



Appeal Decision

Site visit made on 29 March 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/X5990/W/21/3287395

81 Abbey Road, London NW8 0AE

- 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 Amr Ali of Tia Ryan Ltd, against the decision of the Council of the City of Westminster.
 - The application Ref 21/04856/FULL, dated 2 July 2021, was refused by notice dated 13 September 2021.
 - The development proposed is raised outdoor seating area with bollard lighting and screened planter boxes to the front and side.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Tia Ryan Ltd against the Council of the City of Westminster. This application is the subject of a separate decision.

Preliminary Matters

3. At the time of my site visit the proposed development was already in place. The plans submitted at the time of the planning application indicated that the raised platform would have a tiled finish and the planter pots would be larger. This does not reflect the development installed at the time of my site visit, as the raised platform was finished in decking and the pots were smaller with individual plants.
4. With the appeal the appellant provided amended plans which reflect the development that has been installed on site. The Council was aware of this discrepancy and had the opportunity to comment on the amended plans. Given the minor changes between the original and amended plans, I have determined this appeal based on the amended plans and I consider that no party has been prejudiced by me doing so.

Main Issues

5. The main issues are:
 - whether the development preserves or enhances the character or appearance of the St John's Wood Conservation Area; and
 - the effect of the development on pedestrian safety.

Reasons

6. This appeal concerns the forecourt area around London Coffee Bank, a café occupying the ground floor of a corner building. The existing outdoor seating areas are located along both its Abbey Road and Boundary Road frontages.

St John's Wood Conservation Area

7. The appeal site is located within the St John's Wood Conservation Area (the CA). The significance of the CA appears to be derived from its spacious character created by wide streets and its low density and domestic townscape. The immediate part of the CA is also a vibrant centre created by the wide variety of uses along the core frontage.
8. The terrace along Abbey Road in which the appeal site is located comprises a row of shopfronts, many of which retain their traditional design and proportions. The deep forecourts are a common feature and, although they are used for different purposes, all contribute towards the spacious setting. The immediate short stretch of commercial uses along Boundary Road close to the corner with Abbey Road has a similar arrangement. The appeal site reflects these characteristics and thus makes a positive contribution to the CA.
9. Whilst the development does not obscure any historic or architectural features of the host building, the extensive use of timber across a significant area at both the Abbey Road and Boundary Road frontages appears at odds with the traditional materials in the CA. It gives the seating area a stark and temporary appearance which, along with its raised profile, causes it to be a prominent feature. The planting, which may soften the appearance of the seating area, is not a permanent feature and could die or be removed. Moreover, the planters themselves create a busy and cluttered feel due to their sheer number, coverage and individual design. Together, the development appears as an intrusive and incongruous addition in the street scene which fails to assimilate well into its traditional surroundings.
10. I did not observe any similar timber installations within close proximity to the appeal site. There are other examples of outdoor seating areas nearby. Some seating areas utilise the existing pavement and do not involve the installation of decking or similar structures. Where forecourts have been raised to nearby units, I observed that they were finished in materials which reflect the existing footway and thus are more sympathetic to the locality. The planters at 81 Boundary Road are limited in number and coverage thus are not directly comparable to the appeal proposal.
11. Consequently, the development fails to preserve or enhance the character or appearance of the CA, thereby harming its significance.
12. Given the scale of the development in context, the harm it causes to the significance of the CA is less than substantial. The National Planning Policy Framework (the Framework) is clear that irrespective of the level of harm, great weight should be given to the asset's conservation and, where a proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
13. I do not doubt that the external seating area contributes to the vitality and atmosphere of the local centre through the presence of customers dining outside. However, there is no conclusive evidence before me which indicates

that the topography of the forecourt is of such a considerable slope that would prevent the placing of tables and chairs directly in this area. Thus, any benefits to the local environment could be achieved without the installed seating area.

14. I acknowledge the support from the Government for al Fresco dining through the introduction of a simplified route for temporary pavement licences, and that this development provides a safe and healthy outdoor area for people to dine. However, this was a temporary measure, dated a considerable time ago, to assist businesses in their recovery from the Covid-19 pandemic and it concerned the placing of furniture on the highway. The development before me is for a permanent installation and, moreover, there is limited information before me to establish to what extent the seating area would assist the business in terms of its ongoing viability.
15. Accordingly, the public benefits of the development are limited and do not outweigh the identified harm to the CA, which carries great weight. In addition, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. The proposal conflicts with Policies 38, 39 and 40 of the City of Westminster City Plan 2019-2040 (April 2021) (the City Plan) and the Framework which together seek to ensure that developments respond positively to the streetscape having regard to materials and design and ensuring heritage assets are conserved.

Pedestrian Safety

16. Whilst the raised seating areas extend out across the forecourts of each frontage by a considerable depth, the required 2 metre width for footways would be maintained. There are however a number of items of street furniture adjacent to the seating areas including highway signage, information boards, street lighting columns and a tree. The Council are concerned that the development, combined with these obstacles, blocks the flow of pedestrians along the footpath.
17. The forecourts of all the adjacent units along the host terrace are of a similar generous depth due to the setback position of the appeal terrace. Some of the forecourts are used for outdoor seating or the selling of goods, whilst others are relatively open with only some freestanding advertisements present. I note that the forecourt areas of the appeal site are within the appellant's ownership and it seems that it has historically been demarcated for various uses associated with the appeal building.
18. Due to the variety of uses on the forecourts, which create intermittent obstacles, I consider it unlikely that pedestrians would weave in and out of the forecourts when traversing along this stretch of Abbey Road. Therefore, notwithstanding the ownership of the forecourt and even if it is to be considered part of the highway, given the existing arrangement of forecourts along the terrace, pedestrians would be taking a more direct path along this stretch of Abbey Road by keeping closer to the kerbside.
19. Nevertheless, even when taking this direct route, there are a number of items of street furniture immediately adjacent to the seating area, notably along this stretch of Abbey Road. However, the supports for the welcome sign are spaced a generous distance apart and the sign is a sufficient distance overhead so as to allow pedestrians to pass under it in the middle of the available footway. The information board is sited close to the kerbside, also giving generous room to

pass in the middle. The tree and its planting area are the largest item of street furniture however there is sufficient space either side for a range of pedestrians, including vulnerable pedestrians and those with particular mobility requirements, to safely manoeuvre around and take a relatively direct route past the appeal site.

20. Indeed, at the time of my mid-afternoon site visit I observed that, despite the high number of pedestrians passing the appeal site, the seating area and existing street furniture did not create significant obstacles and there remained sufficient room for a range of pedestrians to pass concurrently. Given that pedestrians would likely be travelling away from the forecourts, the seating area does not pose a significant trip hazard.
21. Consequently, the seating area does not significantly interrupt the free flow of pedestrians and thus does not harm pedestrian safety. It therefore accords with Policies 25 and 43 of the City Plan which seek to ensure that developments prioritise the pedestrian environment and not compromise pedestrian movement.

Conclusion

22. Although I have found that the development does not harm pedestrian safety, for the reasons given above, the development conflicts with the development plan as a whole, and in the absence of material considerations to indicate otherwise, the appeal is dismissed.

H Ellison
INSPECTOR