The Planning Inspectorate

Appeal Decision

Site visit made on 10 October 2023

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2023

Appeal Ref: APP/F5540/W/23/3318354
Chicken Valley, 12 Chiswick High Road, London W4 1TH

- 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 Karim (Chiswick Food Limited) against the Council of the London Borough of Hounslow.
- The application Ref P/2022/3600, is dated 10 November 2022.
- The development proposed is the construction of shopfront.

Decision

1. The appeal is allowed and planning permission is granted for the construction of shopfront at Chicken Valley, 12 Chiswick High Road, London W4 1TH in accordance with the terms of the application, Ref P/2022/3600, dated 10 November 2022, subject to the following condition:

   1) The development hereby permitted shall be carried out in accordance with the following approved plans:

      Location Plan (1:1250)
      Block Plan (1:200)
      Shopfront Elevation – Drawing 450/1

Application for costs

2. An application for costs was made by Mr Karim (Chiswick Food Limited) against the Council of the London Borough of Hounslow. That application is the subject of a separate decision.

Preliminary Matter

3. I have omitted from the description of development the reference to the Town and Country Planning Act 1990 and the retrospective nature of the proposal as these are not acts of development.

Main Issues

4. This is an appeal against the Council's failure to give notice of a decision and results from a validation dispute between the main parties. An assessment by the Council of the scheme's planning merits has now taken place and a putative reason for refusal has been provided.

5. As a result of the above, the main issues are a) whether or not the planning application should have been validated by the Council; and b) in the event that I find it should have been validated, the effect of the proposal on the character and appearance of the building and wider area.

Reasons

Validation

6. The planning application for the construction of a shopfront was made on 10 November 2022. The Council wrote to the appellants on 15 November 2022 stating that the application was incomplete due to the lack of pre-existing front elevation and photograph and pre-existing and existing floorplans.

7. The appellant disputed the Council's request and served a notice under Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (DMPO) on 22 November 2020. This stated that the Council's requirements were in effect not reasonable or proportionate or reflective of the development being applied for.

8. The Council does not appear to have formally responded to the above, either in the form of a Validation Notice or a Non-Validation Notice as it is required to do so by Article 12 of the above Order. However, leaving aside whatever procedural irregularities may or may not have occurred, I find on the validation issue as follows:

9. Article 7 of the DMPO quite clearly sets out the general requirements for applications for planning permission. Aside from a location plan, any further plans will in most cases be necessary to describe the proposed development and may be requested through a Council's local list of information requirements, provided it has been reviewed two years before the submission of the application. Notwithstanding that the application was for planning permission for development already carried out and so explicitly excluded from these requirements, the Council has provided no information to indicate that its local list covered the drawings requested.

10. More significantly, in defending the costs application, the Council subsequently conceded that it was not actually in a position to refuse to validate the application. Although it maintains that such details would have been desirable to help it determine the application, this was not grounds to refuse to validate the application and should have been requested once the application was validated. Having said that, as the Council's appeal Statement has demonstrated, the absence of the requested details did not prevent it from assessing the proposal and reaching a conclusion on the planning merits of the case.

11. In the light of the above, I agree with the appellant that the submission of the requested additional information amounted to a disproportionate request which the guidance in the PPG and the statutory requirements are clearly seeking to avoid.

12. I have seen no other reference by either party to suggest that the application was deficient in any other respects. The appeal therefore relates to a failure of the Council to determine the application within the prescribed period.

Character and Appearance

13. The Council has indicated that the proposal would cause harm to the shop front and the wider area. This is in part due to the locally listed status of the appeal building and it being within an Area of Special Character (ASC).

14. However, the Council do not explain the nature of the ASC or why the building is locally listed. To my mind, a large number of buildings in the immediate vicinity of the appeal site appear to be Edwardian and properties are commonly three to four storeys in height. Architectural detailing and historic interest has been retained in many instances, particularly at upper levels. This gives the area a high quality and consistent environment.

15. Indeed, the appeal building and the terrace in which it is located, conforms broadly to these characteristics. It is a three storey, possibly Edwardian, building with additional accommodation within the roof. It seems to me that the heritage interest of the terrace lies more in its upper floors. It is here where the homogeny and grandeur of the architecture is evident and many of the building's original features, fenestration and detailing remain in place. Its heritage qualities are less evident at ground floor level where commercial uses dominate and there is little uniformity in style or the use of materials.

16. The shopfront the subject of this appeal is undoubtedly modern in its materials and appearance. It is similar in its styling to the shopfront at No.10 although is not as wide given the recessed doorway to the upper floors at No.12. Overall, given the variety of different shopfronts which exist at ground floor level it would not appear incongruous within the street scene. The building as a whole would retain its more traditional architecture on the upper floors.

17. The Council's supplementary planning document Shop Front Design Guidelines (2013) encourages the use of stallrisers and glazing bars to help ensure commonality and character. However, as the retail frontage does not extend across the full width of the unit, it is not clear that glazing bars would necessarily assist with the proportions and appearance of this particular shopfront.

18. Although the shopfront does not have a stallriser, many other shopfronts in the vicinity are devoid of them too. Furthermore, there is no indication that the previous shopfront retained such a feature or that its retention was previously sought by the Council. Furthermore, it is clear from the Council's submissions that the current shopfront does represent an improvement over what previously existed.

19. Whilst the development does not fully accord with the Council's Shop Front Design Guidelines, I conclude on this main issue and in these particular circumstances that the proposal does not cause harm to the locally listed building or the wider character and appearance of this part of Chiswick High Road. Consequently, it would accord with Policies CC1 and CC2 of the London Borough of Hounslow Local Plan 2015 - 2030 which, amongst other things, seek to ensure developments respond to their context and integrate into their surroundings.

Other Matters

20. The proposal and this appeal relate only to the shopfront. The drawings submitted in support of the scheme note that the signage was for illustrative purposes only. Despite this, large parts of the Council's Statement assessed the effect of the illuminated signage on both the building and on highway safety. It is not within my remit to consider the signs and their associated lighting and fixtures nor to make a judgement on whether or not they require express consent. Accordingly, I make no further reference to the signs, nor the

associated Local Plan policies EQ6 and EC2, which are cited in support of the objection to the signage and lighting.

21. Concerns were expressed as to the accessibility of the unit for sight impaired persons. The relative simplicity of the shopfront with the two frames either side of the entrance, would be likely to direct a customer towards the centre of the unit and thus to the entrance. The door itself has a large stainless-steel handle which would assist sight impaired persons identifying the entrance and entering the shop. The proposal would therefore in my opinion accord with the accessible design expectations of the Council as set out in their Shop Front Design Guidelines.

Conditions

22. The conditions suggested by the Council relate only to the advertisements, which are not part of the proposal.

23. As the shopfront has already been installed there is no need for a time condition. However, in the interests of certainty a condition that lists the approved plans is necessary.

Conclusion

24. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed and planning permission granted.

Stewart Glassar

INSPECTOR