

Appeal Decision

Site visit made on 1 August 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 9 August 2017

Appeal Ref: APP/F5540/W/17/3174001

4 Dolman Road, Chiswick, London, W4 5UY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr H Baryan against the Council of the London Borough of Hounslow.
 - The application Ref 01431/A/P1 is dated 30 August 2016.
 - The development proposed is the demolition of the existing buildings and the construction of a single block comprising 9 apartments, car and cycle parking and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings and the construction of a single block comprising 9 apartments, car and cycle parking and associated works at 4 Dolman Road, Chiswick, London, W4 5UY in accordance with the terms of the application, Ref 01431/A/P1, dated 30 August 2016, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Baryan against the Council of the London Borough of Hounslow. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposed development upon (i) the supply of employment space and (ii) the living conditions of the future occupiers of the ground floor flat in respect of outlook and privacy.

Reasons

Employment Space

4. The site comprises two buildings and a service yard. It is within Chiswick Town Centre which is a Key Existing Office Location. The site has a lawful storage and distribution use (Use Class B8) but commercial activity ceased several months ago. The proposal would result in the complete loss of commercial floorspace (332 SqM) along with its associated service yard.
5. Policy ED2 of the London Borough of Hounslow Local Plan (LP) seeks to maintain the borough's employment land supply. In Key Existing Office Locations, where a proposal involves the loss of employment land, the policy

requires evidence of the marketing of the site for employment uses for a period of at least two years and to show that employment use is unviable. Furthermore, it requires evidence that surrounding employment uses will not be undermined. Such evidence has not been submitted. Therefore, there is some conflict with this policy.

6. However, there have been several Prior Approval applications which have resulted in the whole of both buildings gaining planning permission to be converted to residential use. The appellant has drawn up technical plans for its conversion and I have no reason to believe that these permissions would not be implemented should I dismiss the current scheme. Therefore, I give this fall-back position significant weight.
7. The building is no longer being used for employment use and the appellant has taken steps towards converting it for its permitted residential use. Therefore, in my view, the prospect of it ever returning to employment use is severely limited and any expectation of this happening is unrealistic. Given these specific circumstances, I conclude that the proposed development would not have a harmful effect upon the supply of employment land and I find no overall conflict with the aims and objectives of Policy ED2 which seeks to maintain employment uses. For the same reasons, I find no conflict with LP Policy TC2 or London Plan Policy 2.15 which support the vitality and viability of town centres.

Living Conditions

8. The living room and bedroom windows of the ground floor apartment would be about 3m from the edge of the Dolman Road carriageway. I appreciate that the cars parked on the opposite side of the road would be seen from the windows. I also note the Council's comments that HGVs use Dolman Road to deliver goods to the rear of the premises fronting Chiswick High Street. However, given the narrow width of Dolman Road, and the parking bays on one side of it, there is insufficient space to unload from HGVs without obstructing the carriageway. Furthermore, HGVs are more likely to stop outside the premises to which they are delivering, rather than in front of the appeal site. Therefore, the time spent by HGVs parking on the road would be very limited and I consider that neither the parked cars opposite the site nor HGVs would spoil the outlook from the flat. In fact, having an outlook onto an urban street is an ordinary situation.
9. The windows of the flat would be set back from the edge of the pavement and the set-back would be protected by railings. This would provide some separation between the windows and pedestrians. Furthermore, it is not uncommon for dwellings to have their front windows at the back of the pavement, especially in built up areas, and I do not consider that passers-by would unduly intrude upon the privacy of the occupants.
10. For the above reasons, I conclude that the proposed development would provide acceptable living conditions for the future occupiers of the ground floor flat. Consequently, I find no conflict with LP Policy CC2 which seeks to protect the amenity of occupiers. Neither do I find any conflict with the National Planning Policy Framework which includes a similar objective.

Other Matters

11. I note comments that residents with pushchairs or mobility aids would have to walk onto the road when approaching or leaving the flats due to the footpath outside of the flats being less than 1m in places. However, it is a fairly quiet road and this situation would have been the same for employees and customers of the existing premises. Therefore, a residential use of the site would not affect pedestrian safety of the road outside it. Therefore, a condition or legal agreement in respect of highway improvements is not necessary.
12. The site is within the Turnham Green Conservation Area which is characterised by a mixture of commercial and residential premises of a wide variety of style and size. The focal point of the conservation area is the green which is at the heart of the town. The proposed building would replace tired buildings which make no positive contribution to the character and appearance of the area. The block of flats would, due to a mix of materials, large windows, balconies and regular proportions, make an improvement to the existing mundane frontage. Furthermore, it would help to screen the unattractive rear of the buildings on Chiswick High Street. I therefore consider that the proposed development would enhance the character and appearance of the conservation area.
13. I have had regard to all other matters raised, including the representations made by interest parties but none outweigh the conclusions I have reached.

Conditions

14. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance. In addition to the standard implementation condition it is necessary, in the interest of precision, to define the plans with which the scheme should accord. A condition requiring details of external materials is required in the interests of visual amenity. In the interests of living conditions, it is necessary to limit the hours of construction. A condition in respect of cycle parking is necessary in the interests of sustainable transport choices. In the interests of highway safety, I have imposed conditions in respect of the provision of the vehicular access, visibility splays, car parking, and requiring the gate to open inwards.
15. I have not imposed a condition in relation to parking permits as I have not been provided with the evidence to convince me that the development would be unacceptable if such a condition were not imposed. I have not imposed a condition requiring acoustic insulation as no evidence has been submitted in respect of the level or nature of the noise from the air conditioning units, therefore such a condition would not pass the test of necessity. I have not imposed a condition requiring an amended parking layout as although the layout is a little tight, I do not consider that it would have any material impact upon the public highway. I have not imposed a condition requiring a refuse management strategy as there would be problems with enforceability of such a condition and there is other legislation with which to deal with obstructions on a highway. However, I have imposed a condition requiring the provision of the bin store in the interests of visual amenity.

Conclusion

16. I allow the appeal subject to the conditions in the attached Schedule.

Siobhan Watson

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1192 -90 A; -91; -110 B; -220 E; -221; -300 A; and JNY8858-01
- 3) No works of construction shall take place until samples or specifications of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No construction work associated with the implementation of this permission shall take place outside of the following times:
08:00 – 18:00 hours on Mondays - Fridays
09:00 – 13:00 hours on Saturdays
There shall be no construction work at any time on Sundays or on Bank or Public Holidays.
- 5) Notwithstanding the details contained in the submitted plans, no dwelling shall be occupied until space has been laid out within the site for 14 bicycles to be parked, in accordance with details that shall have been submitted to and approved in writing by the local planning authority. The cycle spaces shall thereafter be kept available for the parking of bicycles.
- 6) No dwelling shall be occupied until the bin storage facility, as shown on the approved plans, has been provided. It shall remain available for the storage of bins at all times thereafter.
- 7) No dwelling shall be occupied until the access and visibility splays have been constructed in accordance with the details contained on approved drawing No JNY8858-01. The visibility splay shall thereafter be maintained at all times and shall be kept free of any obstruction exceeding 0.6m in height above the level of the adjacent public carriageway.
- 8) No dwelling shall be occupied until the parking spaces have been surfaced and marked out in accordance with the details contained on approved drawing 1192-110 B. The parking spaces shall thereafter be retained at all times and be available for car parking.
- 9) The front gate to the ground floor apartment shall only open inwards at any time.