential uses. It is necessary, firstly, to assess the significance of the building itself, and then the conservation area, as heritage assets, before going on to assess the impact of the proposal.
5. The building is not formally listed, either at national or local level. However, the Council considers that it has heritage significance. The appellant's Heritage Statement (HS) identifies that the building is based upon a pair of 19<sup>th</sup> Century cottages which were extensively remodelled and enlarged in 1926, to create the present building. There is little surviving internal or external evidence of those 19<sup>th</sup> Century origins. The HS finds that the building has limited evidential or aesthetic value, being an interesting example of 'domestic' pub architecture of its time. That is a view with which the Council concurs, although it argues that its value is ingrained in its evolution and adaptation, rather than its visual quality. I can find little evidence, including from my own site visit, that the building possesses (or did possess, before internal fittings and decorations were recently removed) any more than limited aesthetic value, although, externally, it exhibits a quirky architectural style which adds to the variety and colour of the street scene.
6. Where the Council radically departs from the HS is in its assessment of the building's historic and communal value. The HS states that the building has some historical value, based on evidence that beer has been sold on the site for at least 140 years; up until the start of the 20<sup>th</sup> Century probably from the front rooms of the cottages. The Council argues that the pub's intrinsic place in the historic development of the conservation area merits much greater weight, but to my mind the limited documentary evidence from the last two centuries does not suggest any greater than low to moderate, purely local, historic value.
7. The HS also acknowledges that the building has some communal value arising from its traditional role in the community and, in particular, its association with Ray and Dave Davies of The Kinks, who grew up in the area. The Council ascribes this communal value to the 'collective memory' associated with the pub use. It cites English Heritage (EH) guidance<sup>1</sup> that social value is associated with places that people perceive as a source of identity, distinctiveness, social interaction and coherence, which may be comparatively modest, acquiring communal significance through the passage of time as a result of a collective memory of stories linked to them.
8. I acknowledge the strength of feeling among former patrons of the pub and some in the local community, expressed through numerous individual representations and a petition with a large number of signatories. The nomination of the pub by the Save the Alexandra Action Committee as an Asset of Community Value (ACV) and its placement on the Council's list of ACV<sup>2</sup> provides evidence of that feeling. Many of the representations before me, including some from further afield, are prompted in no small degree by the

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<sup>1</sup> *Conservation Principles Policies and Guidance*, English Heritage, 2008 (NB now published by Historic England)

<sup>2</sup> Pursuant to Section 90 of the Localism Act 1990

pub's association with the Davies brothers. Indeed, there is mention of tourists making specific trips to the pub because of that connection. However, whilst The Kinks' musical reputation endures, I have not been given any evidence that the building or its use had a particularly crucial or singular role in nurturing the band or its music. Consequently, I am not persuaded that its 'associative value', as EH calls it, is very strong.

9. I have read many accounts of how the Alexandra was a very traditional, inclusive, no frills pub with a great atmosphere. I understand the affection for that type of establishment and appreciate that such places are becoming less common. However, there did not appear to be any great historic or aesthetic merit to the internal arrangement, fittings or furniture of the pub. Even taking into account the ACV listing, there is a lack of strong heritage-related evidence and I am wary of attaching significant heritage weight to a particular business model. Nor is it clear that the pub's former character is so rare as to amount to a strong special interest.
10. Moreover, it is clear from a substantial number of representations that not all local residents valued the pub in the same way or regarded it as a benign presence in the locality. I am not convinced that the evident emotional attachment to the pub is indicative of a very strong source of identity, distinctiveness or coherence shared by a wide cross-section of the community. Although there is evidence of communal value through recent collective memory, prompted by the current proposal, I have been given no strong evidence that it was documented or otherwise consciously thrived before that. Overall, therefore, mindful that the building itself has not received, or as far as I have been made aware put forward for, any formal heritage designation, I consider that its significance as a heritage asset is limited and of a very local nature.
11. There is no appraisal document for the conservation area and I have been given limited evidence regarding its significance as a heritage asset. The HS, the Council and third parties describe it as having grown from a small hamlet, through the Victorian period and now comprising several residential streets and the main thoroughfare of Fortis Green. The latter is primarily residential, with Victorian dwellings and some later apartment blocks, but also has a small cluster of varied commercial uses forming a neighbourhood hub.
12. The juxtaposition of generally small to medium scale commercial uses and varied dwellings within this part of Fortis Green, contributes to the character and appearance, and hence, in the historical context, the significance, of the conservation area. However, an inherent aspect of the character of such areas, particularly within a major city, is the evolution of business uses over time. In my view, change and evolution, rather than stagnation, often contributes considerably to vitality and vibrancy. In any case, I am not convinced that vitality and vibrancy is the defining, or even a major, characteristic of the conservation area.
13. There is some merit in the Council's argument that the historic and communal significance of the appeal property, as a pub, adds to the vitality and vibrancy of the area, creating a pleasant contrast with the more subdued residential streets. However, the Council acknowledges that this is a subjective view and, evidently, not all local people viewed the Alexandra as making a positive contribution to the character of the conservation area. Indeed, in the Council's

committee report, its planning officers considered that the pub's contribution to vibrancy was limited. As I have found that the heritage significance of the appeal property is limited, so too its contribution to the overall significance of the conservation area as a designated heritage asset is very modest.

14. Turning to the impact that the appeal proposal would have on the building and the conservation area as heritage assets, I consider that the limited proposed external alterations would preserve and, arguably, enhance the important design elements contributing to the aesthetic value of the building and conservation area. Whilst it is argued that there would be loss of historical value from the change of use, it would be offset by reverting to the original residential use of the site. Given that the historical value is limited in any case, the development would be part of the evolution of the building and the area and would not be harmful in that regard.
15. There is no strong evidence before me to indicate that the social or communal value of the pub is an important reason for the designation of the conservation area or its inclusion within it. Whilst there would be some loss of communal value, it does not reach the threshold, either in terms of effect on the limited heritage significance of the building or on the significance of the conservation area, to amount to material harm.
16. I consider that the Council considerably overstates the importance of the Alexandra to the vitality and vibrancy and, therefore, character of the conservation area. In its absence, the area would retain a mixture of uses, including another pub, the Clissold Arms, almost directly opposite. Its décor and atmosphere is apparently different to that of the Alexandra, less traditional and more contemporary, but that, as I have already observed, is not a strong heritage argument in this case. Given that vitality and vibrancy is not of critical importance to the significance of the conservation area, that, in any case, evolution and change is an inherent component of vitality and vibrancy, and that residential uses are an established part of the mix in this locality, the proposed change of use would not amount to material harm to heritage interests.
17. The Council and third parties refer to other instances of threats to traditional pubs and other appeal decisions. In particular, the Council has referred me to three decisions<sup>3</sup> in The Royal Borough of Kensington and Chelsea. I have considered those decisions carefully and accept that there are some parallels between them and the current appeal but there are also some important differences. For example, whilst each involved changes of use from traditional pubs to residential use and they shared a common statutory and national planning policy context, the development plan context was different. The earlier decisions support the principle that a pub use is capable of contributing to the significance of a conservation area as a heritage asset. However, it is apparent from the decisions that the particular character of the conservation areas (two of which were the same) and the location and roles of the uses within them were distinctive. The Inspector in the Phene Street appeal, within the Cheyne Conservation Area specifically said that those factors were paramount in his reasoning. Moreover, the historic and aesthetic value of the buildings differed and the Inspectors did not reach the same conclusions on community value. In matters such as these, fine distinctions can be significant

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<sup>3</sup> APP/K5600/A/12/2172028, 2175522, 2172342 and 2177513

and it is my judgement that, taking into account the established principle that each case should be considered on its merits, there are important differences between the earlier appeals and the current case.

18. Overall, therefore, I conclude on the main issue that the conversion to residential use of the appeal premises would not result in material harm to the building as a non-designated heritage asset of limited significance. Consequently, the scheme would be acceptable with regard to the objectives of *London Plan Policy 7.4*, which seeks a high quality design response to local character, and *Policy 7.8*, which requires development to conserve heritage assets. There would be no conflict with *Policy SP12 of Haringey's Local Plan (LP)*, which seeks to conserve the historic significance of the borough's heritage assets. Nor would there be conflict with *Paragraph 135 of the National Planning Policy Framework (the Framework)*, which requires the decision maker to take account of the significance of a non-designated heritage asset and to reach a balanced judgement regarding the scale of any harm.
19. Furthermore, there would be no material harm to the significance of the conservation area, a designated heritage asset, and its character and appearance would be preserved. Accordingly, the duty, under s72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area, is satisfied. Similarly, the proposal would satisfy paragraph 132 of the Framework, which requires great weight to be given to the conservation of designated heritage assets. It follows that the local policies referred to above would also be satisfied with regard to the effect on the conservation area.

### **Community Facilities**

20. In addition to the Council's objection on heritage grounds, third parties raise the related matter of the general community value of the pub. Reference is made to the Framework, which says at paragraph 60, albeit in the context of design, that it is proper to seek to promote or reinforce local distinctiveness. Paragraph 7 states that there is a social as well as environmental and economic dimension to sustainable development, which is a key tenet of the planning system. Paragraph 69 says that planning decisions should aim to promote opportunities for meetings between members of the community. Paragraph 70 requires, among other things, that planning should seek the provision of community facilities, including pubs, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs.
21. I will not repeat all that I have written in relation to the main issue, above. To reiterate, briefly, whilst a significant section of the community clearly lament the closing of the pub, as it provided an opportunity to meet and socialise, it has not been clearly demonstrated that it provided a uniquely important facet of local distinctiveness or that it was universally valued by a wide cross-section of the community.
22. The listing of the premises as an ACV does provide a tangible demonstration that a section of the community considers that, through recreation, the pub furthered the social wellbeing or social interests of the local community. I am aware also that the Council has reviewed the listing and considers that there is a realistic chance that, as a non-ancillary use, the property could do so again

within the next five years (whether or not in the same way as before). However, the Council's finding regarding re-use of building is contingent upon the current appeal being dismissed. The relevant ACV legislation sets out specific tests which are narrower than the planning considerations before me. The primary purpose of ACV listing is to afford the community an opportunity to purchase the property, not to prevent otherwise acceptable development. Accordingly, whilst I afford it some weight in this case it is not determinative.

23. Notwithstanding its conclusion with regard to past and future viability as part of the ACV process, the Council does not refer in this case to any specific local planning policies requiring examination of future viability. Past trading performance, the cost of necessary refurbishment of the building, its shortcomings in terms of size and configuration, together with the realism of the marketing exercise are all disputed. However, overall, the evidence I have been given regarding viability and future potential does not enable me to conclude with certainty that the loss of the pub would be unnecessary in the terms of paragraph 70 of the Framework.
24. Were the pub use to be re-instated, the different owners might well introduce a different business model and character. Moreover, whilst the Clissold Arms is said to have a different character, it is not the role of the planning system to protect one business or business offer from another or from market trends. In addition to the Clissold Arms, there are other pubs in East Finchley and Muswell Hill centres, each a few minutes walk or short bus ride away. Therefore, it has not been argued convincingly that the loss of the Alexandra reduces the community's ability to meet its day to day needs in the context of this well-developed part of north London.
25. I accept that the pub will have generated some economic benefits, through employment and, possibly, spend on other services, including from tourists, but there is no strong evidence that the benefits were substantial or that the effect of the proposal on other local businesses would be significant. Conversely, the appeal scheme would result in a net gain of one dwelling and a qualitative gain in terms of the quality of the dwellings. Moreover, there is clear evidence that near neighbours, particularly those living in the immediately adjacent Fortis Green Cottages, would benefit significantly from a reduction in problems of noise and anti-social behaviour. The appeal scheme would secure a viable future for the building which, according to the photographic evidence, was very run down and vandalised prior to current building works. All in all, therefore, there would be no clear or strong conflict with the objectives of the Framework with regard to the retention of community facilities and its role in the achievement of sustainable development.
26. Third parties argue that the proposal would conflict with LP Policy SP15. The policy seeks to safeguard and foster the borough's cultural heritage through, among other things, "supporting the provision of new work spaces and social and cultural venues in all areas of the borough that support all formal and informal cultural and leisure activities". The provision of a new social and cultural venue is not at issue here and so that part of the policy has limited relevance. The policy also refers to "protecting and enhancing, where feasible, existing cultural facilities and access to cultural heritage throughout the borough". I have already concluded, in relation to the main issue, that the existing pub has only very limited significance in terms of cultural heritage,

thereby limiting the relevance of that part of the policy. The Council confirms that pubs fall within the policy's definition of leisure facilities. The second part of the policy refers to the protection and enhancement of sporting and leisure facilities in areas of deficiency. I concur with the Council's acceptance that, with the Clissold Arms and other pubs nearby, the area is not deficient in pubs. Consequently, I am satisfied that there would be no material conflict with Policy SP15.

27. It has come to my attention that the *Further Alterations to the London Plan* (FALP), adopted by the Mayor of London on 15 March 2015, contain the provision, at policy 4.8B(c), that local planning authorities should prepare a policy framework for maintaining, managing and enhancing local and neighbourhood shopping and facilities which provide local goods and services, and develop policies to prevent the loss of retail and related facilities that provide essential convenience and specialist shopping or valued local community assets, including public houses, justified by robust evidence. I have not been advised of any adopted LP policy to that effect and the Council does not seek to place weight on its emerging local plan, which as it is at an early stage, carries very limited weight.

### **Other Matters**

28. I turn now to whether the proposal would be acceptable in other respects. The Council's committee report identified that the appeal premises are in a sustainable location and concluded that, given that it is not a designated town or local centre, and in the light of Policy SP15 and other policies which support housing provision, there was no objection in principle to the conversion of the appeal premises. It further concluded that the proposed alterations to the exterior of the building, which principally amount to small extensions to either side, a pitched roof to an existing rear extension and a guard rail to a roof terrace at the front, would be acceptable, particularly given that the existing appearance of the building would be largely retained.
29. The Council concluded that there would be an acceptable relationship with neighbouring dwellings, particularly the cottages to the rear, in terms of the living conditions of their occupiers, and would be likely to result in an improvement in terms of noise and disturbance. It also accepted the lack of dedicated parking provision, in view of the high accessibility rating of the site. It concluded that the two proposed dwellings would provide acceptable living conditions and would be acceptable with regard to sustainability and refuse storage. I see no reason to disagree with any of the Council's initial findings on those matters.
30. The Council confirms that the proposal is eligible for the Community Infrastructure Levy. In addition, had it approved the scheme, the Council would have required a financial contribution towards affordable housing, to be secured via a s106 Agreement. There is no legal agreement or planning obligation in place and the appellant argues that an affordable housing contribution should not be required in the light of changes made to the government's *Planning Practice Guidance* (PPG) in November 2014. Those changes exempt schemes of fewer than 10 dwellings from the requirement to provide a contribution to affordable housing and also set out the terms of a 'vacant buildings credit'. The Council has not contested the appellant's argument on this matter and, in view of all the facts of this case and the up to

date expression of national policy provided by PPG, I consider that a contribution to affordable housing is not required.

31. Overall, therefore, in the light of the submitted evidence, the Council's committee report, third party representations, other relevant evidence and the local and national policies referred to, I am satisfied that, subject to appropriate conditions, the proposal is acceptable in all respects, including its effect on the character and appearance of the conservation area and its effect on the living conditions of nearby occupiers.

### **Conditions**

32. I have considered the Council's suggested conditions in the light of national policy and guidance<sup>4</sup> and for succinctness and clarity and have amended them accordingly where necessary. In addition to the usual commencement condition, it is necessary, in the interests of proper planning and for the avoidance of doubt, to specify the approved plans. In the interests of the character and appearance of the area and because the front of the building is prominent and open to the pavement, full details of external materials and of the refuse storage structure and front light well should be submitted.
33. In view of the restricted site and proximity of neighbouring dwellings, there are exceptional grounds which justify the removal of permitted development rights with regard to alterations and extensions and buildings and structures within the curtilage. It also necessitates a condition requiring a construction management plan to be submitted, for which I have amended the suggested condition. The submitted drawings show the retention of the existing pub sign on the front of the building; it is not, therefore, necessary to impose a condition to that effect or to require approval of any replacement.

### **Conclusion**

34. For the reasons set out above, the appeal should be allowed.

*Nicholas Taylor*

INSPECTOR

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<sup>4</sup> *National Planning Policy Framework* (paragraphs 203 and 206) and *Planning Practice Guidance* (Use of conditions)

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered: 985.12-100-A, 985.12-101, 920.17.102-A, 929.17.103, 985.12.200, 985.12.201, 985.12.300A and 985.12.301A.
- 3) Notwithstanding the description of materials in the application, no development shall take place until details of the materials to be used in the external surfaces of the development, including glazed screens, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the proposed screened refuse and recycling storage facilities have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of the proposed front light well have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), the dwellings hereby permitted shall not be altered or extended, nor shall any building, structure or enclosure (other than those approved as part of this permission, including the discharge of conditions) be erected within the curtilage of the dwellings.
- 7) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The plan shall, among other things, provide for measures to minimise any disruption to occupiers of adjoining buildings and to traffic and pedestrians on Fortis Green, particularly during peak periods.

End of schedule

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