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2.5 Also of relevance are the following planning decisions of this Council:

- ✓ PP/01/02404 – 58 Kensington Church Street, W8, planning permission refused 19/12/2001
- ✓ TP/98/1306 – 54-56 Kensington Church Street, W8, planning permission granted 20/04/99;
- ✓ TP/98/1546 – 140-142 Kensington Church Street, W8, planning permission refused 09/03/89;
- ✓ TP/94/264 – 172 Kensington Church Street, W8, planning permission granted 06/94;
- ✓ TP/97/2610 – 62 Kensington Church Street, W8, planning permission granted 27/03/98;
- ✓ TP/89/0876 – 67A Kensington Church Street, W8, planning permission granted 25/09/89;
- ✓ TP/88/2276 – 112 Kensington Church Street, W8, planning permission Refused 09/03/89;
- ✓ TP/87/0489 – 67 Kensington Church Street, W8, planning permission granted 13/05/97;

NEED TO
INCLUDE
COMMITTEE
MINUTE

↓
DECISIONS
REFERRED
TO IN
TEXT

(See Appendix 3)

3.0 STATUTORY PLANS AND POLICIES

3.1 On 28th August 1995, this Council's Unitary Development Plan (UDP) was formally adopted and is the statutory plan for the Borough.

3.2 Other relevant documents are Circulars, Planning Policy Guidance Notes and other advice from Central Government together with the statutory framework provided by the Town and country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 1991.

3.3 Section 54A of the Town and Country Planning Act 1990 places an emphasis on the need to meet the requirements of the development plan, and states:

'Where in making any determination under the Planning Acts, regard is to be had to the development plan, and determination shall be made in accordance with the plan unless material considerations indicate otherwise'

3.4 PPG1 (revised February 1997) outlines the general policies and principles under which the planning system is to operate. Paragraph 40 states:

'The Government is committed to a plan led system of development control. This is given statutory force by Section 54A of the 1990 Act. Where an adopted or approved Development Plan contains relevant policies, Section 54A requires that an application for planning permission or an appeal shall be determined in accordance with the Plan

unless material considerations indicate otherwise. Conversely, applications which are not in accordance with the relevant policies in the Plan should not be allowed unless material considerations justify granting the planning permission. Those deciding such planning applications or appeals should always take into account whether the proposed development would cause harm to interests of acknowledged importance in all cases where the Development Plan is relevant, it will be necessary to decide whether the proposal is in accordance with the Plan and then to take into account other material considerations'

3.5 At paragraph 50, PPG1 states:

'In principle...any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances.'

3.6 PPG15 (Planning and Historic Environment) issued in September 1994 outlines the policies which local planning authorities should take into consideration when determining applications for works to listed buildings or buildings within conservation areas. In particular, paragraph 4.14 of PPG15 states:

'Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character and appearance of the conservation area. This requirement extends to all powers under the Planning Acts, not only those which relate directly to historic buildings. The desirability of preserving or enhancing the area should also, in the Secretary of State's view, be a material consideration in the planning authority's handling of development proposals which are outside the Conservation Area but would adversely affect its setting, or views into or out of the area'

3.7 Paragraph 1.1 (inter alia)

'It is fundamental to the Government's policies for environmental stewardship that there should be effective protection for all aspects of the historic environment.'

3.8 Paragraph 1.5 states:

'Conservation can itself play a key part in promoting economic prosperity by ensuring that an area offers attractive living and working conditions which will encourage inward investment - environmental quality is increasingly a key factor in many commercial decisions.'

3.9 Paragraph 2.18 states:

'The Secretary of State is not generally in favour of tightening development controls over changes of use as a specific instrument of conservation policy. He considers that, in general, the same provisions on change of use should apply to historic buildings as to all others. Patterns of economic activity inevitably change over time, and it would be unrealistic to seek to prevent such change by the use of planning controls.'

3.10 However, and of particular relevance to this appeal is that sated by paragraph 4.2:

'It is the quality and interest of areas, rather than that of individual buildings, which should be the prime consideration in identifying conservation areas. There has been increasing recognition in recent years that our experience of a historic area depends on much more than the quality of individual buildings – on the historic layout of property boundaries and thoroughfares; on a particular 'mix' of uses.... Conservation Area designation should be seen as the means of recognising the importance of all these factors and of ensuring that conservation policy addresses the quality of townscape in its broadest sense as well as the protection of individual buildings.'

4.0 UNITARY DEVELOPMENT PLAN POLICIES

4.1 The Unitary Development Plan (UDP) includes strategic policies in addition to local, topic based land use policies. The strategic policies which are of relevance in this case are as follows:

'STRAT 6 To protect listed buildings and to preserve the character and appearance of conservation areas, areas of Metropolitan Importance, areas of local character and other buildings or places of interest'

'STRAT 29 To seek to enhance the vitality and viability of principal and Local Shopping Centres and to ensure that they are the focus for any new retail development and continue to provide shopping facilities in The Royal Borough.'

4.2 Chapter 4, 'The 'Conservation and Development' Chapter of the UDP includes four objectives which the Council wishes to see achieved through the policies of that Chapter. These objectives are as follows:

(A) To protect or enhance areas of character throughout the Borough, both in terms of use and physical environment;

- (B) To ensure that all development respects local character, is of a high standard of design, takes into account people with special mobility needs and does not adversely affect residential amenity ;
- (C) To preserve or enhance the Boroughs Conservation Areas and listed buildings;
- (D) To protect or enhance the natural environment and to preserve the archaeology of the Borough.

4.3 Policy CD48 of the UDP states the Council's intentions in respect of conservation areas and states:

'To pay special attention to the desirability of preserving or enhancing the character or appearance of each conservation area'

4.4 In addition Policy CD52 states:

'To ensure that any development in a conservation area preserves or enhances the character or appearance of the area'

4.5 The Unitary Development Plan shopping policies are found at chapter 8. Policy S6 states:

'To seek to maintain and improve the vitality, viability and function of the shopping centres throughout the Borough.'

4.6 Policy S15 states:

'Normally to permit uses falling within use classes A2 and A3 in a principal shopping centre unless the proposal would threaten the character or function of the centre or would result in:

- (a) Less than 75% of the total core ground floor units being in shop (A1) use; or
- (b) Less than 65% of the total non-core ground floor units being in shop (A1) use; or
- (c) Three or more non-shop uses in adjacent units at ground floor level; or
- (d) Significant increase in traffic or parking; or
- (e) any significant reduction in an area's residential character and amenity including by smells or late night noise.'

4.7 The Council has reviewed its development plan and proposed a set of alterations to the UDP to keep it up to date and relevant in accordance with Central Government policy. The UDP alterations were approved for consultation by the Council's Planning and Conservation Committee on 19th

April 1999. The UDP alterations have been the subject of consultation with statutory bodies in line with government guidance (PPG12, Development Plans and Regional Guidance [Annex E], February 1992). This consultation took place between 30 April and 11 June 1999. The UDP Alterations were deposited on the 6th August for a period of six weeks. A second deposit period lasted for six weeks from 28th January 2000. The UDP Alterations were subject of a public inquiry between 10th January and 15 February 2001. The Council received the Inspectors Report into the Proposed Alterations in July 2001.

4.8 The relevant policy changes are as follows:

STRAT 29c To improve the attractive and competitiveness of the Borough's shopping centres by improving the townscape and streetscape environment.'

4.9 Policy S15:

'Normally to permit uses falling within use classes A2 and A3 in the core frontage of a principal shopping centre subject to the following:

Environmental Criteria

Proposals will be resisted where they are likely to cause:

- (a) any material increase in traffic or parking; or
- (b) any material reduction in residential character or amenity including by smells or late night noise.

Retail character and function criteria

Proposals will be resisted in circumstances where, whether before or as a result of the proposal, the following apply:

- (a) More than one quarter of the ground floor units in the relevant street frontage are occupied by non-shop uses; or
- (b) There are more than two adjoining units at ground floor level in the same use class as proposed; or
- (c) There is a break in the relevant ground floor retail frontage of more than two times the average width of units in the core frontage of the centre.

4.10 The UDP Proposed Alterations includes a new Policy S15a and this states:

Normally to permit uses falling within use classes A2 and A3 in the non-core frontage of a principal shopping centre, subject to the following:

Environmental Criteria

- (a) any material increase in traffic or parking; or
- (b) any material reduction in residential character or amenity including by smells or late night noise.

Retail character and function criteria

Proposals will be resisted in circumstances where whether before or as a result of the proposal, the following apply:

- (a) More than one third of the ground floor units in the relevant street frontage are occupied by non-shop uses; or
- (b) There are more than three adjoining units at ground floor level in the same use class as proposed; or
- (c) There is a break in the relevant ground floor retail frontage of more than three times the average width of units in the non-core frontage.

5.0 AMPLIFICATION OF COUNCILS REASONS FOR REFUSAL

- 5.1 The Council reasons for refusal are that the loss of this retail property would adversely affect the special character of this part of the Kensington Palace Conservation Area. The local character of this part of the Kensington Palace Conservation Area is distinctive and characterised by the high presence of antique and fine art retailers. The loss of this shop would result in the loss of premises available for occupancy by specialist retailers and would unbalance the distinct character of this street.
- 5.2 Section 54A of the Principal Act requires that an application for planning permission or an appeal shall be determined in accordance with the Plan unless material considerations indicate otherwise. Planning Policy Guidance Note 1, reminds:(inter alia) "Those deciding such planning applications or appeals should always take into account whether the proposed development would cause harm to interests of acknowledged importance".
- 5.3 In respect of Conservation Areas, Section 72 of the Act requires that special attention to be paid in the exercise of planning functions to the desirability of preserving or enhancing the character and appearance of conservation areas.
- 5.4 In the exercise of these powers, PPG 15, provides the relevant guidance. At paragraph 2.18 it is stated that:
- 'The Secretary of State is not generally in favour of tightening development controls over changes of use as a specific instrument of conservation policy.'
- 5.5 The advice is that in general, the same provisions in respect of a change of use should apply to historic buildings as to all others. That is, patterns of economic activity inevitably change over time, and in general terms it is

considered be unrealistic to seek to prevent such change by the use of planning controls.

- 5.6 However, at paragraph 4.2 qualifies the general guidance provided by its preceding paragraph and emphasises that:

“It is the quality and interest of areas, rather than that of individual buildings, which should be the prime consideration in identifying conservation areas.”

- 5.7 The Guidance continues to elaborate these considerations by stating that:

“There has been increasing recognition in recent years that our experience of an historic area depends on much more than the quality of individual buildings..”

- 5.8 It is recognised that the experience of historic areas is also influenced by:

“...the historic layout of property boundaries and thoroughfares; on a particular ‘mix’ of uses....(italics added).

- 5.9 Conservation Area designation is seen as a means of recognising the importance of all these factors and of ensuring that conservation policy addresses the quality of a townscape in its broadest sense as well as the protection of individual buildings.

- 5.10 The Council’s decision in the appeal case is in recognition of these broader factors, the considerations that extend beyond the purely built fabric of the Borough, that is in the broadest sense of the character and function of this area.

- 5.11 The Kensington Palace Conservation Area Proposals Statement quite rightly places great emphasis on the importance of the built fabric and its historical development. The CAPS moreover, also recognises the importance of the function of Kensington Church Street and the way it is used. (See Appendix 4)

- 5.12 The CAPS recognises that Kensington Church Street:

“...has a distinctive character which deserves some individual analysis”. (page 31)

- 5.13 The CAPS continues:

“The strong personality of this shopping centre derives from developments of very different periods.... A striking feature is the dominant presence from the Carmelite Church northwards of antique dealers, fine arts establishments and others retailing items of aesthetic interest.(italics added)

- 5.14 The character of Kensington Church Street is not homogeneous. There is a mixture of uses. There is a substantial number of antique and fine art dealers throughout its length.

- 5.15 However, the proportion of antique and, or fine art dealers (and similar specialist shops) in the area of the appeal premises is such that they are considered by the Council to define the strong personality of this part of the street. They are a dominant and striking feature of this area and one which is considered to deserve protection.
- 5.16 To amplify; the appeal property is one unit of a retail frontage which numbers 106 to 172. The frontage runs from Berkley Gardens, in the south to Kensington Mall in the north. This frontage comprises 25 commercial units and of these 16 are antique, fine art dealers or similar specialist shops. That is 64 per cent of this part of Kensington Church Street is characterised by this type of use.
- 5.17 Opposite, of the frontages comprising nos. 121 to 141 (13 properties in total), 10 are antique and or fine art dealers, equalling 77%. Similarly the frontages comprising nos.103 to 119, 7 units, rounds to 77% out of a total of 9 units which are antique and or fine art dealers or similar specialist shops.
- 5.18 It is recognised that the Council is not in a position to determine the particular type of retail user. However, there is a considered view from concerned local residents and businesses, that this property would be occupied by another antique or fine art establishment if the property is retained in retail use. However, the loss of this retail unit would deprive the area of this potential
- 5.19 The continued threat to this area are of on going concern to the Council. Planning permission was refused in 1989 for a similar change of use at no.112 and for similar reasons.(see Appendix 3: Planning Reference TP/88/2276).
- 5.20 The Council's reasons for refusal were: (inter alia) the proposed introduction of a further Estate Agent's office, located in the middle of a terrace row of antique shops, and within an internationally established trading centre for antiques and fine arts, would detract from the character and function of the street; and the proposed use is considered undesirable and detrimental to the character of the street.
- 5.21 Prior to the above decision and in granting planning permission (at no.67 in 1987), the officers report recognised the same issues of concern concluding that, "The loss of a convenience retail shop is regrettable". However planning permission was granted because of the flexibility allowed by the then applicable Local Plan policy limits. (See Appendix 3 officers report TP/87/0489, paragraph 3.0) Recognition of the fragility of the local distinctiveness and special character has been recognised in the determination of other planning applications referred to in Appendix 3.
- 5.22 In contrast the subject of this appeal proposal is considered barely acceptable when measured against the Unitary Development Plan Shopping Policies. The proposal would not have been ^{acceptable in Policy S15 and S15a} appropriate in by Policy S15 of the adopted UDP and it only just complies with Policy S15a of the Proposed Alterations as set out in the Committee Report paragraph 4.1 to 4.11 (See Appendix 6) and the Policy background papers (Appendix 5).

NEED TO
INCLUDE
REASON
FOR
REFUSAL

- 5.23 The concern of the local interest groups is that there is sufficient scope for diversity within this location and that a further loss of retail would begin to erode the potential to maintain the character of this street. There is considered to be a need for this type of specialist retailer to cluster.
- 5.24 The Council is not in a position to control the type of user. However, whilst the property remains in retail use, the potential for the property to be occupied by one of these specialist users is maintained.
- 5.25 It is also acknowledged that a change of use from an estate agents to a retail shop within Class A1 does not need planning permission. However, the reality is that once the change of use to use Class A2 takes place, the use is likely to be lost from retail forever.
- 5.26 As stated above, Kensington Church Street is an extremely high quality and special street with a distinctive and unique character. Its character is defined by small specialist shops comprising antique dealers and fine art establishments. The local residents and traders have expressed their concerns. They are an established part of this community. They are emphatic, that the survival of these specialist shops is heavily dependent upon their grouping together. The location is of international renown and its reputation is justifiably reasoned as dependent upon the grouping of these specialist shops. Maintaining this balance of provision has been of concern to the Council for some time. The concerns of the Council are on public record. The loss of this retail unit is considered to jeopardise the potential presence and future opportunity for similar businesses to located and therefore to harm character of the street, and thus the character of the Kensington Place Conservation Area.

6.0 COMMENTS ON APPELLANTS GROUNDS OF APPEAL

- 6.1.1 The appellants first ground of appeal contests the Council's assertion that this change of use would adversely impact on the special character of this part of the conservation area.
- 6.1.2 For the reasons expressed in paragraphs 5.1 to 5.26 of this statement, the Council disagrees with the appellant's ground of appeal.
- 6.2.1 The appellant's second ground of appeal reiterates the first, with the supportive insinuation that the change of use will result in a mix of uses within the non-core retail frontage and also diversity.
- 6.2.2 No supportive explanation is provided. However, and equally, (as stated at paragraphs 5.9 and 5.10) the character of Kensington Church Street is considered, unique and distinctive and formed by the concentration of antique and fine art dealers.
- 6.2.3 In support of this view, the Council considers Government Guidance (as outlined in PPG15) is particularly relevant; it is the quality and interest of areas, not just that of individual buildings that our experience of an historic

area depends upon and that our experience of an area may be equally, if not more dependant, upon the particular 'mix' of uses. This is considered to be the case with Kensington Church Street.

- 6.2.4 The initial planning application received 13 letters of objection at the time of determination. The majority of respondents expressed their concern with the further loss of a retail unit in this location and feel that the character of the street would be severely compromised by the change of use if allowed. The representations express the opinion that the character and function of this location for an antique and fine art retailers contribute to an attractive living and working environment which will encourage inward investment.
- 6.2.6 These concerns are not new, they have been the subject of previous considerations in the determination of applications in the past and also the reasons for the refusal of planning permission. The Planning Services Committee chose not to accept the officer recommendation in respect of no.140/142 Kensington Church Street and refused planning permission, irrespective that on balance there would have been no loss of a retail unit. (See Appendix 3) No appeal was received on this decision. *DECISION LETTER NEEDED*
- 6.2.7 Therefore, the Council does not share the view of the appellant. The Council supports the perception of the local businesses and residents who have commented that the appeal proposal would if allowed harm the character of this part of the Conservation Area.
- 6.3.1 In the appellant's third ground of appeal they state, their case will consider the what factors contribute to the "special character" of this part of the conservation area.
- 6.3.2 The Council has nothing to add to this statement at this stage.
- 6.4.1 The appellant's fourth ground of appeal refers to other Class A2 uses existing in the surrounding area, their evolution and their impact to the special character of the area.
- 6.4.2 The Council has nothing to add to this statement at this stage.
- 6.5.1 The appellant's fifth ground of appeal states that compliance with Council's policies will be demonstrated.
- 6.5.2 The policy considerations on which the application was determined were twofold, the shopping policies contained in chapter 8 of the Unitary Development Plan (and Proposed Alterations), and the Conservation and Development Policies found in chapter 4. (See Appendix 6)
- 6.5.3 The reasons for refusal were based on the Conservation and Development Chapter Policies CD48 and CD52. The reasons why the subject of this appeal

is considered to have been justifiably refused planning permission is clearly expressed in the Amplification of the Council's Reasons for Refusal.

- 6.5.4 For the reasons stated in the officers report, the proposal only just complies with the Unitary Development Plan shopping policies. The reason for the refusal is because of the impact on the character of the Conservation Area and for the reasons stated in the Council's submission the Inspector is requested to refuse planning permission.

7.0 CONCLUSION

- 7.1 The Unitary Development Plan policies enable the Council to determine applications in a consistent and even handed manner. They are considered up-to-date and to be in line with recent Government guidance. The proposed conflicts with the UDP and for the reasons stated would result in demonstrable harm. The Planning Inspector is therefore respectfully requested to dismiss this appeal.

8.0 CONDITIONS

8.1 In the event the Inspector is minded to grant planning permission, the following are requested to be attached to safeguard the character and appearance of the Kensington Conservation Area

Condition 1

The development hereby permitted shall be begun before the expiration of five years from the date of the permission

Reason

As required by Section 91 of the Town and Country Planning Act 1990 to prevent the accumulation of unexercised permissions

List of Appendices

- Appendix 1 Site Plan
- Appendix 2 Conservation Area Boundary
- Appendix 3 Copies of Officers Reports:
- PP/01/02402 – 58 Kensington Church Street, W8, planning permission refuse 19/12/2001
 - TP/98/1306 – 54-56 Kensington Church Street, W8, planning permission granted 20/04/99;
 - TP/98/1546 – 140-142 Kensington Church Street, W8, planning permission refused 09/03/89;
 - TP/94/264 – 172 Kensington Church Street, W8, planning permission granted 06/94;
 - TP/97/2610 – 62 Kensington Church Street, W8, planning permission granted 27/03/98;
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 - TP/88/2276 – 112 Kensington Church Street, W8, planning permission Refused 09/03/89;
 - TP/87/0489 – 67 Kensington Church Street, W8, planning permission granted 13/05/97;
- Appendix 4 Extract from the Kensington Conservation Area Proposals Statement
- Appendix 5 Copy of RBK&C Policy observations and additional Policy advice dated 7th January 2002.
- Appendix 6 Extract of Officers Report PP/01/01227 (paragraphs 4.0-4.11)
- Appendix 7 Copy of letters notifying third parties
- Appendix 8 List of persons notified of appeal





2

2

RBKC - Planning and Conservation - Card Index - Site Map

110 Kensington Church St



Ordnance Survey Map Extract - Crown Copyright Reserved - RBKC Internal Use Only

QuickMap(08/01/2002)

Map width : 195.00m

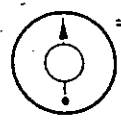
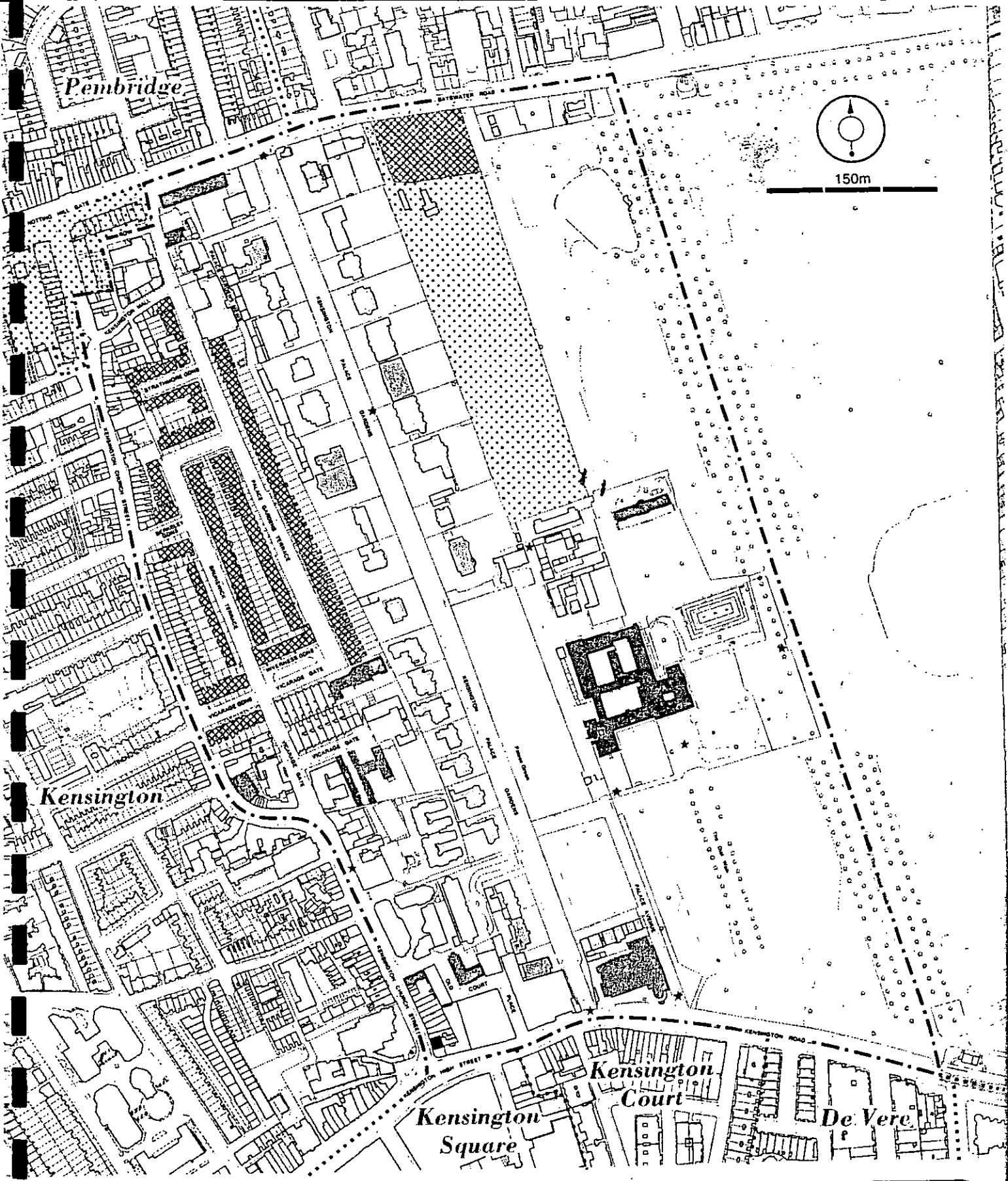
Scale 1 : 1000





6





150m

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA





KENSINGTON PALACE

Conservation Area





Proposals Statement

Townscape analysis





BOUNDARIES

-  Borough
-  Conservation Area
-  Adjacent Conservation Area
-  Not in Conservation Area

SPECIAL CONTROLS

-  Grade I listed
-  Grade II* listed
-  Grade II listed
-  Article 4 direction

AREA APPRAISAL

-  Detracting buildings
-  Neutral buildings
-  Detracting Areas
-  Neutral Areas





DFZ Ae

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
MEMORANDUM - SECTION 101 - LOCAL GOVERNMENT ACT, 1972

To: Chief Administrative Officer (Planning)
From: The Executive Director, Planning & Conservation

Date: 19 December 2001
Our Ref: PP/01/02402

Application Date: 27/09/2001 Complete Date: 24/10/2001

Revised Date:

Agent: T. Merali, Prichard Holdings Ltd., 58-60 Kensington Church Street, London W8 4DB

Address: 58 Kensington Church Street, London, W8 4DB

This application is for a class of development to be determined under powers delegated to me by the Council on 18th July, 2001 and is not a major, controversial or sensitive application nor one which a Ward Councillor has asked to be considered by Planning Services Committee.

Class - 8th Schedule development

Class - Listed building consent for above Classes.

Class - shop fronts

Class - Conservation area consent

Class - conversion from non s/c dwellings etc

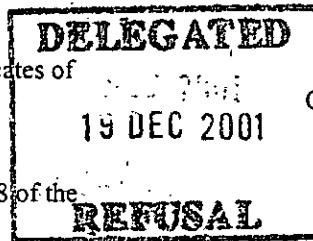
Class - approval of facing materials

Class - amendments as required by T.P. Committee ...

Class - grant of planning permission for a change from one kind of non-residential use to another non-residential use except where this would involve the loss of a shop in a

Principal

Class - grant or refuse certificates of Lawful development under



core shopping frontage.

Class - grant permission license or no objection

Class - Crossover under S.108 of the Highways Act 1980

Sections 73, 74, 138, 143, 152, 153, 177 & 180 of the Highways Act

Consent under T&CP Control of Advertisement Regulations 1984-90; incl. refusal of consent for Reg. 15 applications.

DESCRIPTION OF PROPOSED DEVELOPMENT

Change of use of ground floor from Class A1 retail use to Class A2 use.

RECOMMENDED DECISION Refuse planning permission

RBK&C drawing(s) No. PP/01/02402 Applicant's drawing(s) No. Untitled Site Plan completed by the Applicant and returned on 24/10/2001; A1/1368/01; and photograph submitted, titled 58 Kensington Church Street.

Number of Objections - 1

I hereby determine and grant/refuse this application (subject to HBMC Direction/Historic Building authorisation) under the powers delegated to me by the Council, subject to the condition(s) indicated below imposed for the reason(s) appearing thereunder, or for the reasons stated.

Exec. Director, Planning and Conservation Head of Development Control Area Planning Officer

hewy
19/12/01

Area Planning Officer
19/12/01

REASONS FOR REFUSAL

1. **The proposal would result in a stretch of four non shop units which will create a sterile stretch of shopping frontage which will adversely affect the vitality and viability of the principal shopping centre contrary to Policies in the Shopping chapter of the Unitary Development Plan in particular Policies STRAT 29, STRAT 30, S1 and S15a.**
2. **The proposal involves the loss of a shop unit which would adversely affect the special character of this part of the conservation area and would therefore be contrary to policies in the Unitary Development Plan, particularly Policies CD48 and CD52.**

INFORMATIVE

You are advised that a number of relevant policies of the Unitary Development Plan **and proposed alterations thereto** were used in the determination of this case, in particular, Policies STRAT6, STRAT29, STRAT29C, STRAT 30, S1, S6, S15, S15a, CD48 and CD52. (I51)

1.0 THE SITE

- 1.1 The property is a retail unit located on the eastern side of Kensington Church Street at the ground floor level. Numbers 58-60 Kensington Church Street includes the entrance lobby to residential/office uses on the upper floors, known as Vicarage House. The area has been split into the lobby area and an L-shaped unit that also fronts onto Melon Place. The L-shaped area is the proposal site, referred to as 58 Kensington Church Street, which is currently subdivided into 15 small antique stalls connected by a central hallway.
- 1.2 The property is located in the Kensington Palace Conservation Area, and the non-core frontage of the Kensington High Street Principal Shopping Centre.
- 1.3 Numbers 54/56 and 62 Kensington Church Street are two existing Estate Agents (Class A2).

2.0 THE PROPOSAL

- 2.1 Planning permission is sought for the change of use of the ground floor from Class A1 (retail use) to Class A2 (financial and professional).

3.0 PLANNING HISTORY

- 3.1 There have been a variety of applications and enforcement notices on this property in the past, relating to additions and roller shutters, the most recent of which was in 1991. These are not considered to be relevant to this application.

4.0 PLANNING CONSIDERATIONS

- 4.1 The main considerations in this case relate to the effect on the vitality and viability of the Shopping Centre and its impact on the general streetscape and character and appearance of the Conservation Area.
- 4.2 The relevant planning Policies are contained in the "Conservation and Development" and "Shopping" Chapters of the UDP. Policies STRAT6, STRAT29, STRAT29C, STRAT 30, S1, S6, S15, S15a, CD48 and CD52 are of particular relevance to this application.
- 4.3 The property is located in the non-core frontage of the Kensington High Street Principal Shopping Centre. The site is currently in Class A1 use as an art gallery/antique centre. It contains several small 'shops' with the appearance of an indoor market, and the floorspace is approximately 175 square metres.
- 4.4 The Public Inquiry for the Altered UDP concluded in February 2001 and Council received the Inspector's Report in July 2001. The Inspector considered Policy S15a (altered) and Policy S1 (altered) and recommended that only further modifications be made to these policies was to delete the word 'normally'. Policy S15a (altered) and Policy S1 (altered) have significant weight and should be considered as the relevant planning policy for this

application.

- 4.5 STRAT 29 seeks to enhance the vitality and viability of Principal Shopping Centres and continue to provide shopping facilities in The Royal Borough and STRAT 30 is to ensure the continued enhancement of international, national and required retail role of the Principal Shopping Centres.
- 4.6 Policy S1 is normally to resist the loss of shop units and floorspace particularly where this would reduce the range of choice of local convenience shops.
- 4.7 S 15a Normally to permit uses falling within Use Classes A2 and A3 in the non-core frontage of a Principal Shopping Centre, subject to the following:

Environmental Criteria

Proposals will be resisted where they are likely to cause:

- (a) Any material increase in traffic or parking; or
- (b) Any material reduction in residential character or amenity including by smells or late night noise.

Retail Character and Function Criteria

- (a) More than one third of the ground floor units in the relevant street frontage are occupied by non-shop uses; or
 - (b) There are more than three adjoining units at ground floor level in the same use class as proposed; or
 - (c) There is a break in the relevant ground floor retail frontage of more than three times the average width of units in the non-core frontage of the centre
- 4.8 With regard to the Environmental Criteria above, it is considered that this proposal is in accordance with these as there will be no material increase in traffic or parking if the property was in Class A2 use. In addition, it is considered that there will be no reduction in residential character and amenity, as Class A2 uses typically have similar opening hours to that of a Class A1 use.
- 4.9 Criterion (a) of the Retail Character and Function Criteria requires that no more than a third of ground floor uses in the relevant street frontage are in non shop-use, before or as a result of an application such as this one. The entry to the lobby of Vicarage House is a substantial feature that is the visual equivalent of a separate unit for the purposes of applying this criterion. The the relevant street frontage is from 36 to 62 Kensington Church Street. Based on the Principal Shopping Centre Survey (2001), currently 22% of the units are non shop uses. If permission is granted for this proposal, 28% of the units would be non shop. Therefore this proposal complies with this criterion.
- 4.10 Criterion (b) considers the number of adjoining units in the same Use Class. The proposal would not create more than three adjoining units, but includes the entrance to Vicarage House and there would be three Class A2 units and

another non retail unit.

- 4.11 The break in the retail frontage is considered by Criterion (c). There is a break in the retail frontage of 25.15 metres which is larger than three times the average unit width of the non-core frontage. The proposal therefore does not comply with this criterion.
- 4.12 Policies CD48 and CD52 (Adopted UDP 1995, Proposed Alterations 2000) are also relevant in considering this proposal.

CD48 To pay special attention to the desirability of preserving or enhancing the character or appearance of each Conservation Area.

CD52 To ensure that any development in a Conservation Area preserves or enhances the character or appearance of the area.

- 4.13 As identified in the Kensington Palace Conservation Area Proposals Statement, this section of Kensington Church Street has a distinctive character. A striking feature is the dominant presence of specialist retail outlets, particularly antique dealers, galleries and others retailing items of aesthetic interest. This character is long established. The Principal Shopping Centres Survey prepared in 2001 confirms this unique character. Of the 18 units which make up the block of shops between Vicarage Gate and Melon Place, 8 of these are Antique Dealers, Galleries, or retailers of specialist goods (including the application site).
- 4.14 The application site is called the Kensington Church Street Antiques Centre and contains at any one time, between 10 to 15 small retailers selling antiques and other specialist goods. It is considered that the loss of these small retailers will have a detrimental impact on the character of the street.
- 4.15 Further to the detrimental impact on the character of the area generally, it is considered that this proposal will have an adverse impact on the northern stretch of this block. The application site is located between two existing Class A2 uses (both estate agencies). The proposal does not comply with criterion (c) of policy S15a and this proposal will essentially result in three Class A2 uses and another non retail unit located in this stretch. It is considered that this will result in the northern stretch of this block in the Principal Shopping Centre having a sterile frontage, which is a material consideration in assessing this application.
- 4.16 The proposal does not comply with Policy S15a and it does not comply with Policies CD48 and C52. Other material considerations when considering the merits of this application, are the impact of the proposal the distinctive character of this area, on the loss of 10 to 15 small retail units, and the creation of a sterile stretch of shop front by having three Class A2 units and a residential entrance lobby. The proposal is considered to adversely affect the vitality and viability of this part of the Principal Shopping Centre which would be contrary to Policies in the Unitary Development Plan particularly Policies STRAT 29, STRAT 30, S1 and S15a. It is considered that the matters

outlined above are such, that this application warrants refusal.

5.0 PUBLIC CONSULTATION

- 5.1 Twenty seven letters of notification were sent to properties in Kensington Church Street. Furthermore, at the request of a member of the public, letters of notification were sent to each of the Dealers in the 'Kensington Church Street Antiques Centre'.
- 5.2 One letter of objection has been received to date. This is from the Estate Agency which is located at 54/56 Kensington Church Street. The following concerns are raised;
- 5.3 The proposal is in breach of Criteria (b) and (c) of Policy S15 and (b) of Policy S15A, as the granting of this permission would in effect create 5 consecutive non-retail units on this side of Kensington Church Street.

As discussed in Paragraph 4.4, Policy S15 has not been assessed for this proposal. With regards to Policy S15a, it has been concluded in paragraph 4.8 of this report, that whilst this proposal complies with Criterion (b) it does not comply with Criterion (c). It is considered that the objector has incorrectly interpreted the shop fronts in this stretch of Kensington Church Street. The unit which Knight Frank occupies, should be classed as one unit, rather than two, and the entrance lobby to Vicarage House classified as a separate unit. However as discussed in paragraph 4.15, in practice the units will create four non retail units located side by side.

6.0 RECOMMENDATION

- 6.1 Refuse planning permission.

**M.J. FRENCH,
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION.**

Background Papers

The contents of file PP/01/02402 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

**Report Prepared By: NC
Report Approved By: PK/LAWJ
Date Report Approved: 19/12/2001**

PP/01/02402: 6

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING SERVICES COMMITTEE

17/11/98

APPLICATION NO.

AGENDA ITEM

TP/98/1306/L/29

2171

REPORT BY THE EXECUTIVE DIRECTOR OF PLANNING AND CONSERVATION

APPLICANTS NAME/ADDRESS

Application
dated

09/07/98

Knight Frank,
20 Hanover Square,
London, W1R 0AH

Revised

**RECOMMENDATION
ADOPTED.**

Completed 13/07/98

Polling Ward IA31

ON BEHALF OF : Knight Frank,
INTEREST : Not known

District Plan Proposals Map:			CONSERVATION AREA		A/O Consulted	Objectors (to date)
Cons.Area	CAPS Article 4 Direction		Listed Building	HBMC Direction		
7	YES	NO	NO	N/A	14	6

RECOMMENDED DECISION :-

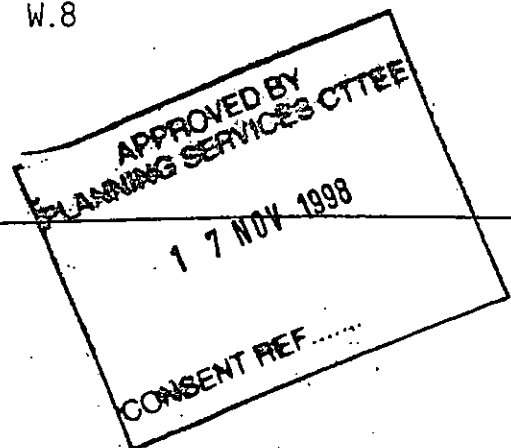
(1) SUBJECT to a Planning Obligation to ensure that Nos. 67/67A Kensington Church Street are made available and only used in the future for Class A1 (retail) use.

(2) GRANT planning permission for the change of use of the ground floor from Class A1 (Retail) to Class A2 (Financial and Professional Services)

At: 54-56 KENSINGTON CHURCH STREET, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/98/1306

Applicant's drawing(s) No(s) : KF-KEN3.



CONDITION

C.1

REASON FOR THE IMPOSITION OF CONDITION

R.1

INFORMATIVE

I.8

1.0 The Site

- 1.1 Nos. 54-56 Kensington Church Street are located along the eastern side of the road, directly opposite the junction with Campden Grove.
- 1.2 They comprise a double fronted retail unit at ground floor level located within the non-core frontage of the Kensington High Street Principal Shopping Centre. The property is currently vacant having formerly been used as a furniture shop.
- 1.3 The property is within the Kensington Conservation Area.

2.0 The Proposal

- 2.1 The application proposes the change of use of the ground floor from Class A1 (Retail) to Class A2 (Financial and Professional Services), to be occupied as an estate agency.
- 2.2 The applicants (Knight Frank) currently occupy No. 67/67A Kensington Church Street. ~~As part of the proposal Knight Frank have offered to return this property to retail use if a planning permission is forthcoming.~~

3.0 Relevant Planning History

- 3.1 Planning permission has been granted for new shop fronts in 1963, 1964 and 1967.
- 3.2 In March 1997, planning permission was granted for the erection of a rear conservatory and new shop front.

4.0 Planning Considerations

- 4.1 The main consideration raised by this proposal concerns the effect on the retail character and function of the Principal Shopping Centre.
- 4.2 The relevant policies are contained within the "Shopping" Chapter of the Council's Unitary Development Plan. Policy S1 seeks normally to resist the loss of shop units and floor space, with Policy S6 which seeks to safeguard and improve the vitality, viability and function of the shopping centres. Of particular relevance, is Policy S15 which applies specifically to changes of use to Class A2 and A3 at ground floor level in both core and non-core frontages of the Principal Shopping Centres. This policy sets out criteria on which to assess acceptability of these non-retail uses. The policy normally permits the change of use from Class A1 to either Class A2 or A3 unless the proposal fails to satisfy the criteria or would threaten the character and function of a centre.

- 4.3 Nos. 54-56 are located towards the end of the non-core shopping frontage of Kensington High Street Shopping Centre. This section of the centre is dominated by small specialist shops (antiques and other similar goods) and is primarily in retail use. The immediate parade comprises 17 units of which two are currently in non-retail use. Nos. 38A is a Japanese restaurant (Sushi Wong) and No. 62 an estate agents (Computer Link) which was granted permission for Class A2 use in March 1998.
- 4.4 Examining firstly Policy S15 of the Unitary Development Plan which has parts (a) - (e). Part (a) relates to core frontages and is therefore not applicable. Part (b) accepts such a change of use in a non-core frontage unless it would result in less than 65% of the total non-core ground floor units being in retail use. Following approval of the change of use of No. 62 in March 1998, the percentage of ground floor units in shop use is 59% in the non-core area as a whole. This percentage would normally indicate that a proposal should be resisted. Part (c) refers to the concentration of non-retail uses and seeks to resist any change of use which would result in three adjacent units being in non-retail use. The immediately neighbouring properties are all in retail use and the proposal therefore complies with this part of the policy. Similarly, the proposal is considered to comply with remaining criteria (d) and (e) which refer to amenity and parking problems. The proposed use is considered unlikely to lead to a significant increase in traffic or parking, or cause a reduction in the area's residential character or amenity.
- 4.5 The unit in question is double fronted with a floor space of 186 square metres, all on ground floor and a frontage length of 10 metres. The loss of this large unit could be seen as detrimental to the retail character and function of the centre. However, as part of the proposal under consideration, Knight Frank have offered to convert their existing premises at Nos. 67/67A Kensington Church Street to Class A1 retail use. No. 67 operates under a planning permission granted on 13/05/87 which has a condition attached limiting the use to an estate agents only and not for any other purpose within Class II of the Town and Country Planning (Use Classes) Order 1979. No. 67A was subsequently added in 1989 with a condition imposed on this planning permission stipulating that the premises could only be used in conjunction with No. 67 Kensington Church Street. The applicant and the respective freeholders have offered to enter into a planning obligation to ensure that the combined unit at Nos. 67/67A is returned to Class A1 use if planning permission is granted for the change of use of Nos. 54/56 Kensington Church Street. The use of Nos. 67/67A for Class A1 (retail) would, under the provisions of the Town and Country Planning (General Development) Order 1995, not require express permission.

- 4.6 Knight Frank's existing premises at No. 67/67A Kensington Church Street comprise 128 square metres of floor space on the ground and basement floor levels of this property. Its frontages to Kensington Church Street (5.5 metres) and Campden Grove (5.5 metres) total 11 metres. The office is currently split between sales and lettings teams, each with six members of staff, with the sales team located at the Kensington Church Street end with a small reception area immediately adjacent to the entrance. The lettings team are based at the rear (No. 67A) and have an independent access from Campden Grove. Ancillary facilities such as WC's, storage, meeting rooms, etc. are all located at basement level. From site inspection, the offices appear to be cramped and the applicants, Knight Frank, wish to provide a more appropriate working environment and are therefore seeking larger premises in close proximity to their current operation.
- 4.7 The proposed swap of uses will involve a net reduction in floorspace of approximately 58 square metres overall and 120 square metres at ground floor level which is contrary to Policy S1. However, on the basis of the proposed planning obligation, there will be no change in the number or proportion of retail units in the non-core shopping centre. In terms of the character of this part of the non-core frontage in which the application premises are situated, as advised above, this is heavily dominated by specialist retail uses and the loss of a large retail unit to A2 use in this context could be seen as undesirable. However, the proportion of retail uses in this parade will still be 82% and therefore it will, by comparison with other parts of the designated non-core frontage, retain a strong retail presence. Furthermore, if the existing estate agents at Knight Frank revert to Class A1 use, the Class A1 retail use would increase to 100% in that particular parade.
- 4.8 It is therefore concluded, on balance, subject to the applicants entering a planning obligation, that despite non-compliance with part (b), the proposal as a whole would be unlikely to cause any harm to the vitality, viability, function and character of the shopping centre. This takes into account the character of this part of the centre as an antique shopping concentration, and the decrease in Class A1 floorspace, the reinstatement of a retail use in a prominent location and the fact that the number and percentage of units in retail use in the context of the Unitary Development Plan Policy S15 remains the same.

5.0 Public Consultation

- 5.1 A total of 14 letters of notification were sent to the neighbouring properties in Kensington Church Street. In total, six letters of objection have been received including letters from Councillor Freeman, Councillor Buckmaster and from the Chairman of the Kensington Church Street Antique Dealers' Association.

- 5.2 Councillor Freeman is against the proposed change of use to Class A2 and comments that the street is a predominantly retail area serving the antique and fashion trades in addition to local needs and that the loss of this unit to retail trade would be an unacceptable erosion of the character of the area.
- 5.3 Councillor Buckmaster objects to the change of use, commenting that Kensington Church Street has a very special place in the Borough dominated by small shops, many of which are antique shops and this character should be preserved.
- 5.4 The Chairman of the Kensington Church Street Antique Dealers' Association advises that Kensington Church Street is now firmly established as one of the foremost streets to buy antiques in the world with over 85 dealers. The Association feels that to lose one of the largest retail spaces in the street to offices would be highly undesirable and create a dangerous precedent. The street has retail premises along its whole length, apart from a small section of private houses and to lose this attractive retail mix would change the character of the street irreversibly and reduce the street merely as a thoroughfare between Kensington High Street and Notting Hill Gate.
- 5.5 The remaining objections from the surrounding commercial premises can be summarised as follows:
- Business dependent on Class A1 shop use in the area which generates foot traffic.
 - Object to offices need to keep the ambience by encouraging more antique dealers.
- 5.6 The points raised by the objectors have all been fully covered in the report.

6.0 Recommendation

- 6.1 Grant planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

The contents of the file number TP/98/1306 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

TP/98/1306 : 6

Officer Contact

The above documents can be inspected by prior appointment with Tracey Rust in the Planning Information Office, Room 325, The Town Hall, Telephone 0171-361-2080.

REPORT PREPARED BY: SLW
REPORT APPROVED BY: PK/LAWJ
DATE REPORT APPROVED: 05/11/98

PSC9811/SLW.REP

ROYAL BOROUGH OF KENSINGTON & CHELSEA

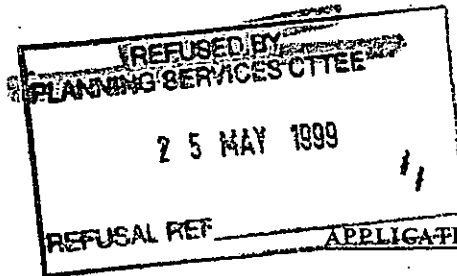
REPORT BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING SERVICES COMMITTEE APP NO. TP/98/1546/L/CUSE/03
25/05/1999 AGENDA ITEM NO. 2049

ADDRESS

140-142
KENSINGTON
CHURCH
STREET,
KENSINGTON,
W.8

APPLICATION DATED 12/08/1998



APPLICATION COMPLETE 17/08/1998

APPLICATION REVISED 18/01/1999

APPLICANT/AGENT ADDRESS:

Andrews Downie
and Partners,
6 Addison Avenue,
Holland Park,
London, W11 4QR

CONSERVATION AREA 7

CAPS Yes

ARTICLE '4' NO

WARD Campden

LISTED BUILDING NO

HBMC DIRECTION N/A

CONSULTED 34

OBJECTIONS 6

SUPPORT 0

PETITION 0

Applicant Glynbrochan Ltd.

RECOMMENDED PROPOSAL:

Partial change of use of the existing ground floor and basement unit to create one retail unit (Class A1) and one unit to be used for estate agency purposes (Class A2).

RBK&C Drawing No(s): TP/98/1546 and TP/98/1546/A

Applicant's drawing(s) No(s): 2892/1, 2892/2, 2892/3A and photograph

RECOMMENDED DECISION:

Grant planning permission

Refused

CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:

1. The use hereby permitted shall be retained for a limited period only until 25.05. 2004 on or before which date the use shall be discontinued. (C004)
Reason - There is insufficient evidence available at this stage to assess the impact of the development, and permission for a limited period will allow the authority to reassess the development in the light of experience of the use. (R004)

2. No process shall be carried out, or machinery installed, pursuant to this permission so as to cause detriment to the amenity of adjacent property, or of the immediate area, by reason of noise, vibration, smell, smoke, soot, ash, grit, or electrical interference (C047)
Reason - To safeguard the amenity of neighbouring property and the immediate area (R047)

INFORMATIVES

1. I05
2. I09
3. I10
4. I29
5. I30
6. I39

1.0 THE SITE

- 1.1 Nos. 140-142 is a double fronted retail unit located on the eastern side of Kensington Church Street, close to its junction with Peel Street.

2.0 THE PROPOSALS

- 2.1 Planning permission is sought for partial change of use of the existing unit to create one retail unit and one unit to be used for Estate Agent purposes (Class A2).
- 2.2 A separate application has also been submitted for the retention of the new shopfront which was installed earlier this year.

3.0 PLANNING HISTORY

- 3.1 In 1955 planning permission was refused for use of the ground floor as offices. In 1955 permission was granted for redevelopment for use as basement storage, ground floor storerooms and showrooms or offices on the first and second floors. In 1955 permission was refused for use as offices on the first, second, third floors, offices or showrooms on the ground floor and basement storage. In 1956 permission was refused to rebuild and extend for use as first, second, third, fourth floor offices, ground floor showrooms and basement storage. In 1961 permission was granted for use of the basement as a showroom ancillary to the ground floor shop and to carry out alterations to the ground floor.
- 3.2 In 1997 permission was granted for the installation of a new entrance to office accommodation at first and second floors together with alterations to the light motor room housing. In 1997 permission was also granted for the enlargement of one window and for the addition of two windows to the rear elevation at ground floor level.
- 3.3 The current planning application for change of use of part of the ground floor from retail to offices is currently held in abeyance but is likely to be withdrawn in the near future.

4.0 PLANNING CONSIDERATIONS

Proposed change of use

- 4.1 The main considerations with regard to this proposal relate to the loss of retail floorspace and the likely impact which this would have on the vitality and viability of the Notting Hill Gate Principal Shopping Centre.

4.2 Policy S15 is relevant to this proposal and is:

NORMALLY - TO PERMIT USES FALLING WITHIN USE CLASSES A2 AND A3 IN A PRINCIPAL SHOPPING CENTRE UNLESS THE PROPOSAL WOULD THREATEN THE CHARACTER OR FUNCTION OF THE CENTRE OR WOULD RESULT IN:

(a) LESS THAN 75% OF THE TOTAL CORE GROUND FLOOR UNITS BEING IN SHOP (A1) USE; OR

(b) LESS THAN 65% OF THE TOTAL NON-CORE GROUND FLOOR UNITS BEING IN SHOP (A1) USE; OR

(c) THREE OR MORE NON-SHOP USES IN ADJACENT UNITS AT GROUND FLOOR LEVEL; OR

(d) SIGNIFICANT INCREASE IN TRAFFIC OR PARKING; OR

(e) ANY SIGNIFICANT REDUCTION IN AN AREA'S RESIDENTIAL CHARACTER AND AMENITY INCLUDING BY SMELLS OR LATE NIGHT NOISE.

4.3 It is proposed that one ground floor unit, with a floorspace of approximately 64 square metres, would be used for Estate Agent purposes (Class A2). The proposed second unit would be used for retail purposes (Class A1) and would consist of a ground floor unit and associated basement area with a total floorspace of approximately 148 square metres. The ground floor element of the retail unit would have a floor area of approximately 68 square metres. It is proposed that the proposed Class A2 use is subject to a temporary condition of five years.

4.4 The unit at Nos. 140-142 is located within the non-core frontage of Notting Hill Gate Principle Shopping Centre. 62% of the total non-core ground floor units within this Centre are in use for retail purposes. Nos. 140-142 is located within a terrace of twenty-five commercial properties at ground floor level which contains the relatively high percentage of 17 retail units (68%).

4.5 The proposal would not result in a reduction in the number of retail units and would not conflict with criterion (a) of Policy S15.

4.6 It is proposed that the new unit which would be used for Class A2 purposes would be located in the southerly section of the existing unit. The adjoining two properties to the south, Nos. 138 and 136, are in use for office purposes. The proposal, therefore, conflicts with criterion (c) of Policy S15. The adjoining two units are converted dwelling houses and consequently do not have a commercial frontage. They are also set back from the front building line of the adjoining terrace. It is considered that these properties do not register as part of the commercial frontage to the Principal Shopping

Centre due to their domestic appearance and visual separation from the adjoining commercial properties. It is considered that the proposed use of the southern unit at Nos. 140-142 for A2 purposes would not have a significant impact on the retail character of this section of the Principle Shopping Centre as the resultant three adjoining non-retail uses would not read as a group. It would be possible to use the proposed northern unit for A2 purposes. In this case, the proposed change of use would not conflict with criterion (c). However, it is considered that it is preferable to use the northern unit for retail purposes as it allows for a larger proportion of retail floorspace through use of the associated basement area.

- 4.7 It is not considered that the proposal would result in a significant increase in traffic or parking or in a significant reduction in the area's residential character and amenity.
- 4.8 It is considered, on balance, that this proposal is acceptable as there will be no loss of a retail unit, as impact on the retail character and function of the Centre will be limited due to the location of this property within a terrace which has a relatively high percentage of retail units and as the proposed new use would be subject to a temporary condition of five years.
- 4.9 It was originally proposed that all of Nos. 140-142 would be used on a permanent basis for Class A2 purposes. It was considered that this proposal was unacceptable by virtue of the significant impact that such a loss of retail frontage would have on the retail character and function of the Principle Shopping Centre.

Retention of new shopfront

- 4.10 It is proposed that the new shopfront which has been recently installed is retained. It is constructed in blue powder coated aluminium and serves the two new shop units which result from recent sub-division of Nos. 140-142.
- 4.11 With regard to new development within conservation areas Policy CD52 states:
- CD52 - TO ENSURE THAT ANY DEVELOPMENT IN A CONSERVATION AREA PRESERVES OR ENHANCES THE CHARACTER OR APPEARANCE OF THE AREA.
- 4.12 The Council's Conservation and Design Officer considers that the detailed design and materials of the new shopfront are acceptable.
- 4.13 The Council's Access Officer raises no objection subject to the provision of a portable assisted ramp on each of the premises. It is recommended that a condition is imposed, if permission is granted, which requires such provision.

5.0 PUBLIC CONSULTATION

Proposed change of use

5.1 Thirty-three neighbouring properties on Kensington Church Street were consulted with regard to the original proposal. Six letters of objection were received with regard to the original proposal for change of use of the double unit. Respondents included Councillor Robert J. Freeman, the Kensington Society and Kensington Church Street Antique Dealers' Association.

5.2 Councillor Robert J. Freeman states:

"I would oppose an A2 use in what is essentially an important retail area of the borough."

5.3 The Kensington Society state that the loss of shops in this predominantly shopping street would be regretted and contrary to UDP policy.

5.4 The remaining respondents also raised the following objections:

Losing such a large shopfront to offices would damage the character and retail image of the street.

This street has a reputation as a centre for high quality antiques and the proposal could detrimentally affect this character.

Loss of a shop would set a precedent for a loss of retail image for Kensington Church Street.

Would contravene "the spirit of your own rules, which are rightly framed to preserve the almost entirely retail use of even non-core shopping areas. I understand that this applies particularly to ground floors, and that you had previously refused a similar application for this same shop."

5.5 With regard to the revised scheme three of the original respondents, including Councillor Robert J. Freeman, re-iterated their objections.

5.6 With regard to the revised scheme Councillor Robert J. Freeman states:

"This is yet another attempt to change the use of one of the declining number of A1 premises in the principal shopping centre area of Kensington Church Street into a financial or professional service use in Class A2. I believe that this threatens the character or function of the principal shopping centre, which is against S15 of the Council's UDP.

In my view this is a change of use that must be strongly resisted."

5.7 In addition to previously raised concerns the respondents state:

Objection to any change. Concern that the character of the street would be damaged

with another estate agency or office.

Kensington Church Street should grow as a place which is well known for its interesting and specialised shopping and places to eat.

Concern that works have already started to sub-divide the property.

Two objectors state that they understand that further such changes of use would be resisted.

- 5.8 The proposal would not result in a reduction in the number of retail units and would therefore not conflict with criterion a of Policy S15. The proposal conflicts with criterion c of Policy S15. However, for the reasons outlined in paragraph 4.6 it is considered that it would be unreasonable to resist the proposal on this ground. It is considered, on balance, that this proposal is acceptable as there will be no loss of retail unit, as impact on the retail character and function of the Centre and area will be limited due to the location of this property within a terrace which has a relatively high percentage of retail units and as the proposed new use would be subject to a temporary condition of five years. An assessment of each application can only be taken on their merits and in light of current policies. A blanket ban does not exist within the Unitary Development Plan against change of use to Estate Agency use. Planning permission is not required for sub-division of Nos. 140-142 into two retail units.

New shopfront

- 5.9 Thirty-one neighbouring properties were consulted with regard to the proposed new shopfront. Two similar representations have been received from two objectors. They state:

"May I have your assurance that the present shopfront area will remain for shop use, and that no part of the existing frontage will be altered to create a large entrance for the offices upstairs."

- 5.10 This proposal does not relate to an increase in the office floorspace which is located to the rear of Nos. 140-142 or to the carrying out of alterations to the existing entrance.

6.0 RECOMMENDATION

- 6.1 Grant Planning Permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

List of Background Papers:

The contents of file TP/98/1546 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

Report Prepared By: KO
Report Approved By: DT/LAWJ
Date Report Approved: 05/05/1999

PSC:99:05:REP.KO

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
 PLANNING SERVICES COMMITTEE

14

AGENDA ITEM
 121

REPORT BY THE DIRECTOR OF PLANNING SERVICES

APPROVED BY
 PLANNING SERVICES APPLICATION NO.
 TP/94/0264/L/06
 JUN 6 1994
 CONSENT REF
 RECORDED

APPLICANTS NAME/ADDRESS

Stuart Henley & Partners,
 18 Friern Park,
 London N12 9DA

Application dated 08/02/94

Revised

Completed 11/02/94

Polling Ward 125

ON BEHALF OF : Berkeley International,
 INTEREST : Not known

District Plan Proposals Map:

Cons.Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/O Consulted	Objectors (to date)
NO	NO	NO	NO	NO	51	2

RECOMMENDED DECISION :-

GRANT retrospective planning permission for the change of use of the basement and ground floors from retail (Class A1) to an estate agents office (Class A2).

At: 172 KENSINGTON CHURCH STREET, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/94/0264

Applicants : unnumbered drawings of basement and ground floors (received 10/02/94).

INFORMATIVES

1. I.44
2. I.1
3. I.3



1.0 Site

- 1.1 The property is located on the eastern side of Kensington Church Street on its corner with Kensington Mall. The premises comprise basement and ground floor retail shop with residential upper floors. The property is not in a Conservation Area.

2.0 Proposal

- 2.1 It is proposed to change the use of the basement and ground floors from retail (Class A1) to an estate agents office (Class A2).

3.0 Planning History

- 3.1 The Council granted planning permission for a temporary period of three years in 1963 for the basement and ground floors to be used as a betting office, after which time it reverted to a retail use.
- 3.2 The Council received a complaint on 12th January 1994 advising that the retail shop, an antique shop at the premises, had opened as an estate agents. Following action by the Council's enforcement section a retrospective planning application was submitted for the retention of the estate agents office.

4.0 Planning Considerations

- 4.1 The premises falls within a terrace of ground and basement retail frontages, the terrace being Nos. 140-172 (even) Kensington Church Street. There are twelve premises, nine are retail units, eight of these are antique shops, one is an estate agents, one is a timber yard and the twelfth is the subject of this application.
- 4.2 The premises, as do the others in the terrace, fall within the non-core shopping frontage of the Notting Hill Principal Shopping Centre and the main consideration must therefore be the loss of a retail unit with ancillary basement usage.
- 4.3 The areas surrounding core frontages where shopping and certain non-shop uses tend to be more mixed, have been defined as "non-core frontages". These areas are considered important as they can accommodate an element of non-shop uses that cannot normally be located in the core frontage, but which can contribute to the centres vitality without threatening its shopping character.

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4.4 The shopping chapter of the Unitary Development Plan, as deposited, and as proposed to be changed, sets out the Council's policies pertaining to retail and non-retail uses, and policy S.12 as deposited addresses the change of use of retail uses to uses following within either Class A2 (Financial and Professional Services) or Class A3 (Food and Drink) and it states:

"Normally to permit uses falling within Use Classes A2 and A3 at ground floor level in a Principal Shopping Centre unless the proposal would threaten the character of the centre or would result in;

- (a) less than 75% of the total core ground floor frontage being in shop (A1) use;
- (b) less than 65% of the total non-core ground floor frontage being in shop (A1) use;
- (c) three or more non-shop uses in adjacent units".

4.5 The latest shopping survey carried out in April 1993, showed that the non-core frontage of the Notting Hill Principal Shopping Centre had 65% of the frontages in retail use. The parade of shops that the premises falls within has ten of its twelve units in retail use. While the loss of this unit would reduce the overall non-core percentage marginally below 65%, the proposed change of use of the premises would reduce the number in this particular parade to nine which would in percentage terms leave this parade with a healthy 75% of its units in retail use. It is considered that the proposal otherwise meets the criteria of policy S12, and that it would not cause significant harm to the vitality or character of the shopping centre.

4.6 The proposed change of use of the retail, Class A1 to an estate agents, Class A2, is considered to be consistent with the Council's policies relating to such changes of use within non-core retail frontages.

5.0 Public Consultation

5.1 The Council has received two letters objecting to the proposal. The objections relate to the loss of a retail use in preference to an estate agents.

5.2 The Town and Country Planning (Use Classes) Order 1987 categorises an estate agents as being within Class A2, Financial and Professional Services. The Council's policy addresses the change of use from retail, Class A1 to Class A2, and does not legislate as to what uses within Class A2 are acceptable or unacceptable.



5.3 The decision therefore must in essence be whether the proposed change of use from retail, Class A1 to estate agent Class A2, is an acceptable change of use in a non core shopping frontage and on balance it is considered that the proposal complies with the Council's policies.

6.0 Recommendation

6.1 Grant planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

LIST OF BACKGROUND PAPERS

1) The contents of the file number TP/94/0264 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

REPORT PREPARED BY: AP
REPORT APPROVED BY: PK/AD
DATE REPORT APPROVED: 18/05/94

PSC9406/AP.REP

JOHN D WOOD & CO

London And Country Estate Agents
Established 1872

John D Wood & Co. (Residential & Agricultural)
26 Curzon Street, London W1Y 7AE
Telephone 071 493 4106 Fax 071 629 6071

- Directors:
- SP2 G M Pope ARICS
 - I H S Homersham (Joint Chairmen)
 - B W Bishop
 - Patricia Greenstone BA
 - Nicholas Hexall FRICS
 - P M Blanchard
 - Jennifer Jepp
 - Neil Kemp FFA
 - A S A Coaker
 - T J Le Blanc-Smith ARICS
 - John Little
 - N N Mahoney
 - Michael Comyn
 - Elizabeth McCallum
 - P Corbett FRICS
 - S M G de Bolville FRICS
 - P J Coombe ARICS FAAY
 - J C de Bolville FRICS
 - Margaret McKenna
 - David Nicholson ARICS
 - J D P Pratt ARICS ASVA
 - Mary Ryan
 - Julien Standing
 - C H Warren FSA
 - P D Young

Our Reference: HSH/MT

Director of Planning Services
North West Planning Team
Town Hall
Horton Street
London W8 7NY

RECEIVED BY PLANNING SERVICES

NOV 1994

OFFICE OF THE PLANNING OFFICER

10 November 1994

Dear Sir

115/12 SPINNING CHURCH STREETS LONDON W1V

The above premises was a antique shop and prior to that a second hand clothes shop-cum-dry cleaner, founded in 1981, under the USA Cities Order 1987.

It was until very recently called Berkeley International opened as an estate agency in the premises, a date of us should be reported (1994).

As a land use change of use from within one class to within another requires planning permission which in this case was not obtained.

Would you please let us know why this happened and whether it is your intention to do anything about it.

Yours faithfully

Director of Planning

JOHN D WOOD & CO
26 CURZON STREET, LONDON W1Y 7AE
TELEPHONE 071 493 4106 FAX 071 629 6071

24 MAR 1998

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING SERVICES COMMITTEE

24/03/98

APPLICATION NO.

AGENDA ITEM

TP/97/2610/L/48

2047

REPORT BY THE EXECUTIVE DIRECTOR OF PLANNING AND CONSERVATION

APPLICANTS NAME/ADDRESS

Application dated

17/11/97

DMG Limited,
140 Cromwell Road,
London, SW7 4HA.

Revised

Completed

26/11/97

Polling Ward IA31

**RECOMMENDATION
ADOPTED.**

ON BEHALF OF : DMG Limited
INTEREST : Not known

District Plan Proposals Map:			CONSERVATION AREA			
Cons. Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/O Consulted	Objectors (to date)
7	YES	NO	NO	N/A	4	0

RECOMMENDED DECISION :-

GRANT planning permission for change of use of the ground floor from use Class A1 (Retail) to Class A2 (Financial and Professional Service Use).

At: 62 KENSINGTON CHURCH STREET, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/97/2610

Applicant's drawing(s) No(s) : AG 2 CHS 97, Rev 01

CONDITION

C.1

REASON FOR THE IMPOSITION OF A CONDITION

R.1

INFORMATIVE

I.5

1.0 THE SITE

- 1.1 No. 62 Kensington Church Street is located along the eastern side of the road at the junction of Kensington Church Street and Melon Place within the Kensington Palace Conservation Area.
- 1.2 It comprises a retail unit at ground floor level.
- 1.3 The property is located in the non-core frontage of the Kensington High Street Principal Shopping Centre.

2.0 THE PROPOSAL

- 2.1 The application proposes the change of use of the ground floor from Class A1 (Retail) to Class A2 (Financial and Professional Service Use). It is understood that the unit is intended to be occupied as an Estate Agent.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There is no relevant planning history.

4.0 PLANNING CONSIDERATIONS

- 4.1 The main considerations this application raises concern the effect of the proposal on the retail character and function of the Principal Shopping Centre.
- 4.2 The relevant policies are contained within the 'Shopping' chapter of the Council's Unitary Development Plan. Policy S1 seeks normally to resist the loss of shop units and floorspace, with Policy S6 seeking to safeguard and improve the vitality, viability and function of the shopping centres. Of particular relevance is Policy S15, which applies to Principal Shopping Centres and sets out the criteria upon which to assess the acceptability of Class A2 and A3 uses at ground floor level within these centres.
- 4.3 No. 62 is located towards the periphery of the non-core shopping frontage of the Kensington High Street Principal Shopping Centre. This section of the Centre is dominated by small specialist shops (antiques and other similar products), and is primarily in retail use. The neighbouring properties are all in retail use.
- 4.4 With respect to Policy S15 of the Unitary Development Plan, part (a) is not relevant, referring specifically to the core area. Part (b) requires that the percentage of non-core ground floor units in A1 use should not be less than 65%. The 1997 shopping

survey indicates that the percentage is now 61% which is below the percentage set out in Part (b). Normally this level would indicate that a change of use from Class A1 use should be resisted. However, this part of the non-core Shopping Centre has a particularly high level of Class A1 retail units with all the immediate properties in retail use. It is considered in relation to this part of the Policy a loss of a unit in this particular case which is positioned at the end of a stretch of retail units would be unlikely to affect the vitality or viability of this part of the shopping centre. Therefore, it is considered that the proposal would comply with Part (c), in that there would not be three or more non-shop units adjacent to each other. The proposed use is unlikely to cause amenity or parking problems (Parts (d) and (e)).

- 4.5 On balance, therefore, it is considered due to this particular location, where there is an existing high level of Class A1 retail use a change of use to Class A2 could be accommodated within the frontage without threatening the character or function of the centre.
- 4.6 Notwithstanding criterion (b) of Policy S15, it is concluded that the proposed change of use would not, in this case, result in demonstrable harm to the vitality or viability of the Shopping Centre, and that a refusal of planning permission would be unjustified.

5.0 PUBLIC CONSULTATION

5.1 To date no representations have been received.

6.0 RECOMMENDATION

6.1 Grant Planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

Background Papers

The contents of the file number TP/97/2610 referred to at the head of this report save for exempt or confidential information as defined by the Local Government (Access to Information) Act, 1985.

TP/97/2610 : 4

Officer Contact

The above documents can be inspected by prior appointment with Tracey Rust in the Planning Information Office, Room 325, The Town Hall, Telephone 0171-361-2080.

REPORT PREPARED BY: SLW
REPORT APPROVED BY: DT/LAWJ
DATE REPORT APPROVED: 06/03/98

PSC9803/SLW.REP

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

TOWN PLANNING (APPLICATIONS) SUB-COMMITTEE 28/08/89
 " " " " 05/09/89

APPLICATION NO.
 TP/89/0876/L/20

AGENDA ITEM
 313 | 119

26

REPORT BY THE DIRECTOR OF PLANNING AND TRANSPORTATION

APPLICANTS NAME/ADDRESS

Knight Frank & Rutley
 20 Hanover Square,
 London W1R 0AH

Application dated 08/05/89
 Revised
 Completed 18/05/89
 Polling Ward IA

ON BEHALF OF : Themselves
 INTEREST : Not known

District Plan Proposals Map:

Cons. Area	CAPS	Article 4 Direction	Listed Building	HBMC Direction	A/Q Consulted	Objectors (to date)
No. 6	NO	NO	NO	NO	9	1

RECOMMENDED DECISION :-

GRANT PLANNING PERMISSION for the change of use from hairdressing salon (Class A1 Use) to an Estate Agents (Class A2 Use).

At: 67A KENSINGTON CHURCH STREET, KENSINGTON, W.8

As shown on submitted drawing(s) No(s): TP/89/0876

Applicants drawing(s) No(s) : 8941/01

RECOMMENDATION ADOPTED

CONDITIONS

1. C.22
2. The premises shall not be used for hairdressing office, taxi-cab, driving school, messenger services, car hire or other business uses where the use or deployment of vehicles is the primary purpose.
3. There shall be no external advertising by way of spot-lights or any illuminated advertisement.
4. C.57 ... the proposed replacement window in the street elevation.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. R.13
2. R.20
3. R.8 and R.20

INFORMATIVES

1. I.12
2. I.1

CONSENT REF. 5 SEP 1989

APPROVED BY
 T.P. SUB-COMTEE.....
5 SEP 1989
 CONSENT REF.....

x extra Card

1.0 SITE

1.1 This single storey rear extension (which fronts onto Campden Grove) is situated 10 metres behind the main ground floor premises used by the applicants as an Estate Agents) on the street corner with Kensington Church Street.

1.2 The property is presently vacant, and has a floor area of 20 sq. m., and stands immediately to the east of a residential terrace.

2.0 THE APPLICATION

2.1 The applicant seeks planning permission for a change of use from a hairdressing salon to an estate agents office, for use in conjunction with the main ground floor premises. The applicants propose to use only the entrance door on the corner.

3.0 PLANNING HISTORY

3.1 Planning permission was granted in 1967 for a new shop front to the existing hairdressers shop at no 67(a) Kensington Church Street.

3.2 The main ground floor premises at no 67, and the basement, received planning permission in May 1987 for change of use from retail shop to estate agents.

4.0 PLANNING CONSIDERATIONS

4.1 Although the Committee refused planning permission in March this year for a change of use to an Estate Agents at no 112 Kensington Church Street no objection is raised by the District Plan Officer to this particular application having taken into account that: (i) only a small amount of retail floorspace would be lost; (ii) it is at the margin of the centre; (iii) it is not in a core frontage.

5.0 PUBLIC CONSULTATION

5.1 To date one letter of objection has been received on grounds that there are enough estate agents already in the street.

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6.0 RECOMMENDATION

6.1 The Committee are recommended to grant planning permission.

C. M. DENT
Director of Planning and Transportation

List of Background Papers

- 1) The contents of file no. TP/89/0876 referred to at the head of this report..

Report Prepared by BR

Report Approved by CMD

Date Report Approved 11.8.89

TP8908BR.REP