



Appeal Decision

Site visit made on 28 October 2019

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2019

Appeal Ref: APP/N4720/W/19/3234798

74 Otley Old Road, Cookridge, Leeds LS16 6LQ

- 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 S Eftikhary against the decision of Leeds City Council.
 - The application Ref 19/02266/FU, dated 11 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is decking area to front.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A decking area has already been constructed at the front of the appeal site. The planning application form refers to the proposal as 'retrospective'. However, the drawings on which the Council made its decision show a decking area that projects approximately one metre less than the existing decking area. Consequently, I have omitted the term 'retrospective' from the description in the banner heading and considered the appeal on the basis of the submitted drawings.
3. The Council adopted the Core Strategy Selective Review (2019) during the appeal. However, the Council has confirmed that the Policies relevant to this appeal have not been altered.

Main Issues

4. The main issues are the effect of the development on:
 - i) the character and appearance of the area;
 - ii) the living conditions of the occupants of nearby residential properties, with particular regard to noise and disturbance; and
 - iii) pedestrian circulation and accessibility.

Reasons

Character and appearance

5. The appeal site is a ground floor café and bar positioned centrally within a short terraced parade of commercial premises at ground floor with some residential accommodation above. To the front of the parade is a wide forecourt area,

which provides a pleasant openness to the street scene, and differentiates the shops from the residential properties to the south.

6. The proposed decking would be approximately one metre shorter than the existing structure, but it would nevertheless still occupy the majority of the forecourt area to the front of the appeal site. Notwithstanding that it would step down in height, the height and solidity of the sides, combined with the projection, would result in a structure of considerable bulk, particularly from the side. In addition, the central position of the premises within the parade means it would appear as an isolated and visually intrusive feature. It would be highly prominent in views from both the north and south, as well as from the front. The timber material and small planting boxes would not minimise its bulk and prominence.
7. Although the other premises in this parade have disabled access ramps and steps to the front, they are of limited projection and bulk, and are therefore less intrusive than the proposed decking.
8. I conclude that the development would unacceptably harm the character and appearance of the area. Accordingly, it would be contrary to Policy P10 of the Leeds Local Development Framework Core Strategy (as amended 2019) (CS) and saved Policies BD6 and GP5 of the Leeds Unitary Development Plan (2006) (LP). Together, these Policies seek to ensure that the size, scale, design and layout of new development is appropriate to its context and respects the character and quality of surrounding buildings, streets and spaces that make up the public realm. It would also be contrary to the National Planning Policy Framework's (the Framework) design objectives to ensure new development is visually attractive and adds to the overall quality of the area.
9. The appeal site does not fall within the defined area of the Far Headingley, Weetwood and West Park Neighbourhood Design Statement and therefore it is not relevant to the appeal.

Pedestrian circulation and accessibility

10. The appeal site is flanked on one side by a convenience store, which has a post office within and a cash machine at the front. On the other side is another café/shop. Also within the parade is a pharmacy, off-license and hairdressers. The two end units appeared to be closed at the time of my site visit, but the other shops were observed to be relatively busy with footfall of a wide range of ages and mobility levels.
11. Within the adopted extent of the footway are a number of obstacles to pedestrian movement. There is a particularly narrow pinch point created by the post box and litter bin outside the convenience store. Although the appellant and others have commented that the existing decking does not obstruct pedestrians, I observed numerous occasions when pedestrians had to walk onto the forecourt at this point, but were then obstructed by the existing decking and had to wait for another pedestrian to pass before being able to continue past the appeal site. This also happened to users of the convenience store's disabled ramp, and although I did not witness any wheelchair users during my visit, the space between the end of the ramp and decking appeared particularly tight, notwithstanding that the decking has been set back from the end of the unit and the gap is similar to the hairdressers at the end of the terrace. Such limited available space would be likely to make it difficult to turn

a wheelchair. Although this was not specifically alluded to within the refusal reasons, the safe and free movement of pedestrians includes those with impaired mobility.

12. The Leeds Local Development Framework Street Design Guide Supplementary Planning Document 2009 (SPD) requires a minimum footway width of 3m in areas of identifiably higher levels of pedestrian activity, such as adjacent to shops. Even though the proposed decking would not encroach onto the adopted footway and would sit further back than the existing decking, it would not achieve the 3m SPD width requirement within the remaining forecourt. As such, the proposed decking would unacceptably reduce the area available for pedestrians to move and circulate in front of the shops, including those with impaired mobility and with prams. Whilst moveable tables and chairs on the forecourt would also lead to some obstruction of pedestrian movements, their impact would be considerably less than a permanent decking structure as they are much less likely to be present when the premises are closed, or when the weather is unfavourable for sitting out.
13. I acknowledge that the development would itself improve disabled access to the café, but this would not be achieved through a scheme that is acceptable in terms of design and appearance, as well as with regard to ensuring inclusive access for all.
14. I note the appellant's point regarding the pavement width in front of the houses to the south, which is abutted by boundary walls and is similarly restricted in places by parking signs. However, the pavement in that location does not have the same level of passing pedestrian traffic as the shops and in any event, this does not justify the harm.
15. The appellant also states that the decking would have highway safety benefits by preventing parking on the forecourt and containing the outdoor activity from spilling onto the footway. However, I have no substantive evidence that parking on the forecourt outside the appeal premises is a problem or likely to occur, so I give this limited weight.
16. I conclude that the development would have an unacceptable effect on pedestrian circulation and accessibility. Accordingly, it would be contrary to CS Policy T2, saved LP Policy GP5 and the SPD, where they seek safe and secure access for pedestrians, including people with impaired mobility. It would also be contrary to the Framework's objectives to create inclusive and accessible environments.

Living conditions

17. The wider surrounding area is predominantly residential and there are some residential properties above the parade of shops. The existing business operates as a café and bar from 0700 hours to 2100 hours each day, appearing to serve breakfast, lunch and dinner.
18. Several letters from interested parties raise concerns regarding issues of behaviour, noise and disturbance from customers using the decking, particularly as alcohol is served.
19. However, due to the range of shops in the parade, including the appeal site, the locality already has a relatively busy character throughout the day and evening. Moreover, the nearby Otley Old Road is a busy thoroughfare. I note

that the existing decking has been in place for some time now, including over the summer. Notwithstanding the anecdotal representations made on the appeal proposal, I have not been provided with any substantive evidence to indicate that the use of the decking has generated sustained unacceptable noise, disturbance or other nuisance.

20. Furthermore, the proposed decking would be smaller than the existing and hence the number of customers it could accommodate would be less than at present. I am also mindful that the decking is likely to be largely weather dependent and therefore quite limited. Even without the decking, customers would still arrive and leave the premises and could congregate outside. It may also be possible to place moveable tables and chairs on the forecourt, as has been suggested by the Council.
21. All of these factors lead me to conclude that in its context, the development would not be harmful to the living conditions of the occupants of nearby residential properties. In this regard, the proposal accords with CS Policy P10 and saved LP Policy GP5, where they seek to protect residential amenity. There is also no conflict with the Framework's objectives in this regard. This does not however outweigh the harm I have already identified in respect of the other main issues in this appeal.

Other Matters

22. I have had regard to the numerous letters expressing support for the decking and to the appellant's comments that the decking is an integral part of the wider appeal of the business. I acknowledge, that its use has the potential to bring some vibrancy to the business and parade of shops, to a degree. I also accept that there would be some economic benefits arising from the additional business generated by the increased capacity of the premises on some occasions. However, given the small scale of the decking and the limitations to its use, being largely weather dependent, these benefits can only be given limited weight. Furthermore, I have no evidence that the absence of the decking will significantly affect the viability of the business or go against the aims of the Framework to help build a strong, competitive economy, particularly as other options may exist for outside seating. Accordingly, this does not outweigh the harm I have found.
23. Whilst I have noted the comments relating to the planning history of the site, I have determined this appeal on its own individual planning merits.

Conclusion

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

Adrian Caines

INSPECTOR