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## Appeal Decision

Site visit made on 27 August 2019 by Mariam Noorgat BSc (Hons)

**Decision by Andrew Owen BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 October 2019**

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**Appeal Ref: APP/J1915/W/19/3226448**

**8 Parliament Square, Hertford, Hertfordshire SG14 1EY**

- The appeal is made under section 78 of the Town Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss Carla Duffield of Serendipity Foods & Catering Ltd against the decision of East Herts Council.
  - The application Ref 3/19/0089/FUL, is dated 15 January 2019 and was refused by notice dated 5 March 2019.
  - The proposed development is to add two additional outside tables and four chairs, to the two tables and chairs situated outside the shop at 8 Parliament Square.
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### Decision

1. The appeal is allowed and planning permission is granted to add two additional outside tables and four chairs, to the two tables and chairs situated outside the shop at 8 Parliament Square at 8 Parliament Square, Hertford, Hertfordshire SG14 1EY, in accordance with the terms of the application Ref: 3/19/0089/FUL, dated 5 January 2019, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan Covering the Pavement Area for Seating Outside 8 Parliament Square and Title Plan.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issue

3. The main issue is the effect of the proposed development on highway safety.

### Reasons

4. The appeal site is situated in the Hertford Conservation Area and comprises a ground floor retail unit, in use as a café. It is located within a predominantly commercial area with many eating and drinking establishments within close vicinity, many of which included outdoor seating areas. The footway immediately to the north and east of the site is fairly narrow, but directly outside the appeal site it widens significantly due to its position on a bend.

5. I observed the site at midday for a period of time, and I noted that whilst Parliament Square was a busy road with lots of vehicular movement, the pedestrian movement was fairly quiet. The intermittent flow of pedestrians from the east (Fore Street) to north (Parliament Square) naturally avoided the litter bin situated near the site and many veered towards the apex of the bend due to the table and chairs already present outside the café, which were occupied. This flow of movement would not be impeded by the proposed tables and chairs as they would be in line with the litter bin and pedestrians would be coming from a narrower footway on Fore Street. The pedestrians moving from the north to the east also avoided the tables and chairs already present and whilst they would walk inwards towards the café once passing this section, it would not be so far in, to where the proposed tables and chairs would be situated. There were no apparent difficulties for the passing public even with the channel line due to its shallow nature, or the lamp post, bollards and litter bin due to their position on the roadside edge of the main footway. Even in the event that there are more than two persons on one table, the footway would feel wide enough such that, the proposal would not reduce the width of the footway to a point that it would have an impact on highway safety. It would therefore allow for the free flow of pedestrian movement without dangerous obstructions or the risk of overflowing onto the road.
6. The Council state within the Officer report that the width of the footway does not comply with guidance contained within Roads in Hertfordshire. Although this guidance was not submitted to me, the appellant has provided snapshots of what appears to be this guidance and demonstrated adherence to it within their submitted statement of case and location plan.
7. Based on the reasoning above, the proposed development would not have an adverse effect on the width of the footway or create harmful obstructions that would adversely affect highway safety. I therefore do not find conflict with Policy TRA2 of the East Herts District Plan, 2018, which seeks to ensure highway safety.

### **Other Matters**

8. In line with the duty imposed on me by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I must give due importance and weight to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I consider the minor nature of the proposal, the mobile nature of the furniture and their setting in a commercial area with other outdoor seating nearby results in no harm being caused to the character and appearance of the Hertford Conservation Area. The lack of concern from the Council in this regard supports my view.

### **Conditions**

9. I have considered the Council's suggested conditions. In the interests of certainty, a condition is necessary to ensure the development is carried in accordance with the approved plans and within three years of the date of this decision.
10. I have not imposed the suggested condition requiring the removal of the tables and chairs when the café is closed. This is because such a condition could only apply to the tables and chairs subject of this appeal and not those already granted permission by planning permission ref 3/18/1135/FUL which includes

no condition requiring their removal. It would be illogical to require some, but not all of the table and chairs, to be removed. In any case, as I have found they do not obstruct the highway or harm the character or appearance of the area, it would be unnecessary to insist they be removed.

### **Recommendation and Conclusion**

11. For the reasons set out above, and having had regard to all other matters raised, I recommend the appeal is allowed.

*Mariam Noorgat*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*Andrew Owen*

INSPECTOR