



Appeal Decision

Site visit made on 21 January 2025

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 January 2025

Appeal Ref: APP/X5990/W/24/3351837

22 Cranbourn Street, City of Westminster, London WC2H 7AA

- 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 Dror Appel of Wok to Walk Leicester Limited against the decision of City of Westminster Council.
 - The application Ref 24/03833/TCH, dated 10 June 2024, was refused by notice dated 29 August 2024.
 - The development proposed is described as: '*Purpose of the pavement licence Use of furniture to serve food or drink furniture TABLES: 4 CHAIRS: 16 BARRIERS : 6 Dimensions of area WIDTH: 6.75m DEPTH: 1.5m.*'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on safety of users of the public highway.

Reasons

3. The appeal site is located near to one of the entrances/exits to the Leicester Square Underground Station on the northern side of this part of Cranbourn Road. It is a one way street, with motorised traffic travelling on a roughly east to west axis.
4. The highway itself consists of the main asphalt surface in its centre. Outside the appeal site and along the northern edge of the road there is a partly sloped kerb and then paved area (formed by small square paving slabs). Signs on lampposts indicate that this is subject to various stopping and parking restrictions. Therefore the purpose of this paved strip; which is about the width of a small delivery van, is as a loading bay between certain advertised times. Indeed, at the time of my site visit there was a small delivery van stationed outside of the appeal building in this loading bay area.
5. There is then a second kerb formed of rectangular paving slabs, beyond which are larger square paving stones and then the entrance to the Wok to Walk building. It is the area in this last section of the highway – between the second kerb and the building – which the Applicant seeks to use as an outdoor seating area on the public highway measuring approximately 6.75m x 1.5m for the placement of four tables, 16 chairs, and six barriers in connection with the existing ground floor use. As shown on the submitted drawings, this would

comprise a two-seat table depth perpendicular to the front elevation of the 'Wok to Walk' premises. There is currently permission¹ for a single row of tables and chairs, as detailed in Appendix 3 of the Council's statement.

6. At the time of my site inspection, I saw that there were 8 tables and 16 chairs placed on the pavement, screened off by posts with fabric like panels. There was also an A-frame style advertisement board located adjacent to one of the panels, advertising noodles, which narrowed the gap between the seating area and second kerb further. I also saw that the nearby 'Spaghetti House' premises had outside seating and tables in a single file arrangement. Where present, the single file arrangement appeared to be the norm outside of coffee shops and eateries in this area.
7. Returning back to the appeal scheme, the Council is concerned that the proposal would result in a narrowing of the pavement from around 2.4 metres to 1.66 metres – resulting in nearly half of the pavement being dedicated to the barriers, tables and chairs. In practice the narrowing of the walkway² part of the highway arising from the suggested layout is likely to impede users of the walkway. To pass the premises when the tables, chairs and barriers are in place, pedestrians will likely have to walk out into the loading area part of the highway. Or, if the loading bays are occupied, try and navigate around these vehicles. Such situation would be inconvenient to most, and especially dangerous to those with mobility issues or children.
8. This situation is further exacerbated by the fact that the site is located in a busy throughfare between Leicester Square and Covent Gardens; with heavy footfall likely and especially during rush hours and busy periods. Moreover, the one way nature of motorised and bicycle traffic on the highway may not be obvious to unobservant pedestrians, causing them to step out into the traffic; especially when vans or cars are present in the loading area. Accordingly, I find that the proposal is likely to lead to an adverse effect on the safety of users of the public highway.
9. I note that the Appellant points me to outside seating areas at Nos 20 and 24 - 25 Cranbourn Street, which are located towards the western and eastern ends of this part of Cranbourn Street respectively. Photos within the Appellant's Statement of Case indicate that the seating in both locations are formed of two-depth seats as sought here. But in the case of No 24-25, (which appears to be the premises occupied by 'Spaghetti House' as detailed above), at the time of my unannounced site visit, on the morning of 21 January 2025, the seating was of a single file nature.
10. Furthermore, the Council have provided in Appendix 6 and Appendix 8 of their Statement plans showing that permission has only been granted for single seat depth outdoor seating at both of these locations. This indicates to me that the two-seat depths provided at these nearby examples are unlikely to have permission in planning terms. That is a separate matter for the local planning authority to consider.
11. In any case, it does not provide justification for the appeal scheme nor does it address the fact that the proposal would narrow the clearly pedestrian area of

¹ Council's Statement Appendix 3 – *The approved tables and chairs outside the appeal unit (No. 22) under 23/01745/TCH*

² I use the terms walkway and pedestrians for ease; notwithstanding the fact that a variety of pedestrian users, including those in pushchairs, wheelchairs, or using walking aids are likely to use this.

the highway as I saw arises in this case. As such, I do not find that these examples provide a precedent or validation of the appeal scheme, which would result in the harm to highway safety identified.

12. Policy 25 of the *City Plan 2019-2040* (adopted April 2021) indicates that development must prioritise and improve the pedestrian environment and contribute towards achieving first-class public realm and enable footway decluttering where increased footfall is expected, to be suitable for vulnerable road users including older people, people suffering from dementia and disabled people.
13. Policy 43 (D) of the same plan indicates that:
'Proposals for trading from premises extending into the street (including provision of tables and chairs on the highway) will be supported where they would not:
1. harm local amenity; 2. compromise pedestrian movement or traffic conditions; 3. impede refuse storage and street cleansing arrangements.'
14. Accordingly, I find that the proposal as shown on the submitted drawings would conflict with Policies 25 and 43 of the City Plan, which seek the aforesaid aims. This is because the layout and arrangement sought would narrow the pedestrian walkway; therefore compromising pedestrian movement which includes both abled-bodied and potentially more vulnerable road users such as older people, children, and/or disabled people.
15. I note that the appeal site is located within the Covent Garden Conservation Area. Neither main party raises concerns that the proposal would cause harm to the character or appearance of this designated heritage asset. Given the transient nature of the proposal – in which the chairs, tables and barriers can be removed at the end of business each day – and that on-street seating is characteristic of this busy recreational area of London, I find that the proposal would, at the very least, preserve the character of the Conservation Area. Nonetheless, this does not overcome the harm arising in respect of highway safety.

Conclusion

16. The proposal would conflict with the adopted development plan, and there are no material considerations indicating a decision otherwise than in accordance with it.
17. For the reasons given above, I conclude that the appeal should be dismissed.

C Parker

INSPECTOR