



Appeal Decision

Site visit made on 11 July 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2023

Appeal Ref: APP/N4720/W/23/3319743

1 The Crescent, Adel, Leeds LS16 6AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Hakan of Tuana Bistro against the decision of Leeds City Council.
 - The application Ref 22/08137/FU, dated 7 December 2022, was refused by notice dated 6 February 2023.
 - The development proposed is described as 'retrospective planning application for proposed side store and external decking/fencing/pergola & parking'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed development has already been largely completed. The appeal scheme has therefore been assessed on a partly retrospective basis.
3. At my site visit I was able to see that the colour of the decking area does not reflect the images contained within the submitted Existing/Proposed Plans/Elevations & Site/Location Plan Drawing No. RP01 Rev A and the images contained within the submitted Design and Access Statement. I have however determined the appeal based on the plans the Council based its decision on.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the host property and surrounding area; and
 - Highway safety.

Background and Reasons

5. A retrospective application for a proposed Side Store and External Decking/Fencing/ Pergola & Disabled Parking Bay has previously been submitted under reference 21/09036/FU which was refused and dismissed at appeal (ref APP/N4720/W/22/3303615). The officer's report sets out that this application is in effect a resubmission of planning application 21/09036/FU and the revised plans as shown on Drawing No. RP01 Rev A now includes 3 parking spaces instead of the 2 spaces previously proposed. The appellant sets out that there are also changes to the area of decking and I have had due regard to this. The appellant sets out that additional improvement measures can be incorporated to the scheme as considered necessary. Such measures have not

been identified and I must therefore determine the appeal based on its merits and the evidence in front of me.

Character and appearance

6. The appeal site relates to a commercial property known as Tuana Bistro located in a prominent position on the corner where The Crescent meets Otley Road both of which are well used roads. Consequently, the site is visually prominent from public vantage points. The surrounding area comprises a mixture of residential and commercial properties that are set back from the road and footpaths with garden areas, hardstanding and parking to the front and sides providing for a sense of openness within the street scene. At my site visit, I observed that the properties in the immediate vicinity share a uniformity of design which is that of a traditional appearance. As a result, the area has a clear rhythm of development and this, along with the open aspect contributes positively to the character and appearance of the area.
7. The appeal property has a dual aspect fronting both The Crescent and Otley Road and is of an attractive traditional design comprising large paned windows and a rendered finish set under a red pantile roof. The submitted photographs demonstrate that prior to the works that have taken place at the property, the appeal site complemented the established character of the area.
8. Amongst other works, a large area of external decking has been installed to provide for an external seating area. This area extends significantly outwards from the host property along both frontages and thus closer to the footpaths and main roads. The area is enclosed by fencing which varies in height along with high fence posts and pergola areas with plastic roof coverings.
9. The decking area has significantly eroded the sense of openness in this location and the extensive areas of fencing together with its height has resulted in the introduction of an unduly dominant and intrusive feature at this visually prominent site, to the detriment of the appearance of the street scene. Additionally, its overall height, width and depth as well as its proximity closer to the footpaths and main roads unacceptably draws the eye away from the building. The decking area introduces a more modern conspicuous appearance to the building which jars with the traditional detailing of other buildings in the area and appears overly prominent in comparison to other local properties.
10. I note that the plans show a small reduction in decking area. However, given the limited size of this, it would not be sufficient to overcome the harm identified. The pedestrian access arrangements, availability and overall theme which is argued to compliment the interior does not change my findings on this nor do the letters of support received and I have had due regard to the vast number of signatures submitted in favour of the proposals.
11. A small lean-to side extension has been built on the western edge of the property and is visible from The Crescent. The materials used which appear to comprise painted timber under a plastic roof covering are at odds with materials found nearby and detracts from the main property appearing more temporary in nature and discordant in its context.
12. For the above reasons, I conclude that the development unacceptably harms the character and appearance of the host property and surrounding area. It is therefore contrary to Policy GP5 of the Leeds Unitary Development Plan

(Review 2006) (UDP) and Policy P10 of the Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019) (CS) which together, amongst other matters, explains that new development for buildings and spaces, and alterations to existing, should be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function.

Highway safety

13. The Council have provided a number of photographs that demonstrate that prior to the works that have taken place at the property, the appeal site provided for some off-street parking and was able to accommodate approximately 4 vehicles.
14. The decking area has significantly increased the overall capacity of the restaurant by increasing the additional floorspace externally. In doing so, it has resulted in the loss of all available parking for the premises. Whilst I have had regard to the small amount of provision as shown on the submitted plans including provision for disabled parking, this would still result in a substandard level of parking, and it cannot be assumed that all customers are local and do not drive to the premises. Whilst closer to the level previously provided, this does not account for the additional demand for parking given the increased capacity levels. The expected parking levels as set out within the Council's Transport Supplementary Planning Document is around 18 spaces which is significantly more than that proposed. On this basis and despite claims regarding the previous use/difficulties of the parking area, the appeal site is unable to accommodate the parking demands of the increased use which would inevitably result in cars and service vehicles utilising on street parking nearby including The Crescent or along the surrounding highway network.
15. Parking nearby is limited, and The Crescent is a narrow road where there is already pressure for on street parking. Such pressure results in difficulty and disruption for the free flow of traffic along this stretch including at the junction of Otley Road. I accept that some traffic is associated with the nearby Co-op convenience store and that visibility exists around the site. However, increasing such pressure to this degree exacerbates the existing situation leading to conditions prejudicial to highway safety. I note comments regarding the use of the adjacent premises for parking at certain times of the day although details are very limited on this and in any event, this property falls outside of the redline boundary and thus parking upon it to serve this use cannot be secured by way of a planning condition.
16. The staff parking space as indicated on the plans is located to the western edge of the property. However, at the time of my site visit, this space was used for the storage of bins and other paraphernalia, and I am not convinced that this could be accepted as a parking space.
17. The Council has raised concern regarding the blockage of an existing pedestrian route to the front and side of the site which is considered detrimental to the convenient movement of pedestrians. However, there is a footpath along both Otley Road and The Crescent, and the safe and free flow of pedestrian movements are not so unduly harmed or obstructed by the development.

18. For the above reasons, I conclude that the development is prejudicial to highway safety. It is therefore contrary to Policy GP5 of the UDP and Policy T2 of the CS which together, amongst other matters, explains that parking provision will be required for cars, motorcycles and cycles in accordance with current guidelines.

Other Matters

19. I note that the external area provides valuable seating for customers to provide the best possible experience and that such provision is well used particularly in the summer months and was essential with rules relaxed during the pandemic. The appellant claims that since the pandemic, the Government has allowed exterior dining spaces under permitted development and has encouraged such dining areas. Details of this is however limited to enable me to consider this further including whether reliance could be placed on any fall-back position. I also appreciate the associated costings and acknowledge that the site does not fall within a Conservation Area and is not a listed building. However, such matters are not sufficient to outweigh the harm I have identified taking into account the character and appearance of the area and highway safety.
20. I accept that it is important to support local businesses although there is no compelling case to show that the business could not be sustained without the decking areas.
21. It is not disputed that the premises provides a good quality of service or that there would be any significant issues in relation to noise. I also appreciate the communications that have taken place with the Council and the level of frustration in this regard. However, such matters do not alter my findings on the main issues.

Conclusion

22. The development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweighs the identified harm and associated plan conflict. The appeal is therefore dismissed.

N Teasdale

INSPECTOR