



Appeal Decision

Site visit made on 16 June 2020

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2020

Appeal Ref: APP/B4215/C/19/3239806

1 Moxley Road, Manchester M8 4HJ and 20 Fraser Road, Manchester M8 4HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr M Scharf against an enforcement notice issued by Manchester City Council.
- The enforcement notice was issued on 23 September 2019.
- The breach of planning control as alleged in the notice is:
 1. The erection of a single storey building to the side of 1 Moxley Road and the rear of 20 Fraser Road for use as a place of worship and religious education within Class D1, the approximate position and extent of which is shown in solid blue on the attached plan "ENF/PLAN1";
 2. The erection of a timber and polycarbonate canopy to the side and rear of 20 Fraser Road, the approximate position and extent of which are shown hatched green on the attached plan "ENF/PLAN1";
 3. The erection of a timber panel fence atop an existing wall, adjacent to a highway, its total height exceeding 1m, the approximate position of which is shown between the points marked "A", "B" and "C" on the attached plan "ENF/PLAN1".
- The requirements of the notice are:
 1. Cease the use of the single storey building shown in solid blue on the attached plan "ENF/PLAN1" as a place of worship and religious education and demolish the building in its entirety, including the removal of its footings/foundations.
 2. Remove the timber and polycarbonate canopy to the side and rear of 20 Fraser Road, the approximate position and extent of which are shown hatched green on the attached plan "ENF/PLAN1".
 3. Remove the timber panel fence atop of the existing wall adjacent to the highway, the approximate position of which is shown between the points "A", "B" and "C" on the attached plan "ENF/PLAN1".
 4. Reinstate a boundary wall to a height not exceeding 2m, between points "AA", "BB", "CC" and "DD" shown on the attached plan "ENF/PLAN2". The materials used shall be either;
 - a) Similar in appearance to those used in the construction of the original house at 20 Fraser Road, the capping course shall be brick on edge between the four points; or
 - b) Concrete block construction with concrete capping between the four points and shall be rendered to both sides and painted signal white [RAL9003] using an exterior masonry paint;
 5. Remove all building materials, rubble and waste arising from carrying out the above steps.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Preliminary Matter

1. As the development is in a conservation area I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The appeal on ground (a)

2. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. Whether the development preserves the character or appearance of the Crumpsall Lane Conservation Area;
 - ii. The effect on the living conditions of the occupants of nearby residential properties with particular reference to noise and general disturbance; and
 - iii. Whether there is sufficient provision for the parking of vehicles.

Reasons

Heritage

3. The appeal site comprises two separate properties. 1 Moxley Road is a substantial two storey house at the end of a terrace of residential properties along Fraser Road. It adjoins 20 Fraser Road and its principal elevation faces onto Moxley Road adjacent to the junction of Moxley Road and Fraser Road. 20 Fraser Road is a two storey residential property which I understand has been converted into four flats but is occupied as two. The property is close to Middleton Road which is a main arterial road and is within a predominantly residential area which contains a wide range of residential property types, including terraced houses, semi-detached houses, purpose built flats and properties converted into flats. The locality forms part of the wider Crumpsall Lane Conservation Area (the CLCA).
4. The CLCA covers a large area of mainly residential development which is focussed on Crumpsall Lane and includes adjoining high quality mixed residential development areas. Properties in the CLCA are wide ranging, including large detached and semi-detached houses, terraced housing of differing sizes, purpose built modern blocks of flats and groups of houses. Plot sizes also vary greatly and there is a variety of materials used in the vicinity of the appeal site including render, red brick, tiled roofs and slate roofs. Boundary treatments also differ and include brick walls, fences and hedges of various heights and materials. Although the design of properties, the spaces between them and the urban form shows great variety the CLCA demonstrates typical suburban residential development and a quality which contributes to its special interest.
5. A new single storey structure has been erected for use as a place of worship in a prominent location to the side of 1 Moxley Road and the rear of 20 Fraser Road. The building has been constructed of pale coloured render with a polycarbonate and timber canopy over the entrance facing Moxley Road with polycarbonate external wall boarding, rendered blockwork and a shallow roof pitch. In addition, there is a timber and polycarbonate canopy feature which provides shelter to the yard area to the immediate rear of 20 Fraser Road. A

timber fence has also been erected atop the existing relatively low boundary wall facing Moxley Road.

6. The building demonstrates a poor choice of relatively low quality materials which have a poor relationship to the host property and other buildings in the vicinity. In addition, the development is cramped into an already restricted site and goes against the local urban grain where properties along Fraser Road have small rear yard areas. The development has almost entirely covered the rear yard areas of the host properties, resulting in a discordant form of development which jars with its surroundings.
7. In addition, the roof form has a poor relationship to the host properties, the low angled pitched roof being at odds with the character of the principle roof forms in the locality. In addition, the fence forms a solid boundary which is incongruous within the street scene. Although I recognise that there is a variety of boundary treatments along the nearby street frontages, the resultant boundary is highly prominent along Moxley Road and is visually intrusive in the CLCA.
8. Consequently, I conclude that the development fails to preserve the character and appearance of the CLCA. Paragraph 193 of the National planning Policy Framework (the Framework) advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration of those assets. Paragraph 194 of the Framework states that any harm to the significance of a designated heritage asset should require clear and convincing justification. Less than substantial harm does not equate to less than substantial planning objection, especially when the statutory tests have not been met.
9. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant states that the development is used as a place of worship as a local convenience and is a valuable and important facility to local people. Indeed, there is evidence of local support in the appellant's documentation. As such I am satisfied that the appellant has demonstrated that there are some locally derived benefits arising from the development. However, such benefits are limited in their scope and are also limited in terms of their geographical extent. As such they attract some limited weight when measured in the planning balance.
10. Although the development brings some measure of public benefits these are clearly and demonstrably outweighed by the harms identified to the designated heritage asset. The development fails to meet the expectations of paragraph 193 of the Framework and conflicts with the local development plan policy which seek to underpin and reinforce these national statutory and policy objectives. In particular, there is conflict with SP1, DM1 and EN3 of the Manchester Core Strategy 2012 to 2027 (the CS) and saved policies DC18.1 and DC26.1 of The Manchester Plan – The Unitary Development Plan for Manchester (the UDP). Among other objectives these seek to create well designed places that enhance or create character, encourage development of appropriate siting, layout, scale, massing, materials and design and development should complement and take advantage of the distinct historic and heritage features of districts and neighbourhoods. New developments

must be designed to preserve or, where possible, enhance the historic environment and the character and setting of conservation areas.

Living conditions

11. The building is set out as a classroom with rows of chairs and desks, bookshelves and other teaching and worship material and equipment. It is my understanding that it is used by approximately 25 people at any one time for both worship and religious instruction mainly at weekends and evenings. As a secondary place of worship it is mainly used for prayers, and services consist of the spoken word only with no chanting, singing or use of microphones or other means of amplification. Services are also relatively short and this synagogue is intended to offer a small prayer room for the convenience of members of the local community.
12. I recognise that the development is convenient for local residents but cannot ignore the very close proximity to residential properties in the immediate vicinity. Many visitors may arrive on foot but the gathering of people and associated levels of potential noise from the movement of people would be particularly perceptible in such close proximity to residential properties. I have noted the times of gatherings which correspond with the times when residents can reasonably expect relative quiet in order to relax at home in their residential surroundings.
13. The appellants have indicated that most people will walk to the synagogue, but nonetheless there is potential for visitors to drive, causing noise and disturbance through closing car doors and revving vehicle engines for example. Again, such noise and disturbance in close proximity to residential properties will be particularly noticeable in the particular circumstances of the appeal site.
14. Therefore, although I have taken account of the nature of the use of the development, the appellant's comments on how it operates and the representations of local residents, I consider that the non-residential assembly use in this residential location has an acceptable adverse effect on the living conditions of the occupants of nearby residential properties with particular reference to noise and general disturbance. As such it conflicts with Policy DM1 of the CS and Policy DEC18.1 of the UDP which state that all development should have regard to amenity, including noise and the Council will give consideration to the effect of new development which is likely to be generators of noise.

Parking

15. The development has left no parking provision on site and therefore visitors to the development must rely on on-street car parking. The appellant has confirmed that the Jewish religion forbids driving or using any form of transport on the Sabbath and therefore those using the synagogue must live within walking distance of the development. He also confirms that families using this facility belong to other synagogues in the wider area and therefore the development is a secondary place of prayer for short weekday services close to where people live. The facility is not at all large and is unlikely to attract large numbers of visitors at any given time.
16. I observed at my mid-morning mid-week site visit that there was unrestricted on-street parking available in the immediate vicinity of the site and along

neighbouring streets. However, that is a snap shot in time and I consider that given the relatively dense nature of residential development in the locality it is likely that during other times – especially during early morning and the evening and at weekends - there are limited on-street opportunities in the area. Those correspond to times when the synagogue is used. Although on the Sabbath it is forbidden for worshippers to use their cars, at other times when the synagogue is open the development is likely to result in some increased demand for limited on-street parking. This in turn leads to additional vehicular movements in the locality and potentially parking and traffic difficulties around the junction of Moxley Road and Fraser Road.

17. Although the development is relatively small and is only open at limited times there is no off-street parking provision whatsoever. Therefore, in these particular circumstances I find that the development does not make sufficient provision for the parking of vehicles and conflicts with Policy DM 1 of the CS which states that all development should have regard to vehicular access and parking.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

19. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR