
Appeal Decision

Site visit made on 19 November 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2020

Appeal Ref: APP/X4725/W/20/3257498

The Robin Hood PH, 4 Wakefield Road, Town End, Pontefract, West Yorks WF8 4HN

- 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 Key To The North Ltd against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 20/00264/FUL, dated 22 January 2020, was partially refused by notice dated 17 June 2020.
 - The development proposed is change of use from highway to seating area, in conjunction with adjacent public house, including trellis for support of hanging, trailing plants.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from highway to seating area, in conjunction with adjacent public house, including trellis for support of hanging, trailing plants at The Robin Hood PH, 4 Wakefield Road, Town End, Pontefract, West Yorks WF8 4HN in accordance with the terms of the application, Ref 20/00264/FUL, dated 22 January 2020 subject to the following conditions:
 - 1) The use of the outdoor seating area hereby approved shall not take place at any time except between the hours of 09:00 and 23:00 on any day.
 - 2) At no time shall any sound amplification equipment be used within, or connected to, the external seating area hereby approved.

Preliminary Matters

2. The Council have granted planning permission for the change of use from highway to seating area, in conjunction with the adjacent public house. I have no reason to disagree with the Council on this element of the development and I consider that no planning harm is caused by this part of the proposal. In this context the main issue relates to the trellis for supporting hanging and trailing plants.
3. The development has been undertaken. I am therefore considering the appeal retrospectively.

Main Issue

4. The main issue is the effect of the trellis on the character and appearance of the area.

Reasons

5. The appeal site is located on a busy roundabout junction with the development relating to land adjacent to an existing two storey public house. It is located on the edge of the town centre.
6. At the time of my site visit in mid-November, I observed that the structure supported a reasonable amount of planting, although this would likely to diminish as winter progresses, but no doubt increase to be fuller, with greater coverage with the onset of spring and summer.
7. For the most part, the structure is seen against the backdrop of a substantial brick wall that also has trailing plants cascading over it. It is also seen in the context of the existing pedestrian guard railing, streetlighting column and traffic signs that are of a similar galvanised steel appearance to the trellis. In this setting and due to its relatively low scale and open structure, when combined with the planting, albeit of fluctuating levels throughout the year, I do not consider that the trellis causes unacceptable harm to the character and appearance of the area.
8. The Council comment that the structure is more associated with concert venues and outdoor staged events and used to house audio or lighting equipment, although none had been installed. Be that as it may, I do not consider that this would be a reason to dismiss the appeal. The Council also comment that they fail to understand the purpose of the trellis as it does not offer protection to patrons from sun or rain and does not include a covering. Such absence of understanding would also not be a reason to dismiss the appeal, and it is perfectly reasonable to assume that the purpose of the structure is to support hanging and trailing plants, as has been outlined, presumably with the intent of providing greenery to improve the appearance of the area.
9. The Council have also commented that the type of containers in which the plants have been planted are considered to be relatively small and unlikely to be able to sustain the types of planting proposed for a long period of time which would be likely to result in the plants dying off. The longevity of the planting would be for the appellant to manage and the Council have not provided substantive evidence to support their comments.
10. The Council have referred to the loss of a tree that had been intended to be retained. From the evidence before me there has been no requirement to retain the tree. Its removal therefore has little weight in the appeal.
11. I therefore conclude that the structure to support the planting as outlined does not have an unacceptable impact on the character and appearance of the area. It therefore complies with Policy CS10 of the Wakefield Local Development Framework Core Strategy (2009) and Policy D9 of the Wakefield Local Development Framework Development Policies Document (2009) which require, amongst other things, that new development respect, and where appropriate enhance the character of the locality.
12. The development also complies with paragraphs 127 and 130 of the National Planning Policy Framework (2019) which require, amongst other things, that planning decisions should ensure that developments add to the overall quality of the area; are visually attractive as a result of good architecture; and that

permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Conditions

13. As I am allowing the whole development it is necessary to impose conditions that are relevant to the whole development. As the development has been undertaken it is not necessary to impose a condition requiring it to be carried out in accordance with the approved plans. In the interests of the living conditions of occupiers of nearby premises, it is necessary to impose planning conditions to restrict the hours in which the outdoor seating area can be used and that no sound amplification equipment shall be used in connection with the outdoor seating area.
14. The condition imposed by the Council relating to hours of use restricts the use of the seating area to between 12:00 and 23:00. Although I agree that an hours restriction is necessary, I find no reason why the use of the seating area would be unacceptable prior to 12:00 and I have accordingly imposed a condition restricting its use to between 09:00 and 23:00.

Conclusion

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

A M Nilsson

INSPECTOR