Appeal Decision

Site visit made on 1 February 2010

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
23 February 2010

Appeal Ref: APP/M3835/A/09/2105368
31 South Street, Worthing BN11 3AW

- 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 West Cornwall Pasty Co. against the decision of Worthing Borough Council.
- The application Ref WB/09/0089/FULL, dated 16 February 2009, was refused by notice dated 31 March 2009.
- The development proposed is outdoor seating and containing poles and sides outside pasty shop.

Procedural matters

1. The Council's decision notice describes the proposal as "change of use of pavement area adjoining premises to seating area". I consider that this is a more appropriate description of what is intended and I shall adopt it.

2. The Council's decision notice refers to two policies of the West Sussex Structure Plan. Since the refusal, the South East Plan has been published, and thus the saved policies in that Structure Plan are no longer in force.

Decision

3. I dismiss the appeal.

Main issues

4. The main issues are;

   i) the effect of the proposal on the character and appearance of the street scene and the South Street Conservation Area, and

   ii) the effect of the proposal on highway safety.

Reasons

5. The appeal shop is used for the sale of pasties and similar food, for consumption both on and off the premises. It is located in a busy part of the town centre, on one of the main shopping streets, which is used as a thoroughfare for buses.

6. The shopfront to the premises is an especially attractive one, with ornate wooden carpentry, designed to replicate features of a ship, reflecting its origins as The Ship Hotel, which the appellants recognise is a landmark. The shopfront has a high degree of visual and historic interest, and it stands out in an otherwise fairly bland stretch of shopping frontage. The nearby pavement is

somewhat cluttered by the presence of three large bus shelters, and I noted on my visit that queues of waiting passengers stretched out across the pavement from the two shelters nearest the appeal site.

7. Whilst I accept that the seating area would add vitality to a part of South Street which, apart from the appeal premises, has a rather lacklustre appearance, the enclosures, seating and customers would interrupt and diminish views of an important shopfront that makes a significant contribution to the area. I consider that this would neither preserve nor enhance the character and appearance of the conservation area, and would conflict with South East Plan Policy CC6 which includes an aim of respecting the character and distinctiveness of settlements, and Policy BE6, which deals with the management of historic assets.

8. The area of tables and chairs would extend some 3m from the front of the building, providing a gap of about 8m to the nearest part of the closest bus shelter. Most of the seating area would lie opposite a gap between two bus shelters. Whilst I consider that the proposal would funnel pedestrian traffic into a narrower gap than would otherwise exist, I am not convinced on the evidence before me and from what I saw on my visit, that this would cause a significant interruption or hazard to pedestrians. The lack of objection, subject to conditions, from the Highway Authority and the police, reinforces my view on this matter.

9. I accept that the use would add a further obstruction to blind people, but in an environment where there is a multiplicity of potential obstructions from street furniture and queuing for buses, I am satisfied that it would not add materially to the normal range of obstructions which blind people have to navigate through.

10. I have had regard to the neighbouring bank's concerns about security of customers using the adjacent ATM, but I consider that there would be a sufficient distance between the nearest seats and the machines, so as not to pose a material threat.

11. I recognise that the narrow width of the premises, the lack of large windows to allow clear views into the shop and the restrained advertising on the building is likely to limit the extent to which the business is able to make its commercial presence felt to passing footfall. I also saw on my visit the investment that the appellants have made in fitting out the shop to a good standard. Whilst I understand that the appellants feel that they have been penalised for taking on an historic building, because of the importance which is attached to protecting conservation areas, these factors do not outweigh my reasons for dismissing the appeal.

12. For the reasons given above I conclude that the appeal should be dismissed.

JP Roberts

INSPECTOR