



Appeal Decision

Site visit made on 24 April 2023

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/B3410/W/22/3312445

Katy's Cafe, A522 Layby, Uttoxeter ST14 5ED

- 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 Katy Roe of Katy's Café against the decision of East Staffordshire Borough Council.
 - The application Ref P/2022/00998, dated 8 August 2022, was refused by notice dated 19 October 2022.
 - The development proposed is the provision of a cafe and portaloo.
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Decision

1. The appeal is allowed and planning permission is granted for a café and portaloo at Katy's Cafe, A522 Layby, Uttoxeter ST14 5ED in accordance with the terms of the application, Ref P/2022/00998, dated 11 August 2022, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 6817-2.

Background and Main Issue

2. A café has been present at the appeal site since before 2015, at which point a temporary permission for three years was granted by the Council¹. In its submissions for this appeal the Council state that the reason a temporary permission was given was in order to safeguard the character and appearance of the rural locality. Although the temporary permission expired in 2018 the development was still present at the time of my visit. Consequently, the appeal seeks retrospective permission for the development, and I have determined the appeal accordingly.
3. Although I have taken the description of development above from the planning application form, in the interests of clarity I have removed two phrases from it; namely "retention of a" as it is not a description of development, and "for 3 years" for the reasons set out towards the end of this decision.
4. Therefore, the main issue is the effect of the development on highway safety and sustainable movements.

¹ Planning permission P/2015/00185

Reasons

5. The appeal site is located on an area of deep verge adjacent to a sizeable layby serving the westbound carriageway of the A522. The appeal site and layby are on a straight between two bends in the road, it is closer to the bend towards Uttoxeter which is also the sharper of the two, but both are fairly shallow. The café building and associated features, including the portaloo, are all within the verge and do not extend into the carriageway or layby at any point. The layby is an existing feature that is separate from the development before me. Although my site visit can only provide a snapshot in time, I noted that the A522 was a fast road with a regular flow of traffic in both directions.
6. Although the appeal building is close to a bend in the road, the relationship between the building, carriageway and this bend are such that views along the road are not blocked in either direction. Intervisibility between road users, including those leaving and entering the layby is therefore maintained by the development.
7. Although, as a result of the development, vehicles may be more inclined to park towards the eastern end of the layby, that closest to the café, even without the development vehicles would likely make use of the whole layby. Likewise, I find that road users may make use of the layby from either side of the road, which may result in vehicles turning in the road, but this again would be the case irrespective of the café being there. I recognise that the development will likely have increased the use of the layby but given its scale and nature, I find that this would be very limited. In particular, I understand that some form of café has been present at this layby for a significant period of time and I have not been provided with any substantive evidence to demonstrate any unacceptable highway safety harm.
8. The café is a simple affair that provides a limited number of products and provides only a small seating area. In this way it is typical of food traders operating from laybys and given its scale and location, it is unlikely that it would significantly deviate from this type of service. Therefore, I find it largely relies on passing trade and that although it may attract some customers treating it as a destination, these would be very low. Consequently, it would not generate a meaningful number of journeys and, whilst the development may not necessarily promote access via sustainable modes of transport, this effect would nevertheless be neutral in this regard.
9. In light of the above the development does not unacceptably impact on highway safety or sustainable movements. The development therefore complies with Policies SP1 and SP35 of the Local Plan which, amongst other matters, require that developments provide safe and convenient access and demonstrate principles of sustainable transport. The development also complies with highway safety aims of Chapter 9, including Paragraph 111 of the National Planning Policy Framework which states that developments should only be prevented on highway grounds if there is an unacceptable safety impact.

Other Matters

10. The Council have raised concerns about the legality of the siting the development in relation to the Highways Act and highway obstructions. However, this matter relates to other legislation outside the remit of this appeal and would therefore need to be dealt with separately.

Conditions

11. The Council have not put forward any conditions they consider would be necessary to impose in the event that the appeal was allowed. However, I find that in the interests of clarity and enforceability, a condition would be necessary setting out the submitted drawings.
12. As noted above, a previous permission was granted for a temporary permission. The Planning Practice Guidance (the PPG) states that it will rarely be justifiable to grant a second temporary permission. In this case no justification has been provided as to why such a restriction would be necessary and the Council have noted that the reason for the original temporary permission has been dealt with. Consequently, I have not attached a condition limiting the permission to three years and, as outlined above, I have removed reference to this in the description of development above.

Conclusion

13. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR