
Appeal Decision

Site visit made on 27 June 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 11 July 2017

Appeal Ref: APP/F4410/W/17/3171951

10 Main Street, Sprotbrough, Doncaster DN5 7RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Ruth McGuire against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 16/01120/FUL, dated 19 April 2016, was approved on 13 October 2016 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of Flower shop (A1) to form extended coffee shop and wine bar (A3/A4) and include use of forecourt as ancillary seating area.
 - The conditions in dispute is No 11 which states that: *The areas shown hatched on the approved plan marked 'location plan for condition 11' (being the area under the built canopy and a stand off of 3m from the adjacent grassed area) shall remain free of any physical obstruction including (but not limited to) tables and chairs.*
 - The reasons given for the condition is: *In the interest of amenity of passers-by and those accessing the other units on the parade.*
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Decision

1. The appeal is allowed and the planning permission Ref 16/01120/FUL for the change of use of Flower shop (A1) to form extended coffee shop and wine bar (A3/A4) and include use of forecourt as ancillary seating area at 10 Main Street, Sprotbrough, Doncaster DN5 7RF granted on 13 October 2016 by Doncaster Metropolitan Borough Council, is varied by deleting condition No 11 and substituting for it the following condition:
 - 1) The areas shown hatched on the approved plan marked 'location plan for condition 11 - amended' (being the area under the built canopy and a stand off of 2m from the adjacent grassed area) shall remain free of any physical obstruction including (but not limited to) tables and chairs.

Background

2. Condition No 11 requires two separate areas in front of the premise to be free of any physical obstruction including tables and chairs associated with the use. The first area is underneath a canopy directly in front of the unit and adjoining units in the shopping parade. The second area is 3 metres wide and is part of a paved forecourt that lies next to a grassed area. The appellant seeks to vary condition No 11, to either remove the second area or to reduce it to either 1.5 or 2 metres wide, on the basis that it is not appropriate or necessary.

Main Issue

3. The main issue is the effect of varying the condition would have on the amenity and accessibility of users of the shopping parade and the community.
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Reasons

4. The appeal site is part of a shopping parade in the middle of the large village of Sprotbrough. The shopping parade is set back from Main Street behind a grassed area populated by a number of trees and a deep paved courtyard that links to the pedestrian footways on Main Street and Thorpe Lane. The shopping parade offers a mixture of uses that include a restaurant, hair salon, pharmacy and a convenience store. Bus stops are to the west of the site on Main Street, while opposite is the grade I listed church of St Mary the Virgin and to the east is the Sprotbrough Tea Room and Bistro.
5. The paved area in front of the premises is privately owned land. Nonetheless, evidence indicates that it is a long-standing natural desire line used by the public when accessing the shopping parade or as a cut through between Thorpe Lane and Main Street.
6. The Council's stance is borne from the need to balance the amenities of local people using the shopping parade against providing support for the expanded bar/café and the existing units on the parade. In this regard, the Council resolved that a standoff of 3 metres wide was necessary to allow movement at busy times to other units and across the site. While it is reasonable and necessary for people to be able to move around, especially given the paved area is a natural desire line, there is no specific figure required to ensure this; it is a matter of judgement. The logic for the standoff distance seems to stem from the Council's *Al Fresco - Setting up and Operating a Pavement Cafe in Doncaster Town Centre - a guide for business: Revised June 2016*. While this document is not an adopted planning document, it is a useful toolkit, given Policies CS1 and CS14 of the Doncaster Council Core Strategy 2011-2028 (Core Strategy) seek to ensure inclusive and legible pedestrian movement.
7. Externally, there are two rows of four tables, each with four chairs on in a cordoned off area. Images show this area can be well used in periods of good weather, with patrons, in addition to using the tables and chairs, standing in groups. The covered walkway and the grassed area in front of the premise also appear to be used by patrons at various times. These could cause a nuisance and accessibility difficulties to other users. However, while the images also show people congregating in front of other units near to Thorpe Lane, it is unclear whether they are linked to the appeal site.
8. In any event, despite patrons being in the two separate standoff areas, the condition only requires those areas to stay free of any physical obstruction including (but not limited to) tables and chairs. So, while patrons may obstruct others or cause a nuisance, the condition, for enforceability reasons, could not include people as they can move around. I nevertheless recognise that tables and chairs could offer a focal point for patrons to congregate. However, even if the 3 metre standoff was reduced, access under the covered walkway would remain. This is quite deep and it would enable access to the other units in the shopping parade. For many users of the shopping parade it would be their preferred desire line, given the extent of the tables and chairs outside.
9. The Council does not dispute that footfall in the area is not generally high. I do, however expect that there would be busier periods. A reduced standoff would, in these periods, narrow the available width in front of the coffee shop and wine bar. A suggested width of 1.5 metres would be too tight, especially if people meet in opposing directions and wheelchairs and or pushchairs are in

involved. I acknowledge the nearby footpath would not be subject to issues relating to nuisance or accessibility, despite its position next to the road. It does therefore offer a relatively convenient route for the community to use. However, equally, a standoff of 2 metres would maintain the use of an inclusive and legible desire line and access to the units in the shopping parade, supplementing the use of the covered walkway especially during busier periods.

10. Reference is made to advertising boards blocking the undercover walkway. Clearly these would restrict access, especially for people with pushchairs and or wheelchairs. While this is a matter for the Council to decide whether there has been a breach of the condition, I consider it only lends weight to the need for two areas so that inclusive access is available, even if the appellant only considers one is needed, or the width should be conditioned at 1.5 metres. Even so, these areas would need careful management to encourage patrons to make sure the community can pass without undue restriction.
11. Although the standoff areas are reasonable and necessary, I conclude that a variation of condition No 11 to reduce one of the standoff areas to 2 metres would not significantly affect the amenity and accessibility of users of the shopping parade and the community. As such, there would be compliance with Core Strategy Policies CS1 and CS14 and saved Policy PH12 of the Doncaster Unitary Development Plan. Jointly these, among other things, seek to ensure open and inclusive accessibility for a range of transport modes; good access to local facilities; and no unacceptable negative effects on residential amenity.

Other matters

12. The site lies in the Sprotbrough Conservation Area (SCA) and opposite the grade I listed church of St Mary the Virgin. However the layout, use and functionality linked to the proposal leads me to consider that it would have a neutral effect on the character and appearance of the SCA and on the setting of the listed building. As such, the proposal would preserve the SCA and the listed building.
13. I understand points made around noise and parking along with the conditions suggested by the Council's Environmental Health Officer, nevertheless, the Council has resolved to grant planning permission having regard to these matters. If the premise is opening later than permitted¹, then this is a matter for the Council to address in the first instance, rather than this appeal. Despite concerns regarding the alcohol and licensing regime, my findings relate to entirely separate legislation.
14. While concerns are raised with the Council's approach, my findings relate to the evidence before me and I have determined this appeal in accordance with the development plan, unless material considerations indicate otherwise.

Conclusion

15. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission as set out in the formal decision.

Andrew McGlone

INSPECTOR

¹ Appeal Decision Ref: APP/F4410/W/16/3149193