



Appeal Decision

Site Visit made on 6 October 2020

by R Sabu BA(Hons), BArch, MA, PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 28th October 2020

Appeal Ref: APP/F5540/W/20/3247352

Ground Floor, 296 Chiswick High Road, London W4 1PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by F.H. Rowse Ltd against the decision of London Borough of Hounslow.
 - The application Ref 00248/296(GF)/PA1, dated 8 October 2019, was refused by notice dated 27 November 2019.
 - The development proposed is change of use from A1 use class (retail) to A3 use class (café/restaurant).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for change of use from A1 use class (retail) to A3 use class (café/restaurant) at Ground Floor, 296 Chiswick High Road, London W4 1PA in accordance with the terms of the application, Ref 00248/296(GF)/PA1, dated 8 October 2019, and the details submitted with it including plan nos L-01, B-01, E-01 and P-01, pursuant to Article 3(1) and Schedule 2, Part 3, Class C and subject to the attached Schedule of Conditions.

Main Issue

2. The main issue is whether the proposal would be permitted development having regard to Schedule 2, Part 3, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (Order).

Reasons

3. Schedule 2, Part 3, Class C of the Order permits development consisting of a change of use of a building from a use falling within Class A1(shops) or Class A2(financial and professional services) of the Schedule, to the Use Classes Order, to a use falling within Class A3(restaurants and cafes) of the Schedule to the Use Classes Order. It requires the local planning authority to assess the proposal on a number of issues including noise, odour, storage and waste, opening hours, transport and highways and siting, design and external appearance. The Council has not objected with regard to the foregoing issues and from the evidence before me I see no reason to disagree.
4. Part (f) of section C.2(1) of Schedule 2, Part 3, Class C of the Order also requires the Council to determine whether it is undesirable for the building to change to a

use falling within Class A3 (restaurants and cafes) of the Schedule to the Use Classes Order because of the impact of the change of use— (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or (ii) where the building is located in a key shopping area, on the sustainability of that shopping area.

5. From the evidence the existing provision of retail units in the area is a healthy proportion of the Primary Retail Frontage. While the existing provision is lower than that stated in the supporting text to Policy TC4 of the Local Plan 2015-2030 Volume One (LP), given the significant proportion of retail units in the area, the loss of this single unit would not undermine the retail function of the frontage or result in substantial harm to the provision of services of this sort. In any event, the appellant has submitted marketing evidence as part of the appeal which demonstrate that there is not a reasonable prospect of the building being used to provide such services.
6. With regard to the impact on the sustainability of the shopping area, while I acknowledge the concern that the proposal would undermine the longer-term vitality of the street, there is little evidence before me to substantiate this risk. Given the existing provision of retail units being a high proportion of the shopping frontage, and that the proposed restaurant/café use would be likely to increase dwell time in the area, in this instance the loss of the single unit would be unlikely to harm the sustainability of the shopping area.
7. Consequently, the proposal would be permitted development under Schedule 2, Part 3, Class C of the Order.

Other Matters

8. I acknowledge local concerns including those relating to noise, safety, waste, fumes and working hours as well as the use of vacant units. However, the council did not object with regard to these matters and from the evidence before me I see no reason to disagree. Therefore, these matters have not altered my overall decision.

Conditions

9. Paragraph C2 (3) of the Order requires that development must be begun within a period of three years from the date of the decision. Section W (13) of Part 3 of Schedule 2 of the Order allows prior approval to be granted subject to conditions reasonably related to the subject matter of the prior approval.
10. Conditions relating to details of mechanical services plant, delivery and collection times and opening hours are necessary to safeguard the living conditions of neighbouring occupiers with particular regard to noise.

Conclusion

For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

R Sabu INSPECTOR

Schedule of Conditions

- 1) If external mechanical services are to be installed, then the following noise control evidence shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - a) The cumulative measured or calculated rating level of noise emitted from the mechanical services plant including heating, ventilation and air conditioning (HVAC) to which the application refers, shall be 10dB(A) below the existing background noise level, at all times that the mechanical system etc operates. The measured or calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or 1 meter from the facade of the nearest first floor (or higher) noise sensitive premises, and in accordance to the latest British Standard 4142; An alternative position for assessment /measurement may be used to allow ease of access, this must be shown on a map and noise propagation calculations detailed to show how the design criteria is achieved.
 - b) The plant shall be isolated on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.
 - c) Following installation of any mechanical services plant including heating, ventilation and air conditioning (HVAC) to which the application refers, a post completion noise assessment shall be submitted for approval to the local planning authority which demonstrates the actual measured rating level of plant operating under normal conditions. All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. The post completion report shall be both completed and submitted to the local authority within 28 days of completion of the installation for review.
- 2) Deliveries shall be taken at or despatched from the site only between 0700 and 2200 on Mondays to Saturdays and between 0900 and 2000 on Sundays and on Bank or Public Holidays.
- 3) The use hereby permitted shall only take place between the following hours:
0800 - 2200 Mondays - Saturdays
0900 - 2200 Sundays and on Bank or Public Holidays.

END OF SCHEDULE