



Appeal Decision

Site visit made on 29 November 2022

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Appeal Ref: APP/X5990/W/22/3303756

Ground Floor South, 54 Wardour Street, London W1D 4JF

- 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 Yoav Baumgarten (B Bagel Soho Ltd) against the decision of City of Westminster Council.
 - The application Ref 21/08203/TCH, dated 1 December 2021, was refused by notice dated 13 May 2022.
 - The development proposed is planning permission for tables and chairs licence in Westminster.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the free flow of pedestrians and pedestrian safety.

Reasons

3. The appeal property is located on the corner of Wardour Street and Old Compton Street. Access to the premises is taken by way of a doorway on the corner of the building, to either side of which are large, glazed window units. A narrow area, surfaced with distinctive glazed blocks, lies immediately adjacent to each of the unit's two street frontage façades.
4. The chairs and tables in question would be positioned within this area, two chairs to each table, with two tables on either side of the entrance door. Assuming that the tables and chairs are placed neatly in line and immediately abutting the shop frontages, clear passage in the region of 2 metres would be maintained along the footway.
5. However, that assumes that neither the tables nor chairs would be moved to accommodate patrons. Rather, it is more likely that the chairs and, to a lesser extent, the tables, would be moved to accommodate their use. Groups of more than two people would be likely to move chairs around to form a larger cluster which would inevitably protrude into the area of clear passage shown on the plans. Even if occupied by only two people, chairs and tables would be likely to be moved to facilitate ease of access and movement around the tables, particularly on Old Compton Street where the space is more confined along the premises frontage.
6. Whilst I have noted the appellant's indication that table service is not provided, the tables would nevertheless need to be serviced at some point. Given the restricted space around the tables I am not persuaded that it would be

practicable to expect that this would not further compromise the area of clear passage shown on the plans.

7. The junction of Wardour Street and Old Compton Street was, at the time of my visit, a busy junction. Whilst I appreciate that its business is likely to ebb and flow, there are already impediments to free movement along the pavement in the vicinity of the appeal site. Existing street furniture, a nearby cycle hub, pedestrian crossing points and a mix of one way and contra-flow traffic and cycle lanes are such that vigilance is required for all road and pavement users at this point. The ease with which the proposal would facilitate and encourage unchecked expansion of further impediments to the safe, convenient and free flow of pedestrians would compromise pedestrian safety.
8. Westminster City Plan (WCP) Policy 25 seeks to promote sustainable transport by prioritising walking and cycling whilst WCP Policy 43 sets out the Council's approach to achieving a well-designed public realm. The '*Westminster Way – Public Realm Strategy*' Supplementary Planning Document (SPD) provides further advice in respect of the aims of these WCP policies and draws on national guidance in the form of 'Manual for Streets'¹.
9. Although the submitted plans show a 2-metre area of clear passage would be maintained along both frontages, I am not persuaded that it is realistic that this could be maintained. As a consequence, I share the Council's concerns that the use of the tables and chairs would be likely to result in overspill and encroachment into this area, to the detriment of the free flow of pedestrians and thus pedestrian safety. The proposal would therefore fail to accord with the aims and provisions of WCP Policies 25 and 43(D) of seeking to prioritise safe and convenient walking, achieve a first-class public realm and minimising clutter within the pedestrian environment.

Conclusion

10. For the reasons set out, having had regard to the development plan as a whole and having considered all other matters raised, I conclude that the appeal should be dismissed.

KL Robbie

INSPECTOR

¹ Department for Transport