
Appeal Decision

Site visit made on 7 February 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 06 March 2017

Appeal Ref: APP/X5990/W/16/3162165

61-71 Victoria Street, London SW1H 0HW

- 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 Marios Papaminas against the decision of City of Westminster Council.
 - The application Ref 16/08227/TCH, dated 26 August 2016, was refused by notice dated 18 October 2016.
 - The development proposed is to place 2No tables and 6No chairs with 4No barriers on pavement outside existing shop unit, between 06:30 and 19:00 daily.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on pedestrian safety.

Reasons

3. The appeal site comprises an existing coffee shop located towards the end of a parade of commercial premises, close to two pedestrian crossings and the crossroads of Victoria Street, Strutton Ground and Broadway. At the time of my visit (11:30) Victoria Street and surrounding roads were busy with traffic and the pavement area in front of the parade and nearby pavements were busy with pedestrians. A street market was taking place near to the appeal site on Strutton Ground.
 4. The proposed outdoor seating area and associated barriers to the front of the coffee shop would reduce the pavement width outside the appeal site and would create an obstruction for pedestrians. Whilst I note that following the proposal the pavement width would remain in excess of the minimum pedestrian clear zone of 2 metres required by the Council's Westminster Way – Public realm strategy Design principles and practice Supplementary Planning Document (SPD), the SPD states that it might need to be much more in some busy places. The Highway Authority considers that the appeal site location requires a wider than minimum pedestrian clear zone due to it being a busy thoroughfare with very high pedestrian flows and having regard to the submitted evidence and following my site visit I agree with the Highway Authority.
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5. At the time of my visit which was not at a time of likely peak pedestrian flow, the pavement was busy with pedestrians. The introduction of a projecting seating area and the reduction in width of the pavement at this point within a parade with no other similar projections would be likely to impede and hinder safe and convenient pedestrian movements in Victoria Street, particularly at peak periods, and this would be detrimental to pedestrian safety.
Notwithstanding the evidence submitted by the appellant, it also appears to me that as proposed, the seating area is unlikely to function effectively with an apparent lack of space for customers and staff to access the tables and seating from within the area to be enclosed by barriers. This may therefore result in further encroachment into the pavement and a further reduction in the pedestrian clear zone.
6. My attention has been drawn to an outside seating area and associated barriers at 85 Victoria Street, which I understand was granted planning permission by the Council, and to the fact that there are many other nearby establishments with permitted external tables and chairs, though I have not been provided with details of any other sites. At my visit I viewed the outside seating area at No 85 and I noted the similarities and differences between it and the proposal. I have also had regard to the comments made by both parties regarding the development at No 85 when compared to the proposal. However I am not fully aware of the details or particular circumstances relating to the granting of permission at No 85 though it appears that there has historically been a seating area at that site and that this had some bearing on the Council's decision to grant planning permission which I also understand pre-dated the SPD. In any event I must determine the proposal before me on its own merits.
7. In reaching my decision I have had regard to the appellant's view that the proposed outside seating area would add to the vitality and character of the area. However whilst this may be the case, this benefit would not outweigh the harm that I have identified to pedestrian safety.
8. Taking the above matters into consideration, I conclude that the proposal would be likely to have a significant adverse effect on pedestrian safety. It is therefore contrary to Policy S41 of the Westminster City Plan and policies TRANS 3 and TACE 11 of the City of Westminster Unitary Development Plan. These policies seek, amongst other things, to ensure that developments including tables and chairs on the footway, do not cause obstruction or endanger pedestrians and prioritise pedestrian movement and the creation of a convenient and safe pedestrian environment.

Other Matters

9. Though the Council's reason for refusal also made reference to difficulties cleaning the footpath, I note that the Council's Highways Cleansing department raised no objections to the proposal. In the absence of any substantive evidence regarding the issue of cleansing and having regard to the fact that the tables, chairs and barriers would be taken off the pavement when not in use, I consider that the proposal would be unlikely to cause significant difficulties in cleaning the footpath.

Conclusion

10. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR