



Appeal Decision

Site visit made on 25 April 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2023

Appeal Ref: APP/N4720/W/23/3315441

Myrtle Tavern, Parkside Road, Meanwood, Leeds LS6 4NE

- 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 Liam Jowett of Stonegate Group against the decision of Leeds City Council.
 - The application Ref 22/02122/FU, dated 18 March 2022, was refused by notice dated 15 September 2022.
 - The development proposed is erection of a covered shelter with booth seating and free-standing timber planters.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a covered shelter with booth seating and free-standing timber planters at Myrtle Tavern, Parkside Road, Meanwood, Leeds LS6 4NE in accordance with the terms of the application, Ref 22/02122/FU, dated 18 March 2022, subject to the conditions set out in the schedule below.

Preliminary Matter

2. The Transport Supplementary Planning Document (SPD) was adopted in February 2023, while the appeal was in progress. The main parties have had the opportunity to comment on the implications of the SPD for the appeal scheme. Accordingly, I have taken the SPD in to account in my consideration of this appeal

Main Issues

3. The main issues are:
 - the effect of the proposal on highway safety, with regard to parking provision; and
 - whether the proposal would preserve or enhance the character or appearance of the Meanwood Conservation Area (MCA), including the effect on a protected tree.

Reasons

Highway safety

4. The appeal site is located on Parkside Road, next to a cricket ground, in a predominantly residential area. Parkside Road is a two-way street of varying width, which narrows on approach to the appeal site and has footpaths on either side. Beyond the Myrtle Tavern Public House, running alongside the

cricket ground the road becomes narrower still and there is a footpath on one side of the road.

5. It is not disputed that the existing public house has a floor area of around 200sqm and that in accordance with the Transport SPD the required car parking provision is 20 spaces. The Council suggest that the appeal scheme would increase the customer area by around 100sqm while the appellant contends that the scheme results in an additional 53sqm. As such, the overall required car parking provision is disputed.
6. While there is no detailed explanation as to how the Council arrived at their position, from the annotations at Figure 1 of the Highways Statement of Case it would appear that both the covered seating area and the outdoor seating area have been included in their calculations. The reason for this is unclear, given that calculations have not also included the large outdoor seating area opposite the public house to the south.
7. Even if the appellant did not confirm during the application process whether or not the outdoor seating area to the south of the public house was part of the site, it has not been shown why the outdoor seating areas should be included in the calculations for additional floorspace. Particularly given that the outdoor seating areas do not have the same function as the proposed covered area for use all year round.
8. Therefore, taking into account the covered seating area only, there would be around an additional 50sqm of floorspace within the appeal scheme. This results in a requirement for a further 5 car parking spaces, in line with the Transport SPD, and an overall total required car parking provision at the site of 25 spaces.
9. The application form states that the site currently provides 22 spaces in the lower car park to the south of the public house. While I observed that some of the spaces were not clearly marked out and some spaces had damaged tarmac that may make parking difficult, I agree that the lower car park could accommodate 22 cars. The Council have concerns that the proposal would prevent the safe use of these spaces, however given the layout and distance between the covered seating area and the car parking spaces it seems unlikely that the spaces could not be used safely.
10. The plans show some car parking spaces along the western boundary of the site. However, these could not be safely used as there is insufficient room between the spaces and the proposed development to allow vehicles to reverse. Moreover, I note that the plans have been annotated to suggest that the car parking lines are to be removed.
11. However, as suggested by the appellant in their submissions, the layout of the spaces along the western boundary could be reconfigured to accommodate the remaining 3 required spaces, while meeting the guidance set out in the SPD. This could be secured by an appropriately worded condition. Accordingly, I am satisfied that the required level of car parking can be accommodated at the site to ensure safe access and egress for vehicles and pedestrians.
12. Third parties have indicated that even the larger original car park, prior to the siting of the existing temporary marquee, was not adequate for the level of customers. Nevertheless, I have no clear reason not to apply the car parking

requirements set out in the Transport SPD and the 25 spaces are appropriate for the corresponding floorspace. While the appeal scheme makes no specific provision for disabled car parking, there would be generally level access from the main entrance from Parkside Road and from the parking adjacent to the covered seating area which could be accessed by those with disabilities.

13. I have carefully considered the objections from local residents who have concerns regarding existing on-street parking, including across resident's drives, cars being left overnight and blocking the footpath for prams and wheelchairs, which is said to have become more of a problem since the erection of the marquee at the appeal site. However, the proposed covered seating area would be smaller than the existing marquee and I have found the appeal site to be large enough to accommodate the required car parking provision. As such, even if the area is highly used by pedestrians and cyclists as indicated by the Council, there is unlikely to be an increase in on-street parking in the area as a result of the proposal.
14. Therefore, the proposal would not be harmful to highway safety, with regard to parking provision, and so accords with policies T2 and P10 of the Core Strategy (Review 2019) (CS) and Policy GP5 of the Leeds Unitary Development Plan (Review 2006). These policies include a requirement for new development to maximise highway safety and provide the required car parking provision which is designed in a positive manner.
15. The proposal would also be in line with the provisions of the National Planning Policy Framework (the Framework) at Section 9 in relation to sustainable transport.

Protected tree

16. The appeal site falls within the MCA. From my observations and the MCA Appraisal and Management Plan, the significance of the conservation area includes its long historical and industrial associations, centred around parkland creating a green and idyllic nature, characterised by its landscape and open parklands. Trees form an important part of the character of the area and Parkside Road forms one of the main character areas, within which the Myrtle Tavern Public House is noted as a positive building.
17. Neither party has concerns regarding the impact of the design of the proposal on the significance of this designated heritage asset, including the public house itself. Having considered the proposal and visited the site, I concur with that view and find that the appeal proposal would preserve the significance of the conservation area and positive building in relation to design and appearance matters.
18. However, the appeal site includes an individual tree, adjacent to the public house, that is protected by a Tree Preservation Order and by reason of being in a conservation area, as set out in the Planning Practice Guidance (PPG). The Council have concerns regarding the effect of the proposal on the tree, which if not appropriately protected they suggest would cause harm to the MCA through its potential loss.
19. The single mature Scots Pine at the site makes a positive contribution to the character of the MCA and has amenity value through public views, which I observed from Parkside View and Holmwood Drive. I also note that the

protection and therefore retention of the tree would assist with the Council's Climate Emergency declared in 2019 through the mature tree's carbon sequestration function.

20. The appellant has submitted an Arboricultural Impact Assessment (AIA) which confirms that the nature of the existing site and the proposed development mean that there would be no increase in conflict with the protected tree over that which already exists, and that the proposal would not require the removal of the tree. It sets out that the appeal site is currently and has historically been covered by continuous tarmac surfaced car parking areas, accordingly, the existing ground conditions are such that no significant root development will have occurred, and no specific construction methods are required. Nevertheless, protection for the stem of the tree during construction can be provided.
21. The Council does not dispute the conclusions of the AIA and I am satisfied that the AIA has demonstrated that the proposal would not harm the protected tree. Moreover, a condition can be imposed to secure the stem protection methods detailed in Appendix 4 of the AIA and the mitigation measures set out in Section 5 to ensure the tree is adequately protected.
22. Consequently, the proposal would preserve the character and appearance of the MCA, including the effect on a protected tree, and accords with policies P11 and P12 of the CS, Policy LAND2 from the Natural Resources and Waste Local Plan (2013) and Policy GP5 of the UDP. Amongst other things, these policies require new development to conserve and enhance the historic environment, including the character, quality and biodiversity of city's townscapes and landscapes and their historical and cultural significance, conserving trees wherever possible. The proposal would also align with the heritage protection policies of the Framework.
23. The Council allege a conflict with Policy BD6 of the UDP with regards to this matter. However, while this policy refers to scale, form, detailing and materials it relates to extensions and alterations being sympathetic to the existing building, and my attention has not been drawn to any words in this policy that are relevant to this main issue. The policy has therefore not been determinative in my decision.

Other Matters

24. Third parties have suggested that the appeal scheme would be better suited to the outdoor seating area to the south of the public house, with direct level access from the lower car park for those with disabilities. Disability is a protected characteristic and therefore I have had due regard to the three aims of the Public Sector Equality Duty set out in the Equality Act 2010, including removing or minimising disadvantages that may be suffered by this group. However, there is no particular evidence that the appeal scheme could not be accessed by those with disabilities from the main entrance from Parkside Road and the parking adjacent to the covered seating area which are all generally level before the land falls away to the south and the main carpark.
25. Concerns have been raised with regard to existing anti-social behaviour said to result from the patrons of the existing public house. However, the appeal scheme is for a modest increase in covered outdoor seating and as such it

seems unlikely that it would generate such an increase in patrons that neighbouring occupiers living conditions would be significantly impacted.

26. There are also concerns regarding the current access arrangements, using the single track that runs adjacent to the cricket pitch. The appellant has confirmed that this was a temporary measure following the installation of the marquee during the Coronavirus Pandemic and that following its removal and replacement with the appeal scheme access would be from Parkside Road.

Conditions

27. The conditions requested by the Council have been considered and amended as necessary to ensure compliance with the PPG and the Framework. In addition to the standard condition that limits the commencement of the planning permission it is necessary to impose a condition identifying the approved plans for clarity. A condition is also imposed in relation to the submission of ground level details for clarity which should be approved before the commencement of development to ensure suitable ground levels.
28. A number of conditions relating to tree protection were requested however given the submission of the AIA and its findings I have not imposed the suggested conditions. I have however imposed a condition requiring the development to be carried out in accordance with the stem protection methods and the mitigation measures set out in the AIA, in the interest of the protection of the tree and the character and appearance of the MCA. The stem protection methods are required before the commencement of development to ensure the tree is protected during the construction phase.
29. To ensure highway safety a condition is imposed requiring the submission of car parking layout details. It is required before the commencement of development to ensure an adequate parking layout is provided. It is not reasonable to impose a condition requiring the provision of electric charging points given the context of the existing use at the site and because the appeal scheme does not result in a numerical increase in parking spaces being provided at the site. Given my findings above on highway safety matters it is not reasonable or necessary to impose a condition requiring measures in relation to controlling on-street parking.
30. A bin storage condition is imposed to ensure proper arrangements are in place. While the Council have referred to definitive and non-definitive footpaths running along the south of the site which are said to be well used, given the small scale of the proposal and its location centrally within the site boundary, it has not been shown that even during construction, the proposal would lead to the obstruction of any footpath/bridleway. As such, the suggested condition is not necessary to make the development acceptable and has not been imposed.

Conclusion

31. For the reasons given above I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

INSPECTOR

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Existing and Proposed Block Plan 1445.06 REV A 04/04/2022, Proposed Floor Plan 1445.02 REV D 14/07/2022, Proposed Pergola and Planter Elevations and Sections 1445.03 REV B 14/07/2022 and Proposed Floor Plan 1445.04 REV A 14/07/2022
- 3) No development shall take place until details of existing and proposed ground levels across the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) To allow inspection and approval, seven days written notice shall be given to the local planning authority that the stem protection measures set out in Appendix 4 of the Arboricultural Impact Assessment (2023) (AIA) are in place prior to development taking place, including site clearance works, and shall be retained for the duration of the development process. Development shall be carried out in strict accordance with the mitigation measures described at Section 5 of the AIA.
- 5) No development shall take place until a plan showing details of all vehicle parking and turning areas has been submitted to and approved in writing by the local planning authority. The approved plan shall be implemented, and parking made available for use prior to development being brought into use and retained as such thereafter.
- 6) The development hereby permitted shall not be brought into use until details of bin storage and access for collection have been submitted to and agreed in writing by the local planning authority. The approved details shall be implemented in full prior to the development being brought into use and retained as such thereafter.

*****End of Conditions*****