
Appeal Decision

Site visit made on 8 November 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/W2465/W/22/3297956

1 Andrewes Street, Leicester LE3 5PG

- 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 Syedur Rahman, Chef and Spice against the decision of Leicester City Council.
 - The application Ref 20212516, dated 1 October 2021, was refused by notice dated 3 March 2022.
 - The development proposed is the installation of an awning to the front of the 'Chef and Spice' Restaurant.
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Decision

1. The appeal is allowed and permission is granted for the installation of an awning to the front of the 'Chef and Spice' Restaurant at 1 Andrewes Street, Leicester LE3 5PG, in accordance with the terms of the application, Ref 20212516, dated 1 October 2021, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the locally listed St Peter's Catholic Church; and
 - the effect of the proposal on the adjacent street tree.

Reasons

Character and appearance

3. The proposal is for a non-retractable awning along most of the frontage of the Chef and Spice Restaurant on the northern side of Hinckley Road to provide shade and cover for an external seating area. The single storey restaurant is set back from the footway behind a low boundary fence and the open fronted awning would be erected over this area. It would be between about 3.3 m and 6.2 m deep, 16.7 m wide across the frontage, 3.2 m high beside the building sloping down to 2.5 m high along the back of the footway, where it would be supported by six columns.
4. With the exception of the church immediately to the east, this part of Hinckley Road is lined by two and three-storey properties hard up to the footway with a variety of retail and other commercial premises at ground floor level. The Chef and Spice Restaurant forms part of these active frontages and although the

awning would be a unique and colourful feature along this stretch of road it would not appear out of place in the context of the commercial area or project beyond the general building line on either side.

5. However, the restaurant is situated adjacent to the locally listed St Peter's Catholic Church, a modern brick-built church centre dating from 1978-80. The road frontage comprises the buff brick two-storey presbytery, the church itself with its projecting copper clad organ/chancel feature and a distinctive tall freestanding bell tower on the corner of Coventry Street. The church centre is set back from the footway behind a grass verge, and the restaurant is set back more or less in line with it. When approaching from the west along Hinckley Road, this set back allows better views of the church centre, and the awning would affect views of the church buildings from this direction.
6. The church and its associated buildings, designed by T E Wilson of Oakham, form a carefully conceived and attractive group well worthy of local listing. On approaching from the west the awning would partially obscure the view of the buildings until passing the restaurant, particularly for walkers on the footway. However, it would be the view of the less important presbytery rather than the distinctive church and bell tower that would be most affected, and once past the restaurant the wide church centre frontage would be fully open to view. Views for those approaching from the east would be unaffected. Overall, there would be a marginal impact on its setting, but the significance and appreciation of the church centre and its design qualities would not be unduly affected.
7. For these reasons the proposal would not significantly affect the character and appearance of the area, nor materially harm the setting of the locally listed St Peter's Catholic Church. It would therefore comply with Policy CS3 of the Leicester City Core Strategy 2014 which requires high quality development that is appropriate to the local setting and context.

Street tree

8. The erection of the awning may adversely affect a street tree on Hinckley Road which is located on the footway. However, this is adjacent to the carriageway a few metres away with only a small part of its root protection area likely to be affected. The tree could therefore be protected by a suitable condition.

Conclusion

9. The Council suggested four conditions should the appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty. Conditions are also necessary to enable the Council to control the details of the awning to ensure its satisfactory appearance in the street scene and to protect the health of the street tree.
10. The proposed awning would provide additional seating for the restaurant, enhancing its capacity, strengthening the business and enlivening the street scene. In the absence of significant adverse effects there is no reason to withhold permission and the appeal should therefore be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan
Existing Street Scene, Site Plan & Elevations DSA-21106-ELE-EXT-01-B
Proposed Street Scene, Site Plan & Elevations DSA-21106-ELE-PRO-01-C
- 3) No development shall take place until full details of the material and colour of the awning have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) No equipment, machinery or materials shall be brought onto site for the purposes of the development until the root protection area of the adjacent street tree, *Tilia x Europaea*, has been protected by the erection of fencing in accordance with British Standard BS 5837:2012. The fencing shall be maintained until all equipment, machinery and any surplus materials have been removed from the site. Nothing shall be stored or placed in the area fenced in accordance with this condition and no alteration to the ground level shall be made without the prior written approval of the local planning authority.