



Appeal Decision

Site visit made on 21 January 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/N4720/W/24/3351884

20-22 Harrogate Road, Rawdon, Leeds LS19 6HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by the Turkuaz Restaurant against the decision of Leeds City Council.
 - The application reference is 24/02501/FU.
 - The development is described as 'retrospective application for new enclosure to front of restaurant to form outdoor seating area and new ducting to side'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2024. I am satisfied that the substance of the Framework in regard to the main issues of the case have not changed. I have taken the revised Framework into account, and I am satisfied that this has not prejudiced either party.
3. The development has taken place. I have considered the appeal scheme accordingly.

Main Issues

4. The main issues are the effects of the development on:
 - the character and appearance of the Rawdon Little Moor Conservation Area;
 - the living conditions of nearby residents with regard to noise and disturbance, and odour; and
 - pedestrian and highway safety.

Reasons

Character and Appearance

5. The appeal site comprises an existing restaurant. It appears from the submitted evidence that the planning permission¹ granted in 2021 at the property for a 'retrospective change of use from shop to restaurant to include number 20 as part of the whole restaurant' (the 2021 permission) allows for an outdoor seating area across the frontage. A timber framed structure has been constructed to the front of

¹ Application 21/03430/FU

the property to provide an enclosed seating area. Its side elevations comprise black timber cladding with timber windows. The front elevation is more open with black timber cladding forming a low wall. The roof is transparent polycarbonate sheeting.

6. The property is located within the Rawdon Little Moor Conservation Area (the CA). The CA Appraisal and Management Plan identifies that the historic core of the CA is focussed around the distinctive triangular space of Little Moor Park which lies close to the property. From the submitted evidence and my site visit observations, the significance of the CA is in part derived from its architectural and historic interest associated with the development of the area, and the evidence it provides of the architectural style and building techniques of the time, including the spatial arrangement of the buildings with each other and the surrounding spaces. The predominant building materials in the CA are stone and slate, including stone boundary walls which are a notable feature. In the vicinity of the property, there is a regular arrangement of buildings with the streets. These elements give a homogeneity to the built form which contributes positively to the character and appearance of the CA.
7. The enclosure is prominently sited on the roadside and is clearly visible from the surrounding area. It projects forward from the main elevation of the property and the other nearby buildings in the parade of commercial properties. The materials appear markedly at odds with the prevalent character and appearance of the area especially in views towards Little Moor Park where the enclosure is seen against the consistent palette of materials in the CA, notably the stone boundary wall and stone and slate buildings. In this context, the location and form of the enclosure means that it stands out as a dominant and incongruous form of development.
8. The development therefore detrimentally affects the character and appearance of the street scape and fails to preserve or enhance the character or appearance of the CA. The harm that would arise would be localised and therefore the impact on the CA as a whole would be less than substantial when considering the provisions of the Framework. Even so, the Framework directs me to give 'great weight' to the conservation of such assets; less than substantial harm does not equate to a less than substantial planning objection.
9. In such circumstances the Framework states that harm should be weighed against the public benefits of the proposal. The enclosure has likely increased the use that can be made of the outdoor area particularly during inclement weather. The appellant identifies that it provides some operational flexibility. The development therefore has the potential to generate additional income for the business which may provide some economic and employment benefits. However, I have not been provided with any clear evidence on this. The submitted evidence indicates that the restaurant serves as a community space although only limited information is provided. Consequently, while giving these matters some positive weight, based on the evidence before me, the public benefits would not represent 'clear and convincing justification' for harm to or loss of significance of the designated heritage asset, as required by the Framework.
10. Accordingly, the development conflicts with Policies P10 and P11 of the Core Strategy (as amended by the Core Strategy Selective Review 2019) (the CS), and Policies GP5, BD6 and N19 of the Leeds Unitary Development Plan (Review 2006) (the UDP) which seek to secure high quality design that enhances or

reinforces local distinctiveness. There would also be conflict with the historic environment objectives of the Framework as summarised above.

Living Conditions

11. Conditions 2 and 3 of the 2021 permission limit the outdoor use at the property to 09.00 to 21.00 Sundays to Thursdays and 09.00 to 22.00 on Fridays and Saturdays and the number of covers to 24. The indoor seating area can be used until 23.00 on all days.
12. The surrounding area is predominantly commercial in character. While acknowledging the residential uses nearby, the property is within what the Council and appellant describe as a District Centre and a Lower Order Centre respectively. While there is limited information before me about the policy context for such designations, from what I observed at my site visit, the location includes premises that would provide some day-to-day shopping and service requirements. Expectations in terms of activity would therefore be different in such areas compared to a wholly residential area, albeit that the Council considers it to be a relatively small centre.
13. Restaurants can generate noise and disturbance from customers arriving and departing, as well as the noise generated from customers in the seating areas. In the evenings, such customer activity will occur at a time when most people are likely to be at home and would have a reasonable expectation of quieter conditions. However, there will already be customers arriving, using, and departing the property given the existing restaurant use, which includes a permitted outdoor area. Nonetheless, while the space remains relatively open to the front, I acknowledge that the installation of the enclosure will likely have increased the use of the outdoor area to an extent especially during more inclement weather. However, in my view, the additional noise and disturbance generated by this would not be an intensification on a significant scale.
14. The Council's evidence states that the environmental health team has received noise complaints. However, only very limited information is before me about these and there is no clear evidence as to whether they were found to be justified complaints. The Council also refers to complaints about hours of opening, but as noted above, a condition on the 2021 permission places controls on this.
15. Based on the submitted evidence, in my judgement, the addition of the enclosure to an existing restaurant that has permission for an outdoor area and is in a District Centre/Lower Order Centre would not generate a level of noise and disturbance sufficient to unacceptably harm the living conditions of nearby residents. This is even allowing for potentially quieter background noise levels in the evening. Furthermore, I am satisfied that any potential noise and disturbance could be adequately mitigated via the imposition of suitably worded conditions controlling the hours of use and number of covers, such as with the 2021 permission.
16. The ducting on the side of the property has been installed reasonably near to the corner of the building to the rear which the submitted evidence identifies as comprising several flats. Due to the different ground levels and the modest height of the ducting, the extraction point sits relatively close to the top of the ground floor front and side windows and below the first floor front and side windows of this neighbouring building. Given the low extraction point and consequent dispersal point, there is the potential for odours to arise from the operation of the ducting

system. No information is provided on its odour control specifications. In the absence of such information, I cannot be satisfied that odours would not unduly compromise the living conditions of nearby residents, particularly those of the building to the rear, notwithstanding a lack of objection. Furthermore, as I have no substantive evidence to indicate that suitable mitigation could be achieved, it would not be appropriate to leave this matter entirely to a condition.

17. The dark colour of the ducting helps to reduce its visual impact, and silencers may have been fitted. However, these would not address the concerns about odour.
18. For the reasons given, I conclude that the development does not cause unacceptable harm to the living conditions of nearby residents with regard to noise and disturbance. However, I also conclude that it has not been demonstrated that there is no unacceptable effect on the living conditions of neighbouring residents with regard to odour. Consequently, the development conflicts with the residential amenity requirements of Policy P4 of the CS and Policy GP5 of the UDP.

Pedestrian and Highway Safety

19. The site has no off-street parking provision. I note the concern expressed by the Council about the lack of space for pedestrians on the pavement due to the combination of the development and on-street parking along its frontage.
20. Based on the submitted plans and what I observed at my site visit, the front boundary of the enclosure is on a very similar line to the parking area of the adjacent property, the fence line of the nearby café and the stone wall that sits at the back of the pavement just to the north. I observed the parking situation in the vicinity of the property during my site visit on a weekday afternoon, which I appreciate was only a snapshot in time. On-street parking is a feature of the area. I observed that it was well used on the stretch of road opposite the property. Although there are parking restrictions on stretches of nearby streets, I observed some on-street parking capacity including on Quaker Lane and Park Road.
21. While noting the Council's concerns about on-street parking, there is little substantive evidence before me to demonstrate that the existing on-street parking situation has reached saturation point or that highway safety issues have occurred as a result of the current levels of on-street parking.
22. The 2021 permission allows for 24 covers in the outdoor area. On this basis, it does not appear that an additional customer space has been created through the development that is the subject of this appeal. However, as I have acknowledged above, the installation of the enclosure will likely have resulted in some increase in the use of the outdoor area. Nonetheless, in my judgement, any intensification of use that may have resulted will be unlikely to significantly increase the number of customers and therefore vehicles.
23. Given this context and based on the evidence before me, I am not persuaded that the development gives rise to an unacceptable impact on pedestrian and highway safety. Consequently, I find no conflict with the pedestrian and highway safety requirements of Policy GP5 of the UDP or Policy T2 of the CS.

Other Matters

24. As set out above, there will likely be some economic and social benefits associated with the development. However, while weighing positively for the

development, these benefits do not, individually or cumulatively, outweigh the considerable weight given to the harm to the character and appearance of the CA or the concern about the effect on the living conditions of nearby residents with regard to odour.

Conclusion

25. I find that the development does not harm the living conditions of nearby residents with regard to noise and disturbance and I am not persuaded that it gives rise to an unacceptable impact on pedestrian and highway safety. However, I find that the development causes less than substantial harm to the character and appearance of the CA which is not outweighed by public benefits, and it has not been clearly demonstrated that there would be no harm to the living conditions of neighbouring residents with regard to odour. To this extent, there would be conflict with the development plan when considered as a whole.
26. There are no material considerations of sufficient weight that would indicate the decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR