



Appeal Decision

Site visit made on 18 June 2024

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th AUGUST 2024

Appeal Ref: APP/A5270/C/23/3316499

Premises known as 67-68 The Broadway, Ealing, London W5 5JN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by PLK Chicken Ltd against an enforcement notice issued by the Council of the London Borough of Ealing.
- The notice was issued on 9 January 2023.
- The breach of planning control as alleged in the notice is without planning permission: The installation of a new orange shopfront.
- The requirements of the notice are to remove the new orange shopfront in its entirety, including the supporting wooden structure underneath the orange shopfront and 'Popeyes' signage.
- The period for compliance with the requirements is: two (2) months.
- The appeal is proceeding on the ground set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, and the varied enforcement notice is upheld.

Matters Concerning the Enforcement Notice

1. It is incumbent upon me to put the Enforcement Notice (Notice) in order. The Notice contains some superfluous or unnecessary words, which can be deleted. These variations, which are set out below for clarity, do not alter the nature of the allegation and do not therefore cause any injustice to the Council or appellant.
2. In paragraph 5 of the requirements, delete the words "in its entirety" and "underneath the orange shopfront and 'Popeyes' signage."

Preliminary Matters

3. During the course of the appeal the revised National Planning Policy Framework December 2023 (the Framework) was also published. However, there are no substantive changes relevant to the appeal, and no prejudice would be caused by me having regard to it.
4. Since the Notice has been served, and from what I saw on site, the external appearance of the shopfront has been changed. However, the appellant has not put forward these changes as an alternative scheme for me to consider at this time. Section 174(2)(b) of the Town and Country Planning Act (1990 Act) is also worded in the past tense and is with regard to the breach alleged to have occurred by the date of issue of the Notice. I will consider the appeal on this basis.

5. The appeal is lodged on grounds which include (a) and (f). An alternative scheme advanced by the appellant as part of the ground (f) appeal is detailed on a Drawing ref POP022_P410.02, dated 15.06.22. To consider the alternative, I will have regard to it under the ground (a) appeal. Amongst other things, I will have regard to whether this outcome could be achieved by granting planning permission "in relation to the whole or any part" of the matters alleged in the Notice, either with or without conditions.

The Ground (a) Appeal and the Deemed Planning Application

6. The **main issue** in this appeal is the effect of the development on the character and appearance of the area, including the preservation or enhancement of Ealing Town Centre Conservation Area.

Reasons

Character and Appearance

7. The appeal site lies within the Ealing Town Centre Conservation Area (Conservation Area). The Ealing Town Centre Conservation Area Character Appraisal 2007 (the Appraisal) recognises The Broadway as one of the main thoroughfares.
8. The Conservation Area has a Victorian and Edwardian architectural heritage dating from a time when Ealing was expanding and flourishing as one of London's more desirable suburbs. It comprises a busy high street with a mix of retail, office and civic uses, with red brick, stone dressings, slates or flat tiles being the predominant materials. The significance of the Conservation Area appears to stem from the diverse architectural character, with office buildings and shopfronts from the 19th and early 20th century woven together with more recent developments.
9. The Ealing Town Centre Conservation Area Management Plan 2007 (Management Plan) outlines several negative features of the Conservation Area. This includes, but is not limited to, very poor-quality shopfronts displaying negative features such as over-deep fascias; garish colours and unattractive signage. It goes on to state 'Shopfronts should attempt to follow the precedents set by those around them and the architecture of the building in which they sit.'¹
10. The appeal site is the last commercial unit on the western end of the Broadway Centre. The Appraisal claims the Broadway Centre is now the hub of the Victorian shopping area. The Broadway Centre is a contemporary building (completed in 1985), which comprises a tight vertical rhythm of faced narrow glass between brick fins and a pointed roofline. The Appraisal outlines that the building was seeking to respond sympathetically to the architectural language of neighbouring buildings, but over the passage of time, some design details and materials appear heavy, resulting in a neutral effect on the wider Conservation Area.
11. The two neighbouring properties, within the Broadway Centre, are double fronted. Their shopfronts have also been recently updated and consist of a mostly glazed shopfront, with a tall fascia and dark panelling covering the vertical brick and stone columns. These double units have been broken into two

¹ Paragraph 5.2, page 12

by a central vertical column, which forms two smaller fascias finished in a muted colour scheme. The fascias are proportionate in width and height as well as being recessed so not to protrude as far out as the vertical columns. The design and proportions of the neighbouring shopfronts have consistent features and a uniformity, which helps to preserve the tight vertical rhythm of the host building as well as the significance of the Conservation area.

12. The development consists of a mostly glazed shopfront, but with a wooden frame with bright orange panelling covering the two end columns and the fascia. The fascia extends the width of the double fronted unit and projects to match the depth of the two vertical columns. Towards the middle, the central brick column has not been clad with any panelling and a section of the fascia is extended to incorporate a slogan above the door.
13. From what I saw, the development has an overly tall and deep fascia with a garish colour scheme, which is at odds with the design, proportions and muted colour schemes of the neighbouring shopfronts. Also, by failing to incorporate the central brick column within the design, the fascia appears excessively wide and contrasts with the tight vertical rhythm of the host building. The adverse impact of the development is also exacerbated by its prominent position in a busy location in the high street. As such, the development fails to preserve the character and appearance of the building and wider Conservation Area, resulting in a less than substantial harm to the heritage asset.
14. Paragraph 208 of the Framework is applicable in this circumstance and indicates that less than substantial harm to heritage assets should be weighed against the public benefits of the proposal.
15. The appellant has outlined that the signage proposed includes bright orange panelling in accordance with the company colour scheme, which is required for building identification and wayfinding purposes. It is also suggested that it will positively contribute to the identity of the area and support the function of the store for retail use. However, in my judgement, these are limited public benefits and would not be sufficient to outweigh the less than substantial harm that I have identified. In coming to this conclusion, I am giving considerable weight and importance to paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
16. Accordingly, the development is harmful to the character and appearance of the area and fails to preserve or enhance the Conservation Area. The development is contrary to Policies 7B, 7C and 7.4 of the Ealing Development Management Development Plan Document 2013 (DPD) and Policies D4 and HC1 of the London Plan 2021 (London Plan) as well as the advice and guidance contained within the Appraisal and Management Plan. These policies, and guidance, require development to complement the local character, have a positive visual impact with complementary fittings and materials as well as conserving or enhancing the significance of heritage assets.

The Alternative Scheme

17. If the ground (a) appeal is unsuccessful and planning permission is to be refused in relation to the deemed planning application, the appellant has proposed an alternative scheme which comprises amendments to the design of the shopfront shown on Drawing No POP022_P410.02. This drawing was initially submitted as part of some correspondence with the Council during the

consideration of a planning application for the shopfront alterations, which was subsequently withdrawn².

18. The drawing shows amendments that would include four vertical aluminium panels in dark grey, including a new central column clad in panelling. The grey columns would extend into the fascia, breaking up its width to form two smaller fascia signs. The fascia height is also reduced centrally, by removing the lettering above the entrance way. I consider that the form and design of the proposed amendments, when considering the design of the original, would be in relation to the whole of the matters alleged in the notice.
19. The changes could, in principle, overcome some of the identified harm, by breaking up the width of the fascia, the introduction of the central column within the design and a more muted colour scheme. However, the details submitted do not include a cross section drawing, which would confirm the depth of the fascias. An overly deep fascia would result in a poorly designed shopfront, which would be incompatible with the recessed fascias on the neighbouring units. As such, insufficient detail on the design of the proposed shopfront has been provided, and I cannot be certain that the amendments address all the adverse impacts of the development set out above.
20. Furthermore, Section 173(3) of the 1990 Act says an enforcement notice shall specify steps to achieve wholly or partly, any of the purposes set out in Section 173(4). These include, remedying the breach by making any development comply with the terms, including conditions, of any planning permission that has been granted in respect of the land. However, as the planning application referred to above was withdrawn, the changes shown on the drawing are neither for the retention of what is built on site, nor does it benefit from any planning permission. As such, I am unable to vary the requirements of the Notice to comply with any valid permission.
21. Therefore, the detail of the scheme is insufficient at present, and the ground (a) appeal fails with regard the alternative scheme currently before me.

Conclusion on Ground (a) Appeal, and the Deemed Planning Application

22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

The Appeal on Ground (f)

23. This ground of appeal is that the steps required by the notice to be taken are excessive. The purpose if the Notice is to remedy the breach of planning control.
24. It is the appellant's contention that the works shown on Drawing No POP022_P410.02 would remedy the breach of planning control. I have dealt with this point as part of the ground (a) appeal and have explained why the proposed amended scheme is unsatisfactory, based on the information currently before me. There is therefore no lesser step to be taken that could remedy the breach of planning control. The ground (f) appeal therefore fails.

² Council Planning Application reference 223587FUL

Formal Decision

25. It is directed that the enforcement notice is varied by:

In paragraph 5, delete the words "in its entirety" and "underneath the orange shopfront and 'Popeyes' signage."

Subject to the variations, the appeal is dismissed, the varied enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

M. P. Howell

INSPECTOR