



Appeal Decision

Site visit made on 11 July 2017

by R A Exton Dip URP MRTPI

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

Decision date: 22nd August 2017

Appeal Ref: APP/F5540/W/17/3173314

Boys Authentic Thai, 95 Chiswick High Road, London W4 2EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Pavli against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00248/95/P6, dated 25 July 2016, was refused by notice dated 24 February 2017.
 - The development proposed is described as application for planning permission for the change of use of 95 Chiswick High Road from Class A3 (Restaurant) to Class A5 (Hot Food Takeaway) unit with associated external alterations – including the installation of extraction and ventilation equipment.
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Decision

1. The appeal is allowed. Planning permission is granted for the change of use from Class A3 (Restaurant) to Class A5 (Hot Food Takeaway) unit with associated external alterations – including the installation of extraction and ventilation equipment at Boys Authentic Thai, 95 Chiswick High Road, London W4 2EF, in accordance with the terms of the application Ref 00248/95/P6 dated 25 July 2016 and the plans and supporting information, as subsequently revised and subject to the conditions set out on the attached schedule.

Procedural Matter

2. During the consideration of the planning application, but before its determination by the Council, supporting highways information was submitted. This comprised of two parking surveys and technical notes and a Standards for Delivery Drivers Document. I have considered the appeal on the basis of the application submitted, supplemented by these documents, and my observations on site.

Main Issue

3. The main issue is the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

4. The existing use of the site as a restaurant with a takeaway service already generates vehicle movements and consequent demand for parking in the area. Based on the current hours of business this is most likely to be greatest in the evenings. Many other businesses on Chiswick High Road are closed at this time and so would not generate vehicle movements or demand for parking

- spaces. Traffic Regulation Orders (TRO's) in the area are lifted after 7pm thus also potentially giving greater capacity for on street parking.
5. Moreover, the proposed use anticipates a similar peak time of operation to the existing use. As it would only provide a takeaway service, any customers visiting the site by car would be likely to require parking for a relatively short period compared to those using the existing restaurant. Although the number of customers served by the takeaway in any given period is likely to be greater than those served in the restaurant, the turnover of parking spaces would also be comparatively greater.
 6. Based on the nearby operation of the business that the appellant wishes to re-locate to the appeal site, it is anticipated that customers visiting the site to collect orders would be in the minority. It is expected that the majority of orders would be delivered to the customer. This appears to be common practice for many hot food takeaways and I have no reason to disagree with this assessment. Given the sites location in a densely populated area it is also likely that a proportion of customers collecting orders would do so on foot.
 7. The appellant has also submitted a parking survey that concludes there is parking availability within the vicinity of the site throughout the peak times and particularly on a Friday and Saturday. This conclusion reflects the closure of a proportion of other businesses in the area and the lifting of TRO's at anticipated peak times and appears reasonable. In the absence of any evidence to the contrary I have no reason to disagree with this assessment.
 8. In light of the above I consider that the proposed use would be unlikely to generate a significantly greater demand for customer parking in the area. Any additional demand could be catered for within the capacity of existing parking arrangements, particularly during the evening and night time peak hours of operation. Consequently, the proposal would not prejudice highway safety and obstruct the flow of traffic and pedestrians on the adjacent road network.
 9. The appellant proposes that all deliveries from the site would be undertaken by two wheeled vehicles, typically mopeds. The proposal includes a dedicated storage area for such vehicles at the rear of the site. The Council are concerned that the storage area would not be used and that delivery drivers would park their vehicles on the pavement in front of the site, thereby causing obstruction. These matters can be controlled by suitably worded conditions.
 10. I have concluded above that any additional demand for parking created by the proposal could be catered for within the capacity of existing parking arrangements. Delivery vehicles could make use of some of this capacity. The dedicated storage area would provide for instances when there was no on street parking nearby. Suitably worded conditions requiring deliveries from the site to be undertaken only by two wheeled vehicles and for the storage area to be made available would address any effects on highway safety arising from deliveries from the site.
 11. Against this background the proposal accords with Policy EC2 of the London Borough of Hounslow adopted Local Plan which requires proposals to demonstrate that sufficient parking is available to serve the proposed development.

12. I note nearby residents concerns over the perceived behaviour of delivery drivers on the highway. This however is not a planning matter and is controlled through other legislation.

Other Matters

13. The site lies within the Chiswick High Road Conservation Area (the CHRCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. I agree with the Council's assessment that the limited nature of the proposed changes the site would preserve the character and appearance of the CHRCA.
14. I note nearby residents concerns over potential noise and odour pollution and proliferation of rubbish arising from the proposal. The planning application contains a specification for a new system of extraction/ventilation to be installed as part of the proposal. The Council are satisfied that this would prevent any adverse effects on nearby residents or the environment. The installation of this system can be secured by an appropriately worded condition. Disposal of waste generated within the site can similarly be controlled by condition. There is no evidence that persons taking meals away from the appeal site to eat elsewhere or home delivered meals would lead to a litter problem outside of the proposed takeaway.

Conclusion

15. For the reasons set out above and taking all other matters raised into account I conclude that the appeal should be allowed. I have considered the 13 conditions that the Council have requested be imposed if the appeal is allowed. These are necessary to ensure the development is satisfactorily implemented, to protect the living conditions of neighbouring residents and to prevent obstruction of the adjacent road network. However I have made amendments as follows:
16. It is necessary that appropriate materials are used in order to provide a satisfactory appearance. As the proposal includes a new shop front I have amended the Council's condition to require compliance with the specified materials rather than to match the existing building.
17. I have amended the condition relating to delivery vehicles to allow use of 2 wheeled vehicles only in the interests of certainty.

Richard Exton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan Nos B8932-AEW-16006-ZZ-DR-0005 and 0006 both initial issue dated 21 July 2016.
- 3) The development hereby permitted shall be carried out in accordance with the following approved documents. Plans Nos B8923-AEW-16006-ZZ-DR-0001 Rev A, 0002, 0003, 0004, 0005, 0006, 0007, 0008 all initial issue dated 21 July 2016. Proposed Ventilation System dated July 2016, Standards for Delivery Drivers dated November 2016, Trips and Parking Technical Note dated September 2016, DP Trips and Parking Beat Survey Technical Note dated November 2016.
- 4) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with the Proposed Ventilation Scheme document. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with the manufacturer's specification and retained for so long as the use continues.
- 5) The use hereby permitted shall only take place between the following hours: 1100 - 2300 Mondays – Sundays.
- 6) No deliveries shall be taken at or despatched from the site outside the hours of 1100 to 2300.
- 7) No demolition or construction work shall take place on the site except between the hours of 0800 to 1800 on Mondays to Friday and 0900 to 1300 on Saturdays and none shall take place on Sundays and Public Holidays.
- 8) The use hereby permitted shall be confined to sales to customers attending the premises and to the delivery of food or drink to customers by 2 wheeled vehicles only.
- 9) The vehicle parking and waste and recycled materials storage arrangements shown on drawing No. B8923-AEW-16006-ZZ-DR-0004 shall be provided before the development hereby permitted commences and thereafter it shall not be used for any purpose other than the parking of delivery vehicles and waste storage.
- 10) The storage of vehicles associated with delivery shall only take place in the moped garage hereby permitted. No parking of vehicles associated with delivery shall take place on the pavement in the vicinity of the site.