



Appeal Decision

Site visit made on 1 June 2021 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2021

Appeal Ref: APP/N4720/W/21/3270753

35 King Street, Drighlington, Bradford, BD11 1EJ

- 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 Berine Kidger against the decision of Leeds City Council.
 - The application Ref 20/05454/FU, dated 26 August 2020, was refused by notice dated 22 October 2020.
 - The development proposed is an external canopy on the side elevation along with 2no. gazebo.
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Decision

1. The appeal is dismissed.

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.

Procedural Matter

3. The canopy and gazebos that are the subject of this appeal have already been constructed. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the appeal property and the street scene, and the effect of the development on the living conditions of local residents.

Reasons for the Recommendation

Character and appearance

5. The appeal site comprises a detached building that fronts onto King Street and houses 'Romanos' restaurant. King Street comprises a mix of residential and commercial properties. Some of the buildings directly front the street while others are set back from the street with front gardens and driveways. Winterfell Road, to the east of the appeal site, is part of a new housing development where the majority of the dwellings are set back slightly from the street with small, well maintained, front gardens. The surrounding area has a neat and uncluttered character. The building housing the restaurant is an historic stone-built property with a symmetrical façade and attractive coursing
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details and corbelling. It appears as a notable building in the street scene on account of its age and design.

6. The restaurant has an external seating area and water feature to the front and a grassed area and small car park to the rear. A canopy has been erected on the south-east side elevation of the building along with two gazebos, one to the front and one to the rear of the canopy. The front of the site is bordered by reed screening and there are a number of signs advertising the restaurant along the front boundary, although the Council states these elements are unauthorised.
7. The gazebo to the rear has very limited visibility from public viewpoints. The canopy is of a lightweight material and is largely screened by the gazebo to the front. However, the front gazebo is in a very prominent location and does not contribute positively to the appearance of the site and its surroundings given its scale and projection forwards of the building line. Furthermore, the presence of the canopy and front gazebo has exacerbated an already cluttered and cramped appearance to the front of the building, when added to the various other ornamental structures adverts and seating. Overall, while the canopy and gazebos provide an area of shelter which benefits the customers using the outside of the restaurant, the proposal detracts from the character and appearance of the attractive frontage of the building and is not in keeping with the open and uncluttered character of the wider street scene.
8. For this reason, the proposal causes significant harm to the character and appearance of the appeal property and the street scene. The proposal would therefore conflict with policy P10 of the Leeds City Council Core Strategy (2014) (CS) and saved policies BD5, BD6 and GP5 of the Leeds Unitary Development Plan (Review 2006) (UDP). These policies all seek, in various ways, for the size, scale and design of a development to be appropriate to its context and to respect the character and quality of the surrounding buildings, streets and the wider locality.

Living conditions of local residents

9. The canopy and gazebos are situated to the side of the building, which is immediately adjacent to dwellings along Winterfell Road who share rear and side borders with the appeal site. The restaurant already had areas to the front and rear for people to sit outdoors, however the canopy and gazebos have provided a covered area to the side of the building where customers can congregate in all weathers.
10. Local residents have objected to the application and state that there are regular noise and disorder issues from customers at the appeal property. I have not been provided with full details of those instances but the canopy and gazebos are likely to result in a greater propensity for people to stay in the outdoor area for longer and into the early hours of the morning, with associated disturbance from people congregating outside, talking loudly especially if boisterous. That impact will be heightened by the very close proximity to neighbouring dwellings. The presence of the canopy and gazebos would therefore result in a significant likelihood of increased disturbance at unsocial hours when most nearby residents would be sleeping.
11. It has also been reported by local residents that people use the covered area for smoking. I have no evidence before me to indicate which area was used for

smoking before the canopy and gazebos were erected, so it is possible that the area to the side of the building was previously used by smokers. However, given that the covered area would enable people to stay outdoors for longer periods and in all weathers, it is likely that the amount of smoking could increase in this area, which is immediately adjacent to neighbouring dwellings.

12. The appellant has suggested that a condition could be used to require the rear gazebo to be clearly signposted as a no smoking area. However, such a condition would require constant monitoring and the practicality of this when staff are busy serving customers or undertaking other duties may make the condition difficult to enforce. In any event, even if that was possible it would not overcome my significant concerns relating to the additional noise and disturbance.
13. For these reasons, the proposal would have an unacceptable impact on the living conditions of local residents resulting from increased noise and disturbance. The proposal would therefore conflict with policy P10 of the CS and saved policies BD5 and GP5 of the UDP. These policies all seek, in various ways, to protect the living conditions of residents.

Other matters

14. The appellant states that the provision of covered outdoors areas is reasonably expected as a result of the restrictions imposed for the Covid-19 pandemic. I am mindful of the difficulties the pandemic has brought for the restaurant sector. However, these restrictions are temporary and do not justify the harm that has been identified. There is no evidence of any attempt to provide a more sympathetic solution or to discuss any requirements with the Council before work was completed. Therefore, whilst I recognise the difficulties of restrictions during the pandemic I am not satisfied that is suitable justification for the harm that has arisen. It has been suggested by the appellant that a temporary permission could be issued, however this would not mitigate the significant harm caused by the proposal and I am not satisfied that the harm is justified even on a temporary basis.
15. The appellant further states that the proposal provides economic benefits by increasing capacity so people don't have to travel further afield to go for a drink or meal, and that the development is necessary to safeguard the economic viability of the establishment. The covered area provides more standing room but not more seating so it has not been demonstrated that the proposal would significantly affect the capacity of the building. Also, it would appear that the business has been operating for some time and no tangible evidence has been submitted to demonstrate that the business would be at risk if the proposal was refused.
16. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR