
Appeal Decision

Site visit made on 23 December 2020

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28/01/2021

Appeal Ref: APP/K0425/W/20/3260332

**Da Luca Restaurant, 5 Kingswood Parade, Marlow Bottom Road,
Marlow Bottom SL7 3NT**

- 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 Gianluca Paletta against the decision of Buckinghamshire Council.
 - The application Ref 20/05983/FUL, dated 14 April 2020, was refused by notice dated 28 July 2020.
 - The development proposed is replacement of current parasol by a new outdoor space canopy including structure to level the floor.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal relates to an existing restaurant located within a local shopping parade. No 5 Kingswood Parade faces onto Marlow Bottom road and forms the westernmost unit of a building that turns the corner at the junction of Marlow Bottom Road and New Road. Residential properties are located on the first floor of the building and other commercial units, including a nail bar and hair salon, are located at ground floor level. The building has a relatively simple architectural form and appearance, including gable roofs, facing brick, hanging tiles at first floor level and glazed commercial frontages at ground floor. The building is prominent in public views by virtue of its corner plot location and set-back behind a predominantly open and pedestrianised forecourt.
4. The restaurant at no 5 has glazed bi-fold doors that open onto an outdoor dining area beneath a large fixed position umbrella. The outdoor dining area is bounded by 1m high fencing and, at the time of my site visit, removable side curtains were in place below the umbrella. I note that the appellant's statement advises that the side curtains are left up almost permanently, except on the windiest days. The umbrella is not attached to the building and the side curtains have large clear panels providing views into, and out of, the outdoor seating area.

5. The existing covered outdoor seating area provides an informal interface between the restaurant and the wider public realm, with the restaurant activity appearing to spill into the outdoors. In contrast, the proposed glazed canopy, given its more substantial form and attachment to the building, would more formally enclose this activity within the restaurant building. This would, notwithstanding the ability to remove glazing panels, be harmful to the open and active character of the parade's forecourts.
6. Furthermore, the projection of the extended building significantly forward of the neighbouring commercial properties would appear incongruous and intrusive against the visual coherence of the parade's façades. The proposal, although predominantly glazing, would be so substantial as to unbalance and harmfully dominate the parade by virtue of its significant forward projection against the existing simple form of the building.
7. For the reasons described above, the proposal would have a harmful effect on the character and appearance of the host property and the surrounding area. As such, the proposal would conflict with Policies CP1, CP9, DM20 and DM35 of the Wycombe District Local Plan (2019) which collectively, amongst other things, require development to achieve a high quality of design which contributes positively to making places better for people and which takes the opportunities available for improving the character and quality of an area and the way it functions. It would also, therefore, be contrary to paragraph 127 of the National Planning Policy Framework (the Framework) which requires developments are sympathetic to local character and add to the overall quality of the area.

Other Matters

8. My attention has been drawn to the various impacts of the Covid-19 pandemic on the appellant's business. These include, amongst others, the reduction in the number of seats available to customers, cleaning slowing the turnover of covers, and restrictions on customers entering the building for takeaway orders. I am satisfied that the proposal would somewhat assist in mitigating the detrimental effects on the business of these Covid-19 impacts. In accordance with paragraphs 80 and 81 of the Framework, I give significant weight to the proposals contribution to supporting economic growth and enabling a rapid response to changes in economic circumstances. Whilst I note the appellant's assertion that the development is required to enable sufficient covers to ensure the restaurant remains viable, no detailed viability or employment information has been provided. As such, this limits the weight I attach specifically to the risk that the business may be lost and a vacant unit result if permission is withheld.
9. The site is within the Chilterns Area of Outstanding Natural Beauty (AONB). In accordance with paragraph 172 of the Framework, great weight must be given to conserving and enhancing the landscape and scenic beauty of the AONB. As the impact of the proposal at landscape scale would be minimal, the proposal would have a neutral effect on the AONB and would not conflict with the Framework in this respect.
10. I have had regard to the concerns of interested parties including regarding noise, traffic and disturbance. Given the proposal would replace an existing outdoor seating area, none of these concerns add to my reasons for dismissing the appeal.

Conclusion

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise. Whilst I give significant weight to the economic benefits of the proposal, they do not, either individually or collectively, outweigh the harm identified in the main issue, nor the conflict with the development plan.
12. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR