
Appeal Decision

Site visit made on 3 November 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 07 December 2016

Appeal Ref: APP/J1915/W/16/3155135

Land at Parliament Square, Hertford, Hertfordshire SG14 1EX

- 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 Shipton against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1056/FUL, dated 5 May 2016, was refused by notice dated 29 June 2016.
 - The development proposed is the use of a paved area for seating for public house.
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Decision

1. The appeal is allowed and planning permission is granted for the use of a paved area for seating for public house at Land at Parliament Square, Hertford, Hertfordshire SG14 1EX in accordance with the terms of the application, Ref 3/16/1056/FUL, dated 5 May 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: 12470-P001 and 12470-S001 (with the exception of the requirements of the conditions below)
 - 3) Prior to the commencement of the use hereby permitted, details of all the outdoor furniture to be used, including its siting, design and colours of any awnings, umbrellas, sunshades and the means of the demarcation of the seating area, shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.
 - 4) All furniture associated with the outdoor seating area (including the barrier screens and moveable bollards) hereby permitted shall be removed from the Square when the outdoor seating area is not in use.
 - 5) Notwithstanding the submitted plans, a gap of not less than 2 metres shall be maintained between the edge of the outdoor seating enclosure and any part of the War Memorial.
 - 6) The external seating area hereby permitted shall not exceed 30 covers and shall only be used between the hours of 10.00am to 11.30pm on any day.
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Procedural matter

2. Whilst the Council's reason for refusal and officers report do not refer to any development plan policies, the Council has referred to Policies ENV1, BH6, TR19 and EDE2 of the East Herts Local Plan Second Review 2007 (LP) in their appeal statement. Whilst Policy EDE2 does not appear to relate to the development, being concerned with the loss of employment sites, the other policies do relate to the main issues, together with Policy BH12 which has also been provided to me. I have therefore determined the appeal with these policies in mind.

Main Issues

3. The main issues are the effect of the development on pedestrian safety and on the setting of the grade II listed war memorial.

Reasons

Pedestrian safety

4. The Quiet Man Public House is situated on the north side of Fore Street, which is a two way street, although it is restricted to buses and cyclists in a westerly direction. At the time of my site visit there was not a heavy flow of traffic along this section of road, with low traffic speeds and frequent gaps between vehicles. I also saw that this section of Fore Street is a paved street, with a pedestrian crossing constructed with different materials.
5. It is accepted by both main parties that the principle of outdoor seating and dining is acceptable in the town centre. This has also been demonstrated by the permissions granted by the Council for Café Rouge and Seven, together with the historic permission for the Hertford House Hotel.
6. The appeal proposal indicates 30 covers for the seating area, with its customer access point on the eastern side of the area away from the carriageway of Fore Street. The position of this entrance is broadly similar to the previous permission on the site for the Hertford House Hotel granted in 2008.
7. Whilst the development would invariably involve an increase in pedestrian movements across Fore Street between the seating area and the public house, given the low traffic speeds and frequent gaps in traffic I do not consider that this would result in a significant harm to pedestrian safety.
8. The submitted plans indicate that the proposal would abut the war memorial. Given the location of the pedestrian crossing on Fore Street the seating area would block the route past the memorial. The seating area would also block access/egress from the memorial's eastern steps.
9. However, I note that the appellant has suggested a planning condition to ensure that there is a minimum distance of 2 metres between the war memorial and the area which would be used as an outdoor seating area. To my mind, this would overcome the obstructions to pedestrian movement and could be controlled by means of a planning condition.
10. For the above reasons, subject to the suggested planning condition, the development would not result in an unacceptable harm to pedestrian safety or the safety of other users of the highway network. As such the proposal accords with transportation aims of the National Planning Policy Framework

(the Framework) and Policy TR19 of the East Herts Local Plan Second Review 2007 (LP).

Setting of the war memorial

11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of the war memorial.
12. The memorial is sited to the south of Fore Street and to the west of the appeal proposal. The development, as submitted, would abut up to the memorial and would obstruct the steps on its eastern side. This combined with the proximity of the seating, would have a detrimental impact on the setting of the memorial.
13. However, as noted above, a gap of 2 metres between the memorial and the seating area would allow access to its eastern steps and would provide a degree of separation. To my mind, this level of separation would preserve the setting of the memorial, and would be consistent with the requirements of the other planning permissions for outdoor seating areas on Parliament Square.
14. Therefore, subject to the above condition, the proposal would not harm the setting of the war memorial. Therefore, the development would accord with the conservation aims of the Framework and Policy BH12 of the LP.

Other matters

15. The site is also located within the Hertford Conservation Area (HCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the character or appearance of the HCA.
16. The Council has not advanced a case that the proposal would give rise to any harm to the character and appearance of the Conservation Area and given the generally supportive principle to outdoor seating in the town centre I have no reason to disagree.

Conditions

17. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
18. Conditions are also required in respect of the exact details of the outdoor furniture and barriers to ensure that the setting of the war memorial and the character and appearance of the Conservation Area are not harmed.
19. Additionally, to ensure that the setting of the war memorial is preserved, and the free flow of pedestrians is maintained, a condition is required to ensure that there is a minimum gap of 2 metres between the seating area and any part of the memorial.
20. Both parties have suggested a condition restricting the hours of operation of the seating area. The only difference is the finishing time each day with the Council suggesting 22:30 and the Appellant suggesting 23:30. Whilst I consider that such a condition is necessary, given that the other permissions extend to 23:30 hours I consider that no harm would result from this decision being consistent with the other permissions.

Conclusion

21. Taking all matters into consideration, for the reasons given above, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR