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## Appeal Decision

Site visit made on 12 March 2021

**by O S Woodward BA(Hons.) MA MRTPI**

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

**Decision date: 30<sup>th</sup> March 2021**

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**Appeal Ref: APP/X5990/W/20/3252883**

**108 Star Street, London W2 1QF**

- 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 Mikaeel Dada against the decision of City of Westminster Council.
  - The application Ref 20/01116/TCH, dated 17 February 2020, was refused by notice dated 9 April 2020.
  - The development proposed is for the use of an area of the public highway measuring 4.11m x 1.66m for the placing of three tables and six chairs in connection with the ground floor use
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I have adopted the description of development from the decision notice as it provides a more precise summary of the proposal.

### Main Issue

3. The main issue is what the effect of the proposal would be on highway safety, with particular regard to pedestrians.

### Reasons

4. The Westminster Way – Public Realm Strategy SPD (September 2011) states that the minimum width of the 'clear zone' on a footway for pedestrians should be 2 metres. The Manual for Streets echoes this minimum unobstructed width of 2 metres for pedestrians.
5. The proposal is for three tables and six chairs to be located on the footway outside of a class A3 restaurant. The footway in this location is relatively narrow. The width of footway left clear beyond the proposed tables and chairs would be less than 2 metres, at approximately 1.5m. It is likely that the true area left unobstructed would often be less when in operation due to people moving chairs and getting up and down from the tables. The proposal, by restricting the width of the pedestrian zone, would therefore harm pedestrian safety and cause obstructions to pedestrians.
6. The appellant has highlighted precedent for tables and chairs on the footway at nos. 179-182, 193, 195 and 207 Edgware Road. However, Edgware Road has a much wider footway than Star Street and the provision of tables and chairs in

the locations highlighted would not narrow the clear part of the footway below 2 metres.

7. The proposal would therefore harm highway safety and fails to comply with the relevant parts of Policy S41 of the Westminster City Plan (November 2013) which, amongst other criteria, requires that proposals prioritise pedestrian movement and a safe pedestrian environment. The proposal fails to comply with Policies TRANS 3 and TACE 11 of the Unitary Development Plan (January 2007) which, amongst other criteria, require safe and convenient pedestrian movement and that tables and chairs do not cause obstruction or endanger pedestrians.

### **Other Matter**

8. The reason for refusal also found that the proposal would make it difficult to clean the footpath. However, the Council acknowledged in its appeal statement that this could be overcome if the tables and chairs were stored in the shop when not in use. There is nothing before me to suggest that this could not take place, and this could be controlled by condition if the proposal were otherwise acceptable. The proposal is therefore acceptable in this respect.

### **Conclusion**

9. For the reasons above, the appeal is dismissed.

*O S Woodward*

INSPECTOR