
Appeal Decision

Site visit made on 12 July 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/H5960/W/22/3291921

La Casa Mia, 277 Upper Richmond Road, London SW15 6SP

- 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 Tomas Fiala against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/1958, dated 8 April 2021, was refused by notice dated 5 August 2021.
 - The development proposed is to install a stretch tent in our outside seating area at the rear of restaurant.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development on:
 - the character and appearance of the area including the Parkfields Conservation Area; and
 - the living conditions of neighbouring residents with regard to noise.

Reasons

Character and Appearance

3. The appeal property is a two storey mid-terrace building along with its rear outdoor area. The ground floor of the building is used as a restaurant, while the upper floor is in residential use. The proposed development would involve the installation of a tent canopy over the outdoor seating area located within the rear area. While the site is located in a mainly residential area, the terrace includes other commercial uses at ground floor level, with a number of the properties having residential uses on the upper floors. There are also commercial uses within the adjacent terrace.
4. The site is within the Parkfields Conservation Area (the Conservation Area). The part of the Conservation Area in which the site is located is associated with Parkfields, a narrow lane lined by dwellings. From the evidence before me and my site visit observations, the significance of the Conservation Area is derived, in part, from its architectural and historic interest associated with the development of the area, and the evidence it provides of the architectural style and building techniques of the time, including the spatial arrangement of the buildings with each other and the surrounding spaces.

5. The Council's Conservation Area Appraisal describes the group of properties in which the site is located as *"short early/mid-C19 cottage rows, stock brick and slate with timber joinery, of two stories with hipped roofs, and with inserted shopfronts- the late-C19 examples of some quality, the C20 inserts less so"*. The property therefore makes a positive contribution to the character and appearance of the Conservation Area by virtue of its appearance, including as part of the group of properties on the terrace.
6. The proposed tent canopy would be visible to nearby residents due to its visibility from a number of the outdoor amenity areas and windows of the properties in the immediate vicinity. Although I could not access Fairfax Mews, a nearby gated development, given the proximity, orientation and layout of the properties, it is likely that the tent canopy would be visible from certain vantage points in this location. There would also be the potential for some glimpsed views of the upper part of the tent canopy from certain locations on Parkfields. However, it would be seen across the rear areas of intervening properties and so such views would likely be limited.
7. As the proposal would affect the rear of the property, it would be largely unnoticed in the majority of public views and the effect on the townscape would not be as apparent as a change to the front of the property. However, the character of the Conservation Area derives from the buildings, layout and surrounding spaces as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can be readily seen.
8. Noting the excessive ground coverage and the nature of the proposed material and how it would be affixed, the tent canopy would represent a discordant and over-intensive addition to the site that would appear at odds with the traditional appearance of the host property and the wider area.
9. The appellant states that the tent canopy would be a temporary fixture. However, I note that the appellant's design statement describes it as a semi-permanent stretch tent, with the application form stating that it would be an all-weather fabric. In addition, no details are provided on the period over which the appellant would use the tent canopy. Based on the evidence before me, I am not persuaded that this would provide adequate mitigation for the harm identified.
10. The proposed development would therefore detrimentally affect the character and appearance of the area. It would fail to preserve or enhance the character or appearance of the Conservation Area and would cause less than substantial harm to its significance as a whole. Although I have found that the harm to the Conservation Area would be less than substantial, even so, this harm is of considerable importance and weight. Under such circumstances, paragraph 202 of the National Planning Policy Framework (the Framework) advises that the harm should be weighed against the public benefits of the proposal.
11. The appellant states that the proposal would increase customer numbers to help the business financially and to retain/obtain staff. In this regard, I note that the information on the application form identifies that there would be an increase of two employees. I give this benefit moderate weight.

12. I appreciate that providing well ventilated outdoor space which is sheltered from different types of weather is important to customers. However, this would benefit customers of the restaurant rather than being a public benefit.
13. Paragraph 199 of the Framework states that great weight should be given to the asset's conservation. Paragraph 200 requires clear and convincing justification for any harm to or loss of significance of a designated heritage asset. Consequently, the harm I have identified to the Conservation Area attracts considerable weight against the proposed development. Given the weight that I attach to the public benefit, this would not outweigh the harm that would be caused.
14. I therefore conclude that the proposed development would cause harm to the character and appearance of the area and less than substantial harm to the Conservation Area. Accordingly, it would conflict with the requirements of Policy DMS1 of the Wandsworth Local Plan Development Management Policies Document, adopted 2016 (the DMPD) which requires development to provide a high quality, sustainable design and layout that contributes positively to local spatial character, as well as the design objectives of the Framework. It would also conflict with the requirements of Policy DMS2 of the DMPD and Policy HC1 of the London Plan, 2021, regarding proposals affecting heritage assets, in addition to the requirements of chapter 16 of the Framework, the most relevant of which have been summarised above.

Living Conditions

15. The outdoor seating area is adjacent to residential uses. This includes a flat which has windows facing over the area in very close proximity, and a dwelling on Fairfax Mews with a conservatory immediately adjacent as well as first floor windows facing over the area in close proximity.
16. The tent canopy would cover virtually the whole of the existing outdoor seating area. This area has the potential to be used quite intensively and by relatively high numbers of customers at any one time. While peak periods of use could similarly apply to the seating area in its uncovered form, this would be largely dependent on favourable weather conditions and so would be unlikely to consistently occur during a comparable range of hours and/or seasons of the year. To my mind, the tent canopy would enable noticeably increased hours/levels of customer activity and associated noise disturbance when compared to the existing circumstances.
17. In the interests of controlling operations during sensitive time periods, in particular later evening, hours of use could potentially be subject to a condition in the event of a successful appeal. However, in the absence of a noise impact assessment or similar, I cannot be sure about what potential operating hours might be appropriate. I note that the restaurant is used only within its licensing agreement hours. However, no details have been provided about the licenses or what considerations may have been given to any applicable operating hours in terms of the effect on living conditions of nearby residents.
18. For the above reasons, in the absence of supporting evidence to clearly demonstrate otherwise, I conclude that the proposed development, through promoting increased/intensive levels of customer activity, would cause harm to the living conditions of neighbouring residents with regard to noise. The

proposed development would therefore conflict with the amenity requirements of Policy DMS1 of the DMPD.

Other Matters

19. I appreciate that the COVID pandemic has had a damaging effect on the hospitality industry. The proposed development would offer the potential to help to increase customers, which would be a benefit for the viability of the business. While acknowledging this benefit, based on the evidence before me, it would not outweigh the harm that would be caused to the character and appearance of the area including the Conservation Area, or the living conditions of nearby residents.

Conclusion

20. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR