

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 23/04/2024

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/24/00260	Agenda Item:	N46		
Address:	14 Pembridge Road, LONDON				
Proposal:	Alterations to shopfront (Retrospective Application)				
Applicant:	Khalil				
Agent:	Mr Athari SERA HOMES LTD				
Properties notified:	Objections:	Support:	Comments:	Petition:	
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1. Summary

- 1.1 The proposal would continue to preserve the overall character and appearance of this part of the Notting Hill Gate District Town Centre and the neighbouring properties along Pembridge Road. The alterations to the shopfront would have no material impact on the use or operation of the existing unit, and the proposal would continue to preserve the setting of the nearby Ladbrooke and Kensington Conservation Areas. As part of this application, additional details have been sought in relation to the access to the shop and whether step-free access could be provided so that the unit was inclusive for all, in line with policy CL10 of the Local Plan.
- 1.2 The proposal would continue to maintain an acceptable relationship with nearby residential properties and would also maintain an acceptable impact on the borough's pedestrian and highway network. There are no material considerations to indicate a decision otherwise than in accordance with the development plan, and therefore, it is recommended that planning permission is approved, subject to the recommended conditions.
- 1.3 Objections received from interested parties have been taken into consideration and are addressed throughout the report and in Section 9.

It is recommended the Committee grants planning permission with the conditions listed in Section 9 of this report.

2. Reason for committee consideration

- Three or more objections were received during the consultation period and the recommendation is to grant.

3. The site and its surroundings

- 3.1 The application site relates to No.14 Pembridge Road, which is a four storey Victorian property located to the eastern side of Pembridge Road. The existing building is in use as a restaurant (Use Class E) at ground floor, and residential on the upper floors. This application specifically relates to the ground floor unit.
- 3.2 Pembridge Road itself is characterised by predominately ground floor commercial tenancies with above residential, similar to the subject site.
- 3.3 The site is not within a conservation area; however, the Ladbroke Conservation Area is located to the North, and the Kensington Conservation Area is located to the South. There are Grade II Listed buildings to the rear along Pembridge Gardens.

4. The proposal and any relevant planning history

- 4.1 This application seeks planning permission for alterations to the existing shopfront. This application is retrospective.
- 4.2 The shopfront alterations largely follow the pre-existing arrangement in terms of the number of openings and location of the glazing; however, the front door and material of the openings has been amended. The new shopfront is constructed of black aluminium, with glazing to the central section, and above the front door.
- 4.3 Officers visited the site on 25th January 2024.
- 4.4 There is no planning history on the site relevant to this proposal.

5. Main policies and strategies relevant to the decision

The development plan

- 5.1 The main planning considerations applying to the site and the associated policies are:

	Local Plan
General townscape	CL1, CL2, CL6, CL10
Listed Buildings	CL4
Living conditions	CL5
Transport	CR4, CT1

- 5.2 These policies can be read online at:

- Local Plan:
<https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/local-plan/local-plan>

- 5.3 The Council started a New Local Plan Review (“NLPR”) and consultation on Publication Policies (Regulation 19) closed on 22 December 2022. The Council submitted the NLPR for examination (Regulation 22) on 8 February 2023. Examination hearings were held in June and July 2023. The Council has received a Post Hearings letter from the Inspector requesting the Council prepare a schedule of Main Modifications. The Main Modifications identified by the Inspector to make the NLPR sound is currently being consulted on by the Council for 6 weeks (30 January 2024 to 12 March 2024).

- 5.4 The statutory starting point for determining this proposal remains the adopted policies in the development plan, including the RBKC Local Plan 2019, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, paragraph 47 of the National Planning Policy Framework, and paragraph 001 of the National Planning Practice Guidance on Plan-making. Paragraph 48 of the NPPF outlines the weight local authorities may give to relevant policies in emerging plans. The Council hopes to adopt the Plan in May/June 2024, but this depends on when we receive the Inspector's report and may change. The emerging policies in the NLPR will be a material consideration afforded moderate weight at this stage however, where specific emerging policies are of particular relevance to the assessment, individual weightings have been given and expressed.

Other local strategies or publications

- 5.5 The main relevant supplementary planning documents adopted by the Council are:

- Shopfront Design Guide

- 5.6 This document can be read online at:

- Other documents:
<https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/supplementary-planning-documents-and-guidance>

6. Evaluation

- 6.1 There are nearby Grade II Listed Buildings to the rear within Pembridge Gardens. Due to the location of the alterations (on the front elevation), the works continue to preserve the setting and heritage significance of these Grade II Listed Buildings. In addition to this, due to the nature of the works, there would be no material impact upon flooding or drainage within the site or the immediate vicinity. As such, the scheme complies with policies CL4 and CE2 of the 2019 Local Plan.
- 6.2 This application relates solely to the alterations to the shopfront. The use of the commercial unit (as a restaurant) would remain unchanged. This application does not seek a change of use. The application continues to support the vitality and function of the Notting Hill Gate District Town Centre, as supported by policy CF3 of the 2019 Local Plan.
- 6.3 The decisive issues are:
- i Whether the proposed shopfront would relate well to the buildings above and to either side and provide an attractive setting for the display of goods and drive up the quality of the area;
 - ii Whether the proposal would continue to preserve, or take opportunities to enhance, the character and appearance of the surrounding townscape and the setting of the nearby conservation areas;
 - iii Whether the proposal would continue to ensure good living conditions for nearby residential properties; and
 - iv Whether the proposal would have an acceptable impact on the borough's highway and pedestrian network.

Shopfronts

- 6.4 This application is retrospective and therefore the works to the shopfront have already been carried out. The pre-existing shopfront comprised timber panelling and the layout of the glazing was largely the same as the altered shopfront, with additional glazing bars

within the main shop window and the high-level windows. It is noted that the pre-existing shopfront was not a typical traditional shopfront in terms of materials and finishes.

- 6.5 In general, the layout of the shopfront is largely the same as pre-existing. The altered shopfront retains the location of the principal access door to the shop, independent access to the residential above and the extent of glazing is largely unchanged, rather the layout of glazing bars has been altered. Pembridge Road comprises a mix of shopfront layouts and glazing proportions and as such, there is not a consistent symmetry along this row. The proportions, materials and details of the altered shopfront do not harm the rhythm, character, and hierarchy of existing buildings along the street. In this regard, the altered shopfront does not detract from the visual attractiveness of the shopfront or other shopfronts along Pembridge Road.
- 6.6 There would be no material impact on the separate access door on the northern side of the shopfront that provides entry to the residential flats above the property. The small scale of the development would also not have a material impact on the character or function of the above floors as all the work is to be within or on the exterior walls of the retail unit.
- 6.7 Policy CL10 of the Local Plan requires all alterations to existing shopfronts to be inclusive for all. The Shopfront Design Guidelines SPD states that while it may not be possible to make every shopfront accessible and useable by every person, every effort should be made to allow as many people as possible to participate in the urban environment. Paragraph 3.3.3.4 of the SPD outlines that accessibility considerations are necessary and should be considered alongside the aesthetic and conservation advice.
- 6.8 There is an existing step from Pembridge Road into the restaurant. This has remained unaltered as part of the works and appears to be a common arrangement for the neighbouring commercial units along Pembridge Road. Nevertheless, as part of this application further information was sought in relation to the access and whether step-free access could be provided.
- 6.9 The applicant has confirmed that due to the level differences there is a technical issue to create a step free entrance, without the door having to be positioned set back from the frontage. However, having visited the site, there are no obvious reasons why level access could not be accommodated retrospectively. Condition 3 is recommended to secure level access within three months of the decision to ensure compliance with policy CL10.
- 6.10 Overall, the works to the shopfront relate well to the buildings on either side and within the wider district shopping centre. The scheme therefore complies with policy CL10.

Character and Appearance

- 6.11 The alterations to the shopfront continue to preserve the setting of the nearby conservation areas. In addition to this, the materials and overall finish of the shopfront would continue to respect the context, character, and appearance of the locality. The shopfront alterations integrate well with the building and the terrace grouping, and therefore, the proposal complies with policies CL1, CL2, CL6 and CL11 of the Local Plan. There would be no harm caused to the Ladbrooke or Kensington Conservation Area.

Living Conditions

- 6.12 Considering the subject site and the surrounding ground level properties are commercial in use and character, the development would not introduce new activities or amenities that materially impact the present living conditions of the residents above the subject site. The proposal relates to shopfront alterations only and no change of use is proposed, therefore the associated impacts on surrounding occupiers would be largely the same as existing. The development would sustain the commercial activities and built forms on the ground level while not altering the residential activities or flats on the above levels.
- 6.13 The altered shopfront involves a new operable sliding window which would not be used for

food service. Concerns have been raised in relation to the potential amenity impacts to the above residential neighbours. It is noted that the proposal is not for a change of use and the inclusion of this operable window would not exacerbate unreasonable noise or smells noting that it is located next to the main access door which in theory, would be open for the duration of operational hours of the business. In addition to this, the Applicant has confirmed that there would be no sale of goods through this window. Condition 2 is recommended to restrict the use of this window.

- 6.14 The altered shopfront provides a modified glazing layout largely within existing openings; therefore, the proposal would not impact the visual privacy of the residential units above.
- 6.15 As such, the development would ensure good living conditions and maintain an acceptable relationship with nearby properties, in accordance with policy CL5 of the 2019 Local Plan.

Transport/Highways

- 6.16 As mentioned above, confirmation has been received from the Applicant that there will be no sale of goods through the front window. The Applicant has also confirmed that the queuing will take place inside the restaurant (the same as the existing), and therefore this should minimise the risk of any queues outside or along the pavement, which may have an impact on the pedestrian safety along this section of Pembridge Road.
- 6.17 Due to the nature of the works (relating to the shopfront changes only), officers are satisfied that the restaurant would continue to have an acceptable impact on the highway and pedestrian network and there would be no material impact. The recommended condition 2 should also help to reduce the risk of people queuing outside the restaurant, and therefore the scheme complies with policy CT1 of the Local Plan.

Issues and balancing

- 6.18 The altered shopfront largely retains the layout of the preexisting shopfront with an altered glazing layout and bars that are suitable for the character of the building and in the context. The altered shopfront retains the proportions, rhythm, and materials of commercial tenancies along Pembridge Road and does not harm the nearby conservation areas or the listed buildings to the rear of the property. Level access is yet to be provided but would be secured by condition 3 to ensure inclusive, safe and dignified access is provided to all. As such, the scheme complies with policies CL1, CL2, CL5, CL6, CL10, CL11, CT2, CE2 and CF3 of the Local Plan and it is recommended that planning permission is granted, subject to the recommended conditions.
- 6.19 Considerable importance and weight has been attached to and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the nearby conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

7. Community Infrastructure Levy

- 7.1 If permitted and built, the proposal would not require a payment towards funding additional infrastructure under the Borough's Community Infrastructure Levy and a payment towards funding Crossrail under the Mayor of London's Community Infrastructure Levy.

8. Consultations carried out

Comments from interested parties

- 8.1 Nine (9) nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 19/01/2024. A statutory notice advertising the application was posted near the site on 19/01/2024.

8.2 0 letters were received supporting the application.

8.3 3 letters were received objecting to the application, summarised as:

	Comment	Response
1	Use of the operable window for trading will cause congestion on the public passageway.	No change of use is proposed. The use of this window is not a matter of consideration for this application in terms of impeding the public passageway noting that there are no planning considerations to stop customers from lining out of the door and causing the same impact if there were to stand outside of this window. Condition 2 is recommended so that there is no service or sale of food/drink from this window. This should help to minimise any impact to the footway along Pembridge Road.
2	Impact of the operable window on the amenity of residents above.	The proposal is not for a change of use and the inclusion of this operable window would not exacerbate unreasonable noise or smells noting that it is located next to the main access door which in theory, would be open for the duration of operational hours of the business. Further to this, the pre-existing shopfront included a window which opened in this same location, as such, there would be no material change when compared to this pre-existing arrangement.
3	The horizontal approach to the window layout is inconsistent with the character of the shopfronts along Pembridge Road.	The altered shopfront retains the location of the principal access door to the shop, independent access to the residential above and the extent of glazing is largely unchanged, rather the layout of glazing bars has been altered. Pembridge road comprises a mix of shopfront layouts and glazing proportions and as such, there is not a consistent symmetry along this row. The proportions, materials and details of the altered shopfront do not harm the rhythm, character, and hierarchy of existing buildings along the street. The pre-existing shopfront was not a typical traditional shopfront in terms of materials and finishes and the altered shopfront is a largely unchanged contemporary version of this.

9. Recommended conditions if the application is granted

1. Compliance with approved drawings

The development shall not be carried out except in complete accordance with the details shown on submitted plans *PN-05 - Rev 1.0, PN-06 - Rev 1.0*

Reason - *The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.*

2. **Sale/Service of goods - Front Window**
The operable window of the shopfront shall not at any time be used for the service of food or drink.
Reason - To maintain the appearance of the premises and shopping frontage and so accord with policies of the development plan in particular CT1, CL5 and CL6 of the Local Plan 2019.

3. **Level access to premises**
Within three months of the date of the decision, level access from the pavement to the interior of the premises shall be fully provided and so maintained.
Reason - To ensure inclusive, safe and dignified access to all and to accord with policies of the development plan, in particular CL10 of the Local Plan 2019.

INFORMATIVES

- 1 Your attention is drawn to the Conditions of this Permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act 1990, as amended. All Conditions must be complied with. If you wish to seek to amend a Condition you should apply to do so under s.73 of the Act, explaining why you consider it is no longer necessary, or possible, to comply with a particular condition.

- 2 Planning permission is hereby granted for the development as shown on the approved drawings. Any variation to the approved scheme may require further permission, and unauthorised variations may lay you open to planning enforcement action. You are advised to seek advice from the Directorate of Planning and Place, before work commences, if you are thinking of introducing any variations to the approved development.

Advice should urgently be sought if a problem occurs during approved works, but it is clearly preferable to seek advice at as early a stage as possible. Use the following link to see how advice can be obtained: [Planning Advice Service](#)

- 3 To assist applicants in finding solutions to problems arising in relation to their development proposals the Local Planning Authority has produced planning policies, and provided written guidance, all of which are available on the Council's website, and which has been followed in this instance.

- 4 Any Advertisements to be erected at the premises may require consent under the Control of Advertisement Regulations 2007. You are advised to consult the Directorate of Planning and Place.

You are reminded that, if not properly managed, construction works can lead to negative impacts on the local environment, reducing residential amenity and the safe function of the highway. The Council can prosecute developers and their contractors if work is not managed properly. For advice on how to manage construction works in the Royal Borough please see the Council's website: www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx. From this page you will also find guidance on what to include in Construction Traffic Management Plans (where these are required).

Construction and demolition work is controlled by the Council under sections 60 and 61 of the Control of Pollution Act 1974. The Council has adopted a Code of Construction Practice which sets out best practice standards expected in the

borough and applies to new development projects from April 2019. Under the terms of the Code, works heard at the boundary of the site are restricted to:

Monday to Friday 8am – 6pm

Saturday, Sunday and public holidays – none permitted

The code also introduces a further set of restricted hours for high impact activities such as demolition and concrete breaking. Undertaking noisy works outside of the Code hours may be liable for prosecution and a fine of up to £5000 where a notice has been served under the Control of Pollution Act 1974.

If you are required to submit a Code of Construction Checklist and Site Construction Management Plan (SCMP), please contact the Construction Management Team on 020 7361 3002 or by email at dehcmt@rbkc.gov.uk

Your attention is drawn to Section 61 of the Control of Pollution Act 1974, which allows developers and their building contractors to apply for 'prior consent' for noise generating activities during building works. This proactive approach involves assessment of construction working methods to be used and prediction of likely construction noise levels at sensitive positions, with the aim of managing the generation of construction noise using the 'best practicable means' available. You are advised to engage an acoustic consultant experienced in construction noise and vibration assessment and prediction to complete your S.61 application. Relevant information can be found here [S.61 Control of Pollution Act 1974](#)

Background papers:

Documents associated with the application (except exempt or confidential information) may be viewed at www.rbkc.gov.uk/PP/24/00260. Access to computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

Ms. M. Quigg

Telephone: 07977-756-268