

COMMITTEE REPORT

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File Number

Committee Report

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ROYAL BOROUGH OF KENSINGTON & CHELSEA

REPORT BY THE EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING & CONSERVATION COMMITTEE
PLANNING SERVICES COMMITTEE
MEMBERS PANEL

APP NO. PP/01/01227
AGENDA NO.

ADDRESS/SUBJECT OF REPORT:

110 Kensington
Church Street,
London, W8 4BH

APPLICATION DATED 16/05/2001

APPLICATION REVISED

APPLICATION COMPLETE 04/06/2001

APPLICANT/AGENT ADDRESS:

Spence Harris
Hogan Associates,
1 Vencourt Place,
Ravenscourt Park,
Hammersmith, London,
W6 9LW

CONS. AREA 7 CAPS Yes

ARTICLE '4' No WARD I

LISTED BUILDING No

HBMC DIRECTION

CONSULTED OBJ.

SUPPORT PET.

RECOMMENDED PROPOSAL:

RBK& C DRAWING NO(S):

RECOMMENDED DECISION:

CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:

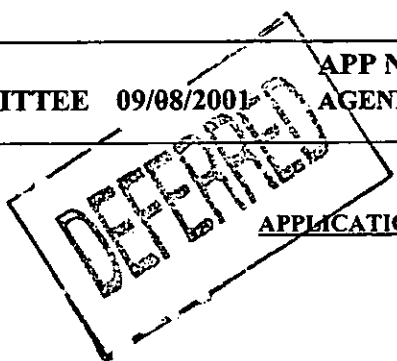
ROYAL BOROUGH OF KENSINGTON & CHELSEA

**REPORT BY EXECUTIVE DIRECTOR, PLANNING &
CONSERVATION**

PLANNING SERVICES COMMITTEE 09/08/2001 APP NO.PP/01/01227/CUSE
AGENDA ITEM NO. 2069

ADDRESS

**110 Kensington Church
Street, London, W8 4BH**



APPLICATION DATED 16/05/2001

APPLICATION COMPLETE 04/06/2001

APPLICATION REVISED N/A

APPLICANT/AGENT ADDRESS: CONSERVATION AREA Kensington Palace CAPS Yes

Spence Harris ARTICLE '4' No WARD Campden
Hogan Associates,
1 Vencourt Place,
Ravenscourt Park,
Hammersmith, London,
W6 9LW

LISTED BUILDING No

HBMC DIRECTION N/A

CONSULTED 35 OBJECTIONS 8

SUPPORT 0 PETITION 0

Applicant Druce Lamy Ltd.,

PROPOSAL:

Change of use of existing ground floor shop and basement unit to estate agency (Class A2).

RBK&C Drawing No(s): PP/01/01227

Applicant's Drawing No(s): (PA)001

RECOMMENDED DECISION: Grant planning permission

CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:

1. **The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (C001)**
Reason - As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions. (R001)

2. **The development hereby permitted shall be carried out exactly and only in accordance with the drawings and other particulars forming part of the permission and there shall be no variation therefrom without the prior written approval of the Local Planning Authority. (C068)**
Reason - The details are considered to be material to the acceptability of the proposals, and for safeguarding the amenity of the area. (R068)

INFORMATIVES

1. I10

2. I51

3. Planning Permission and Control of Advertising applications are currently being considered for the alterations to the shop frontage and signage proposed for this site. None of these works should commence until these applications have been determined.

4. You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies STRAT29, STRAT 29C, S6, S15, S15a and CD52. (I51)

1.0 THE SITE

- 1.1 The property is located on the east side of the street, just to the north of the junction with Berkeley Gardens. It is located within the Kensington Palace Conservation Area and the non-core frontage of the Notting Hill Gate Principal Shopping Centre.

2.0 THE PROPOSAL

- 2.1 Planning permission is sought for a change of use of the existing ground floor shop and basement unit to an Estate Agency.

3.0 PLANNING HISTORY

- 3.1 Planning permission was granted in 1979 for an extension at 1st and 2nd floor levels at rear and alteration to shop front.
- 3.2 The premises are currently vacant but would appear to have been in use as a retail shop (Class A1) for many years.
- 3.3 Separate applications are currently being considered for alterations to the shopfront and signage (PP/01/1505 and CA/01/1506)

4.0 PLANNING CONSIDERATIONS

- 4.1 The main consideration is whether the proposed change of use complies with shopping policy, and the impact on the vitality and function of the shopping centre.
- 4.2 The relevant planning Policies are contained in the "Shopping" Chapters of the Unitary Development Plan. Policies STRAT29, STRAT29c, S6, S15 and S15a are of particular relevance to this application.
- 4.3 The unit has Class A1 retail use. It is proposed to convert this shop to a Class A2 use, specifically to an estate agents.
- 4.4 This property is located within the non core frontage of Notting Hill Gate Principal Shopping Centre. Within the Adopted Unitary Development Plan (1995), Policy S15 is relevant to this application:

S15 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.**

4.5 With regard to criterion (b) above, it has been calculated, that with the inclusion of this proposal, 64% of the total non-core ground floor units are in Class A1 use. Therefore the proposal does not meet this criteria of the adopted UDP.

4.6 The shops either side of the application site are in Class A1 use (both retail shops) and therefore, the proposal meets criterion (c).

4.7 In relation to (d) and (e) above, it is not considered that the proposal will result in either of these adverse impacts.

4.8 Policy 15a proposed in the UDP Alterations (April 2000) is relevant when considering this proposal and states the following:

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**

4.9 With regard to the Environmental Criteria of Policy S15a, it is considered that this proposal is in accordance with these as there will be no material increase in traffic or parking when the property is 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 an Class A1

use.

- 4.10 Criterion (a) of the Retail Character and Function Criteria specifies that permission would not normally be granted if more than one third of the ground floor units in the relevant street frontage be occupied by non-shop uses. This policy in the UDP Alterations adopts a different approach to assessing the mixture of uses within a particular shopping area. It is only the specific shopping parade local to the proposal which is assessed. Therefore a different calculation for assessing this proposal is used to that in para 4.5 above. There are twenty-six units within this frontage, of which five are currently in non-shop use, which equates to less than one third.
- 4.11 In relation to criterion (b) above, there are not more than three adjoining units at ground floor level in the same use class as proposed. The shops either side of the application site are in Class A1 use (both retail shops).
- 4.12 This proposal complies with Criterion (c) as there would not be 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.
- 4.13 The proposal complies with Policy S15a as recommended in the Proposed Alterations to the UDP; however, it fails one of the criteria in Policy S15 of the Adopted UDP. Policy S15a has not been recommended for modification by the Inspector as a result of the UDP Public Inquiry. It is considered, that as this policy is based on the latest government guidance, and is at an advanced stage in the UDP review process and that it is unlikely to change, greater weight should be given to Policy S15a. In these circumstances, it is recommended that planning permission be granted.

5.0 PUBLIC CONSULTATION

- 5.1 Thirty letters of notification were sent to properties in Kensington Church Street and Berkeley Gardens.
- 5.2 Eight letters were received from the occupiers of nearby shops, and from the Kensington Church Street Antique Dealers' Association.
- 5.3 The majority of the objections received are from Antique Dealers who oppose a further Estate Agent office in the street and would prefer to see the property used a shop, ideally an Antique Dealer to retain the unique character of the shopping street. One objection was received from a nearby established estate agency who considers that a further estate agency would upset the current balance of shops.

The issue central to this proposal, is the change of use from Class A1 to Class A2 on the site. As discussed above, the proposal complies with relevant Policies of the UDP and is not considered that it would have an adverse effect on this part of the shopping centre.

6.0 RECOMMENDATION

6.1 Grant planning permission conditionally.

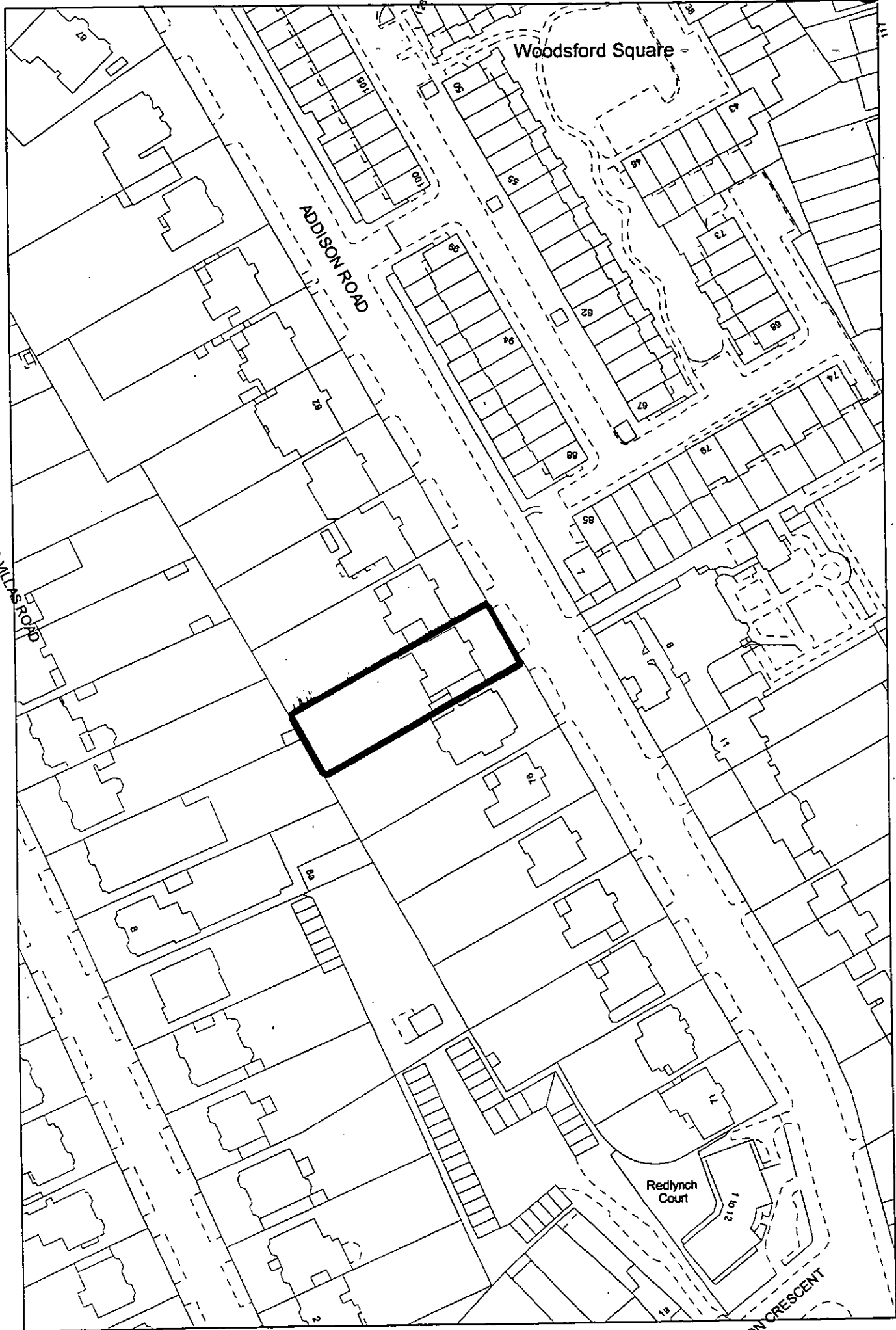
**M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION**

List of Background Papers:

The contents of file PP/01/01227 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: 24/07/2001**

PSC0801/NC.REP



Woodsford Square

ADDISON ROAD

HOLLAND VILAS ROAD

Redlynch Court

ADDISON CRESCENT

MEMORANDUM

*Can this be
referred back
to A*

To: Planning Services Committee Administrator
c.c.: Alice Horan, Snr Administrative Officer

From: EDPC

Date: 16 August 2001

Re: Planning Services Committee 9 August 2001

Please note the following amendments which were approved by the Planning Services Committee in making its decisions in addition to those in the Addendum Report circulated and approved at the meeting:

North

01/0800
47

54 Chepstow Villas,
W.11.

Additional Condition:

"6. The ground and lower ground floor of the premises, the subject of this permission, shall be used only for residential purposes in connection with the use of the remainder of the building as a house, and shall not be used for retail or other non-residential purposes".

Reason:

"To ensure the retention of residential accommodation in accordance with UDP Policy H1."

Central

01/1227
2069

file
110 Kensington Church Street, W.8. Defer

South East

01/1058
4060

111 Walton Street,
S.W.3.

Defer

00/2406
4061

Harrods,
87/135 Brompton Road,
S.W.1.

Additional informative:

"You are advised that the formation of a corridor linking door 8 on Brompton Road to door 10 in Hans Road will require listed building consent unless it is formed of demountable partitions".

South West No Changes

M.J. French

M.J. French, Executive Director, Planning and Conservation.

ROYAL BOROUGH OF KENSINGTON & CHELSEA

REPORT BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING SERVICES COMMITTEE 17/09/2001 APP NO. PP/01/01227/CUSE
AGENDA ITEM NO. 2084

ADDRESS

110 Kensington Church
Street, London, W8 4BH

APPLICATION DATED 16/05/2001

**RECOMMENDATION
ADOPTED**

APPLICATION COMPLETE 04/06/2001

APPLICATION REVISED

APPLICANT/AGENT ADDRESS: CONSERVATION AREA Kensington Palace CAPS Yes

Spence Harris
Hogan Associates,
1 Vencourt Place,
Ravenscourt Park,
Hammersmith, London,
W6 9LW

ARTICLE '4' No WARD Campden

LISTED BUILDING No

HBMC DIRECTION N/A

CONSULTED 38 OBJECTIONS 10

SUPPORT 0 PETITION 0

Applicant Druce Lamy Ltd.

PROPOSAL:

Change of use of existing ground floor shop and basement unit (Class A1) to estate agency (Class A2).

RBK&C Drawing No(s): PP/01/01227
Applicant's Drawing No(s): (PA)001 (site plan)

RECOMMENDED DECISION: Refuse planning permission

**REFUSED BY
PLANNING SERVICES CTTEE
17 SEP 2001
REFUSAL G.**

REASON FOR REFUSAL

The proposal involves the loss of a shop unit (which would be used for antique shop or fine art purposes), 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 particular Policies CD48 and CD52.

INFORMATIVE

You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies STRAT6, STRAT29, STRAT29c, S6, S15 and S15a, CD48, CD49, and CD52. (I51)

1.0 THE SITE

- 1.1 The property is located on the east side of the street, just to the north of the junction with Berkeley Gardens. It is located within the Kensington Palace Conservation Area and the non-core frontage of the Notting Hill Gate Principal Shopping Centre.

2.0 THE PROPOSAL

- 2.1 Planning permission is sought for a change of use of the existing ground floor shop and basement unit (Class A1) to an Estate Agency (Class A2).

3.0 PLANNING HISTORY

- 3.1 Planning permission was granted in 1979 for an extension at 1st and 2nd floor levels at rear and alteration to shop front.
- 3.2 The premises are currently vacant but would appear to have been in use as a retail shop (Class A1) for many years.
- 3.3 Separate applications are currently being considered for alterations to the shopfront and signage (PP/01/1505 and CA/01/1506)

4.0 PLANNING CONSIDERATIONS

- 4.1 The main consideration is whether the proposed change of use complies with shopping policy, and the impact on the vitality and function of the shopping centre.
- 4.2 The relevant planning Policies are contained in the "Shopping" Chapters of the Unitary Development Plan and Unitary Development Plan proposed Alterations. Policies STRAT6, STRAT29, STRAT29c, S6, S15 and S15a, CD48, CD49, and CD52 are of particular relevance to this application.
- 4.3 This property is located within the non core frontage of Notting Hill Gate Principal Shopping Centre. Within the Adopted Unitary Development Plan (1995), Policy S15 is relevant to this application:

S15 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.**

- 4.4 With regard to criterion (b) above, it has been calculated, that with the inclusion of this proposal, 64% of the total non-core ground floor units are in Class A1 use. Therefore the proposal does not meet this criteria of the adopted UDP.
- 4.5 The shops either side of the application site are in Class A1 use (both retail shops) and therefore, the proposal meets criterion (c).
- 4.6 In relation to (d) and (e) above, it is not considered that the proposal will result in either of these adverse impacts.
- 4.7 Policy 15a proposed in the UDP Proposed Alterations (April 2000) is relevant when considering this proposal and states the following:

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 of Policy S15a, it is considered that this proposal is in accordance with these as there will be no material increase in traffic or parking when the property is 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 an Class A1 use.
- 4.9 Criterion (a) of the Retail Character and Function Criteria specifies that permission would not normally be granted if more than one third of the ground floor units in the relevant street frontage be occupied by non-shop uses. This

policy in the UDP Alterations adopts a different approach to assessing the mixture of uses within a particular shopping area. It is only the specific shopping parade local to the proposal which is assessed. Therefore a different calculation for assessing this proposal is used to that in para 4.5 above. There are twenty-six units within this frontage, of which five are currently in non-shop use, which equates to less than one third.

- 4.10 In relation to criterion (b) above, there are not more than three adjoining units at ground floor level in the same use class as proposed. The shops either side of the application site are in Class A1 use (both retail shops).
- 4.11 This proposal complies with Criterion (c) as there would not be 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.
- 4.12 Policies CD48 and CD52 (Adopted UDP 1995, Proposed Alterations 2000) is 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 antique dealers, fine arts establishments and others retailing items of aesthetic interest. This character is long established. The Principal Shopping Centres Survey prepared in 2000 confirms this unique character. Of the 25 shops which make up the block of shops between Kensington Mall and Berkeley Gardens, 16 of these are Antique Dealers or a Fine Art Retailer. Equally in the block of shops located between Campden Street and Bedford Gardens located on the opposite side of Kensington Church Street to the application site, 7 of the 9 shops are Antique Dealers. It is considered that the Class A2 use as proposed, will not enhance the character of the Conservation Area, and is therefore contrary to Policies CD48, and CD52.
- 4.14 There is evidence that if this application were to be refused this property would be occupied by another antique or fine arts establishment and there is considerable local support for the retention of shop use.
- 4.15 In these circumstances, it is concluded that this change of use to an Estate Agency involving the loss of a shop which would be used for antique or fine arts purposes would have an adverse impact on the character of Conservation Area, and it is recommended that planning permission be refused.

5.0 PUBLIC CONSULTATION

- 5.1 Thirty letters of notification were sent to properties in Kensington Church Street and Berkeley Gardens.
- 5.2 Thirteen letters were received from the occupiers of nearby shops, residents, Residents' Associations, and Kensington Church Street Antique Dealers' Association .
- 5.3 The majority of the objections received are from Antique Dealers who oppose a further Estate Agent office in the street and would prefer to see the property used a shop, ideally an Antique Dealer to retain the unique character of the shopping street. One objection was received from a nearby established estate agency who considers that a further estate agency would upset the current balance of shops.

6.0 RECOMMENDATION

- 6.1 Refuse planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

List of Background Papers:

The contents of file PP/01/01227 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: 24/07/2001

PSC0901/NC.REP

ROYAL BOROUGH OF KENSINGTON & CHELSEA

REPORT BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING SERVICES COMMITTEE APP NO.PP/01/01227/CUSE
AGENDA ITEM NO.

ADDRESS

110 Kensington Church
Street, London, W8 4BH

APPLICATION DATED 16/05/2001

APPLICATION COMPLETE 04/06/2001

APPLICATION REVISED

APPLICANT/AGENT ADDRESS: CONSERVATION AREA Kensington CAPS Yes
Palace

Spence Harris ARTICLE '4' No WARD Campden
Hogan Associates,
1 Vencourt Place,
Ravenscourt Park,

Hammersmith, London,
W6 9LW

LISTED BUILDING No

HBMC DIRECTION

CONSULTED 35 OBJECTIONS 7

SUPPORT 0 PETITION 0

Applicant Druce Lamy Ltd.,

PROPOSAL:

Change of use of existing ground floor shop and basement unit to estate agency (Class A2).

RBK&C Drawing No(s): PP/01/01227
Applicant's Drawing No(s): (PA)001

RECOMMENDED DECISION: Grant planning permission

Adopted Policy
Discussion
Proposed Policy
Discussion.

1.0 THE SITE

1.1 The property is a mid terrace The property is located in the Kensington Palace Conservation Area.

2.0 THE PROPOSAL

2.1 Planning permission is sought for a change of use of the existing ground floor shop and basement unit to an Estate Agency.

3.0 PLANNING HISTORY

3.1 Planning permission was granted in 1979 for an extension at 1st and 2nd floor levels at rear and alteration to shop front.

3.2 ~~Previous uses on this site are not known, apart from the most recent which was a retail shop (Class A1).~~ *The premises would have been used as a use as for many years.*

4.0 PLANNING CONSIDERATIONS

4.1 ~~The main consideration in this case relates to the change of use proposed on this site, the loss of a retail unit, and the impact on streetscape and the character and appearance of the Conservation Area.~~ *shopping policy within the*

4.2 ~~The relevant planning Policies are contained in the "Conservation and Development" and "Shopping" Chapters of the Unitary Development Plan. Policies STRAT6, STRAT29, STRAT29c, CD25, CD48, CD49, CD52, S6, S15, S15a, S10, S21 are of particular relevance to this application.~~ *S15*

4.3 ~~The previous use of this shop was an A1 use. There is no indication in the Planning records of the use of this property prior to this. It is proposed to convert this shop to an A2 use, specifically to an estate agent. Separate applications are currently being considered for alterations to the shopfront and signage (PP/01/1505 and CA/01/1506).~~ *is class*

4.4 This property is located within the ~~Notting Hill Gate Principal Shopping Centre (PSC) and is classed as a non-core frontage.~~ *non core frontage* Within the Adopted Unitary Development Plan (1995), Policy S15 is relevant to this application. This policy normally permits A2 uses in a principal shopping centre unless the proposal would result in:

(b) *Less than 65% of the total non-core ground floor units being in shop (A1) use.* It has been calculated, that with the inclusion of this proposal, 64% of the total non-core ground floor units are in A1 use. The proposal does not meet this criteria of the adopted UDP.

(c) *Three or more non-shop uses in adjacent units at ground floor level.* The shops either side of the application site are in A1 use (both retail shops). Therefore this proposal will ensure a variety of use classes in this immediate shopping area.

(d) and (e) Significant increase in traffic, or reduction in residential character by smells or late night noise. It is not considered that the proposal will result in either of these adverse impacts.

4.5 Policy 15a proposed in the UDP Alterations (April 2000) states that ^{Class} A2 uses are normally permitted in the non-core frontage of Principal Shopping Centre, however will be resisted if any of the following apply:

(a) More than one third of the ground floor units in the relevant street frontage are occupied by non-shop uses. This policy in the UDP Alterations adopts a different approach to assessing the mixture of uses within a particular shopping area. It is only the specific shopping parade local to the proposal which is assessed. Therefore a different calculation for assessing this proposal is used to that above. There are twenty-six units within the frontage, of which five are currently in non-shop use, which equates to less than one third.

(b) There are more than three adjoining units at ground floor level in the same use class as proposed. The shops either side of the application site are in A1 use (both retail shops). Therefore this proposal will ensure a variety of use classes in this immediate shopping area.

(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. The proposal complies with this.

4.8 A second component of Policy S15a are the Environmental Criteria. As discussed earlier, it is considered that this proposal is in accordance with these as there will be no material increase in traffic or parking when the property is in A2 use. Also there will be no reduction in residential character and amenity, as A2 uses typically have similar opening hours to that of an A1 use.

4.9 ^{marginal} ~~On reflection of these two policies, it appears that~~ the proposal complies with Policy S15a as recommended in the Proposed Alterations to the UDP, however fails the criteria established in the Adopted UDP. Policy S15a has not been recommended for modification by the Inspector as a result of the UDP Public Inquiry. It is considered, that as this policy is based on the latest government guidance, and is at such a stage in the UDP review that it is unlikely to change, greater weight should be given to Policy S15a. ^{In there}

5.0 PUBLIC CONSULTATION

5.1 Thirty letters of notification were sent to properties in Kensington Church Street and Berkeley Gardens.

5.2 Seven letters were received from the occupiers of nearby shops, notably Antique Shops, and from the Kensington Church Street Antique Dealers Association.

5.3 The concerns outlined, are in relation to the change of use of the property to an Estate Agent, and the impact of this upon the street.

5.4 ^{the loss of a shop} The issue which is considered in this proposal, is the change of use from A1 ^{Class} to A2 on this site. It is considered any adverse impacts on the street will be

^{the majority are from Antique Dealers who prefer to see shops}
^{Class} no carport could be used as any shop not antique.

the similar no matter what the particular nature of the A2 use will be, for example, that the impacts of an estate agency are similar to a bank, building society or employment agency. As discussed earlier, this proposal complies with relevant Policies of the UDP.

6.0 RECOMMENDATION

6.1 Grant planning permission conditionally.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

List of Background Papers:

The contents of file PP/01/01227 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:

PSC0601/NC.REP

CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:

1. • **The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (C001)**
Reason - As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions. (R001)

2. **The development hereby permitted shall be carried out exactly and only in accordance with the drawings and other particulars forming part of the permission and there shall be no variation therefrom without the prior written approval of the Local Planning Authority. (C068)**
Reason - The details are considered to be material to the acceptability of the proposals, and for safeguarding the amenity of the area. (R068)

INFORMATIVES

1. I10

2. I51

3. Planning Permission and Control of Advertising applications are currently being considered for the alterations to the shop frontage and signage proposed for this site. None of these works can commence until these applications have been considered.

Figured dimensions only are to be taken from this drawing. All dimensions are to be checked on site before any work is put in hand. If in doubt, ask.

NOTES

PPU11227

**R.B.K.&C.
TOWN PLANNING**
23 MAY 2001
RECEIVED



Rev	Description	Drawn	Date	Checked

shh architects & design consultants

Spence Harris Hogan Ltd
Floor 2
58 - 62 Fitzroy Street
London
W1P 0HT

Tel: 0207 383 3022
Fax: 0207 383 3044
shh@shh1.a-net.com

Client	Druce Lamy		
Project	110 Kensington Church Street		
Title	SITE PLAN		
Date	17 May 2001	Scale	1:1000
Drawn	SP/AM	Checked	
Drawing no.	(PA)001	Rev no.	
Status	Planning	this drawing is copyright	

SCALE 1:1000
SITE PLAN

ROYAL BOROUGH OF KENSINGTON & CHELSEA

REPORT BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

APP NO. TP/98/01546/CUSE
PLANNING SERVICES COMMITTEE 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

APPLICANT/AGENT ADDRESS: CONSERVATION AREA Kensington Palace CAPS Yes

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

ARTICLE '4' Yes WARD Campden

LISTED BUILDING No

HBMC DIRECTION N/A

CONSULTED 34 OBJECTIONS 5

SUPPORT 0 PETITION 0

Applicant Glynbrochan Ltd.,

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/98/01546

Applicant's 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: Refuse planning permission

REASONS FOR REFUSAL

INFORMATIVES

1. I05

2.

3. I10

4. I29

5. I30

6.

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/98/01546 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

Report Prepared By: KO

TP/98/01546 : 7

Report Approved By: PK/LAWJ
Date Report Approved: 06/05/1999

PSC0601/KO.REP

**ADDENDUM REPORT BY THE EXECUTIVE DIRECTOR, PLANNING AND
CONSERVATION**

PLANNING SERVICES COMMITTEE 17 SEPTEMBER 2001

The Planning Services Committee is asked to note and agree the following amendments to the Committee reports for the **CENTRAL** area.

AGENDA ITEM 2084
01/1227

110 KENSINGTON CHURCH STREET, W8

Further letter of objection from a local estate agent who feels that the property should stay in retail use.

AGENDA ITEM A2

**KENSINGTON PARK HOTEL, 16-32 DE VERE
GARDENS, W8**

Replace "or" with "and" in line 4 of the Condition

ROYAL BOROUGH OF KENSINGTON & CHELSEA

REPORT BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING SERVICES COMMITTEE 17/09/2001 APP NO. PP/01/01227/CUSE
AGENDA ITEM NO. 2084

ADDRESS

110 Kensington Church Street, London, W8 4BH

APPLICATION DATED 16/05/2001

APPLICATION COMPLETE 04/06/2001

APPLICATION REVISED

APPLICANT/AGENT ADDRESS: CONSERVATION AREA Kensington Palace CAPS Yes

Spence Harris
Hogan Associates,
1 Vencourt Place,
Ravenscourt Park,
Hammersmith, London,
W6 9LW

ARTICLE '4' No

WARD Campden

LISTED BUILDING No

HBMC DIRECTION N/A

CONSULTED 38

OBJECTIONS 10

SUPPORT 0

PETITION 0

Applicant Druce Lamy Ltd.

PROPOSAL:

Change of use of existing ground floor shop and basement unit (Class A1) to estate agency (Class A2).

RBK&C Drawing No(s): PP/01/01227

Applicant's Drawing No(s): (PA)001 (site plan)

RECOMMENDED DECISION: Refuse planning permission

REASON FOR REFUSAL

The proposal involves the loss of a shop unit (which would be used for antique shop or fine art purposes), 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 particular Policies CD48 and CD52.

INFORMATIVE

You are advised that a number of relevant policies of the Unitary Development Plan were used in the determination of this case, in particular, Policies STRAT6, STRAT29, STRAT29c, S6, S15 and S15a, CD48, CD49, and CD52. (I51)

1.0 THE SITE

- 1.1 The property is located on the east side of the street, just to the north of the junction with Berkeley Gardens. It is located within the Kensington Palace Conservation Area and the non-core frontage of the Notting Hill Gate Principal Shopping Centre.

2.0 THE PROPOSAL

- 2.1 Planning permission is sought for a change of use of the existing ground floor shop and basement unit (Class A1) to an Estate Agency (Class A2).

3.0 PLANNING HISTORY

- 3.1 Planning permission was granted in 1979 for an extension at 1st and 2nd floor levels at rear and alteration to shop front.
- 3.2 The premises are currently vacant but would appear to have been in use as a retail shop (Class A1) for many years.
- 3.3 Separate applications are currently being considered for alterations to the shopfront and signage (PP/01/1505 and CA/01/1506)

4.0 PLANNING CONSIDERATIONS

- 4.1 The main consideration is whether the proposed change of use complies with shopping policy, and the impact on the vitality and function of the shopping centre.
- 4.2 The relevant planning Policies are contained in the "Shopping" Chapters of the Unitary Development Plan and Unitary Development Plan proposed Alterations. Policies STRAT6, STRAT29, STRAT29c, S6, S15 and S15a, CD48, CD49, and CD52 are of particular relevance to this application.
- 4.3 This property is located within the non core frontage of Notting Hill Gate Principal Shopping Centre. Within the Adopted Unitary Development Plan (1995), Policy S15 is relevant to this application:

S15 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

policy in the UDP Alterations adopts a different approach to assessing the mixture of uses within a particular shopping area. It is only the specific shopping parade local to the proposal which is assessed. Therefore a different calculation for assessing this proposal is used to that in para 4.5 above. There are twenty-six units within this frontage, of which five are currently in non-shop use, which equates to less than one third.

- 4.10 In relation to criterion (b) above, there are not more than three adjoining units at ground floor level in the same use class as proposed. The shops either side of the application site are in Class A1 use (both retail shops).
- 4.11 This proposal complies with Criterion (c) as there would not be 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.
- 4.12 Policies CD48 and CD52 (Adopted UDP 1995, Proposed Alterations 2000) is 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 antique dealers, fine arts establishments and others retailing items of aesthetic interest. This character is long established. The Principal Shopping Centres Survey prepared in 2000 confirms this unique character. Of the 25 shops which make up the block of shops between Kensington Mall and Berkeley Gardens, 16 of these are Antique Dealers or a Fine Art Retailer. Equally in the block of shops located between Campden Street and Bedford Gardens located on the opposite side of Kensington Church Street to the application site, 7 of the 9 shops are Antique Dealers. It is considered that the Class A2 use as proposed, will not enhance the character of the Conservation Area, and is therefore contrary to Policies CD48, and CD52.
- 4.14 There is evidence that if this application were to be refused this property would be occupied by another antique or fine arts establishment and there is considerable local support for the retention of shop use.
- 4.15 In these circumstances, it is concluded that this change of use to an Estate Agency involving the loss of a shop which would be used for antique or fine arts purposes would have an adverse impact on the character of Conservation Area, and it is recommended that planning permission be refused.

- (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.

- 4.4 With regard to criterion (b) above, it has been calculated, that with the inclusion of this proposal, 64% of the total non-core ground floor units are in Class A1 use. Therefore the proposal does not meet this criteria of the adopted UDP.
- 4.5 The shops either side of the application site are in Class A1 use (both retail shops) and therefore, the proposal meets criterion (c).
- 4.6 In relation to (d) and (e) above, it is not considered that the proposal will result in either of these adverse impacts.
- 4.7 Policy 15a proposed in the UDP Proposed Alterations (April 2000) is relevant when considering this proposal and states the following:

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 of Policy S15a, it is considered that this proposal is in accordance with these as there will be no material increase in traffic or parking when the property is 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 an Class A1 use.

- 4.9 Criterion (a) of the Retail Character and Function Criteria specifies that permission would not normally be granted if more than one third of the ground floor units in the relevant street frontage be occupied by non-shop uses. This

5.0 PUBLIC CONSULTATION

- 5.1 Thirty letters of notification were sent to properties in Kensington Church Street and Berkeley Gardens.
- 5.2 Thirteen letters were received from the occupiers of nearby shops, residents, Residents' Associations, and Kensington Church Street Antique Dealers' Association.
- 5.3 The majority of the objections received are from Antique Dealers who oppose a further Estate Agent office in the street and would prefer to see the property used a shop, ideally an Antique Dealer to retain the unique character of the shopping street. One objection was received from a nearby established estate agency who considers that a further estate agency would upset the current balance of shops.

6.0 RECOMMENDATION

- 6.1 Refuse planning permission.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

List of Background Papers:

The contents of file PP/01/01227 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: 24/07/2001

PSC0901/NC.REP