



Appeal Decision

Site visit made on 26 October 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/D0650/C/21/3273061

Land at Trinity Street, Runcorn

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Ben Raingill of UKAT Group (UK Addiction Treatment Centres Group) against an enforcement notice issued by Halton Borough Council.
- The enforcement notice was issued on 17 March 2021.
- The breach of planning control as alleged in the notice is without planning permission:
 - 1) the development of two structures (Structure 1 and Structure 2 as depicted in the photographs of Appendix 1a and Appendix 1b); and,
 - 2) the development of a 2.1m high boundary fence (as identified between the points A-B-C-D in the photographs of Appendix 2a, Appendix 2b and Appendix 2c); and,
 - 3) the development of a wooden screen (as identified in the photograph of Appendix 3) on the Land.
- The requirements of the notice are:
 - 1) Demolish the 2 No. unauthorised structures identified in Appendix 1a and Appendix 1b.
 - 2) Demolish the 2.1m high fence identified in Appendix 2a, Appendix 2b and Appendix 2c.
 - 3) Demolish the wooden screen identified in Appendix 3.
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant makes several points which suggest enforcement action was not necessary as the matters could have been resolved through dialogue. It is also argued that the initial contact from the Council omitted to note any concerns about the fence and one of the buildings. However, the decision on whether or not to take enforcement action is a matter for the Council and cannot form part of my considerations.

Application for costs

2. An application for costs was made by Mr Ben Raingill of UKAT Group (UK Addiction Treatment Centres Group) against Halton Borough Council. This application is the subject of a separate Decision.

The ground (a) appeal and the deemed planning application

Background and Main Issues

3. The appeal site comprises a residential drug and alcohol rehabilitation centre. The facility includes the main building and associated land. The unauthorised development consists of two timber, flat roofed buildings and a timber screen, which are situated to the side of the main building, and a 2.1 metre high mesh fence erected along the boundaries closest to the timber buildings. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the erection of two structures, a 2.1 metre high boundary fence and a wooden screen.
4. The main issues are:
 - (i) the effect of the development on the character and appearance of the area, in particular, heritage assets in the vicinity; and,
 - (ii) the effect of the development on highway safety with regard to car parking.

Reasons: Character and Appearance

5. The appeal site lies within a relatively busy part of the town between Bridge Street and Trinity Street. The area is mixed in use consisting of residential, commercial and public or religious buildings. Building materials vary although red sandstone, red brick and slate predominate.
6. The Council advises that the appeal site forms part of Runcorn's historic town centre. Although it is acknowledged that the site lies outside of the defined historic centre, the Council's submissions indicate that the area should be considered as a non-designated heritage asset. There are several historic buildings in the vicinity. This includes the Church of the Holy Trinity to the north, which is listed grade II; the former Police Station and the Royal Hotel to the west, also grade II listed; the public baths (formerly the Market Hall) to the east and the host building within the appeal site. The Church and the former Police Station date from the 1830s, whereas the public baths and the host building are later, dating from around 1882.
7. The significance of the listed buildings, insofar as relevant to the matters before me, derives from their form, architectural detailing, their purpose and role in evidencing the historic development of the town. The Church is sited in an elevated position with its tower and main gothic entrance door facing west, towards Bridge Street and the appeal site. The land between Trinity Street and Bridge Street, including the appeal site, forms part of the setting to the listed building. This land enables the appreciation of the Church from Bridge Street and the pedestrian areas and makes a positive contribution to the significance of the listed building. The former Police Station and Royal Hotel are some distance from the site and I consider their settings to be unaffected by the development.
8. Due to the slope of the land, which rises towards the Church, the timber buildings and screen are particularly prominent in views from Bridge Street. The uncharacteristic use of timber, combined with the siting and the modern form of the buildings makes the development stand out in the street scene. The mesh fence is less prominent from Bridge Street due to its materials, but it

is apparent in views from Trinity Street as a result of its height and siting along the highway.

9. The development comprising the timber buildings and screen interrupts important views of the listed building from Bridge Street. In addition, the whole of the development affects the appreciation of the Church from Trinity Street due to the mismatched materials, building form and siting. I consider that the development has an adverse impact on the setting of the Church, thereby causing harm to the significance of the designated heritage asset. The impact is relatively localised, and is considered less than substantial in this instance, but nevertheless of considerable importance and weight.
10. The appellant has offered replacement boundary fencing and/or a landscaping scheme to mitigate any harm identified. However, a landscaping scheme would be constrained by the size of the site, the siting of the buildings and the topography and is unlikely to provide the necessary screening. In any event, it would take some time to become established. Replacement boundary treatment may be acceptable, but I have no details of an alternative scheme before me.
11. The significance of the historic area as a non-designated heritage asset can be attributed to the street pattern and the historic buildings, which show the development of this part of Runcorn. The unauthorised development does not reflect the historic character and appearance of the area overall, as explained above. However, I do not consider it harms the significance of the non-designated heritage asset as its street pattern/buildings remain as an evidential record.
12. As I have found harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the development. I accept the economic benefit that the centre provides through direct employment and outsourcing to local businesses. The social benefits are also evidenced¹ and I have had regard to a letter of support from a Church representative. The appellant also argues the use of timber as a sustainable building material. In addition, the appellant asserts that the removal of the unauthorised development would have a significantly detrimental impact on the operation of the facility, thereby nullifying the benefits. Turning to the planning balance, the facility is not large and the benefits are generally regional. Nonetheless, I consider the totality of the social and economic benefits, in particular, carry moderate weight.
13. I acknowledge the financial pressures the appellant manages day to day, and this, combined with a necessity to meet current regulatory requirements, explains the form, materials and siting of the development. However, I have concluded that the development would fail to preserve the setting of the Church of the Holy Trinity, a Grade II listed building. This is accepted by the appellant, although it is argued the level of harm is low. The Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The development fails to satisfy this requirement.

¹ Appellant's appendices A and B. This can be summarised as lower incidences of fatalities due to substance misuse across the Borough, the increasing local need for such support facilities in recent years and the high quality of the programmes provide at the Centre.

14. In addition, the National Planning Policy Framework (the Framework) advises that any harm to designated heritage assets should be afforded great weight in the planning balance. Therefore, although the social and economic benefits advanced carry moderate weight, this does not outweigh the harm identified. The development conflicts with Policies BE1, BE2, BE3, BE10, BE22 of the Halton Unitary Development Plan (UDP) (2005) and CS20 of the Halton Local Plan: Core Strategy (2013) which, among other things, promote high quality design that respects local distinctiveness and protects the setting of listed buildings, while conserving and enhancing heritage assets. As a result, the development is not in accordance with the development plan.

Highway Safety

15. The facility employs up to 22 people and can accommodate 34 clients at any one time. The Council would be seeking a maximum of 29 parking spaces. Although this level of parking could not have been accommodated previously, it is argued that the development results in the loss of six parking spaces, which has led to double and/or illegal parking on Bridge Street, and increased parking on Trinity Street and elsewhere.
16. During my site visit, I saw seven cars parked in front of The Old Police Station, which appeared to result from users of that building. There were three vehicles to the front and side of the appeal premises, and two at the rear. Several vehicles were parked along Trinity Street, some of which were used by people accessing the swimming pool. I saw other parking that was associated with the residential development opposite. Overall, there was adequate parking in the vicinity of the site, despite the facility being in use.
17. The Council evidence consists of a 'cursory desk top survey', which offered an opinion but contained little evidence, other than a number of images. One 'Streetview' image, dated 2018, shows double parking on Trinity Street. A series of photographs of the front of the premises, from 2014, shows that there were more cars parked at the front in later years. However, this does not demonstrate that the unauthorised development has led to an overload to the capacity of the surrounding highway network, as claimed.
18. The appellant has submitted a Transport Note², which included a car parking survey and details of the site operation. I understand that, out of the 16 staff currently employed, seven drive to work while the remaining nine travel on public transport. Those who drive are not usually all on site at the same time. None of the clients drive to the centre themselves, all are dropped off, with the associated vehicles waiting up to 30 minutes. On this basis, it is argued that no residents' parking should be required. The Council acknowledges that it is difficult to set an appropriate car parking standard and agrees that the site is well served by public transport. Taking this into account, alongside the Transport Note analysis, I consider that the indicative requirement for 29 spaces is a significant overestimate.
19. I accept that the development has led to a reduction in space that could be used for parking. However, even if this amounts to a loss of six spaces plus that required for the parking of a minibus, and I use the Council's figures to quantify the number of unrestricted spaces in the surrounding roads, it is clear from the evidence that the demand can easily be accommodated. I consider it

² Paul Basham Associates, September 2021.

unlikely that the issues with parking enforcement that the Council describes can be attributed to the unauthorised development.

20. I conclude on this issue that the development enforced against has not resulted in a level of demand for parking that cannot be accommodated locally. As such, there is no material impact on highway safety and the development accords with Policies BE1 and TP12 of the UDP.

Other Matters

21. The Council indicates that the design of the development does not minimise crime and supporting advice from Cheshire Constabulary is provided. If the standard assessment principles of 'Secured by Design' are applied, it may be argued that features such as the flat roofs and areas of limited surveillance should be avoided, due to the relatively high crime rate. However, this fails to take account of the purpose of the centre, and the social benefits it provides. These benefits outweigh any minor concerns about the design of the development. Overall, I do not find that the development exacerbates a fear of crime.
22. It is also argued by the Council that there are inadequate accessibility arrangements, no provision for surface water drainage, an unacceptable waste store and issues resulting from the air conditioning units. I am satisfied that these matters could be addressed through planning conditions, if shown to be necessary. I find no conflict with Policy BE1 of the UDP, other than as set out above.

Conclusion

23. I have found that the development does not comply with the development plan and the other considerations advanced do not outweigh the conflict identified. The appeal on ground (a) fails, therefore.

The ground (f) appeal

24. An appeal has been made on ground (f) and, therefore, I must consider the statutory purpose of the enforcement notice. The purposes are set out in Section 173(4) of the 1990 Act as (a) remedying the breach by making any development comply with the terms of any planning permission which has been granted, by discontinuing any use of the land or by restoring the land to its condition before the breach took place, or (b) remedying any injury to amenity which has been caused by the breach.
25. The steps seek the removal of the unauthorised works and the restoration of the land to its previous condition. It is clear that the purpose of the enforcement notice is to remedy the breach of planning control. Consequently, on the ground (f) appeal, I must decide whether the steps required by the notice exceed what is necessary to remedy the breach identified.
26. The appellant argues that the requirements are excessive since the fence and screen could be reduced to a height than no more than 2 metres to fall within development permitted under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), which concerns "the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure". Under A.1 development is not permitted if (a)(ii) "the height of any gate,

fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level” and (b) 2 metres elsewhere.

27. Therefore, the stretch of fence that runs along Trinity Street, at the very least, would need to be reduced to 1 metre. In any event, permitted development rights cannot be applied retrospectively. Any alterations would not remedy the breach and satisfy the statutory purpose behind the notice. I have considered whether an alternative type of fencing could be allowed under ground (a), but I have insufficient detail that would allow me to grant permission and vary the notice with sufficient precision.

28. I conclude on this issue that the steps required by the notice do not exceed what is necessary to remedy the breach identified. The ground (f) appeal fails, therefore.

The ground (g) appeal

29. The appeal on ground (g) is that compliance period specified in the notice falls short of what should reasonably be allowed. I accept that compliance with the notice is likely to cause significant disruption to the appellant’s operations, which could impact on the lives and wellbeing of individuals. This has to be balanced against the need to address the harm to a listed building, to which I have afforded considerable importance and weight, in line with the Framework.

30. I consider that 12 months would be a reasonable period to allow the parties to consider alternatives, alongside the necessary compliance with the notice. I find this proportionate in this instance due to the nature of the facility. The three years requested by the appellant is not acceptable since this would perpetuate the harm, which would not be appropriate for the reasons given under the ground (a) assessment. I understand that this compliance period would be acceptable to the Council. To this limited extent, the ground (g) appeal succeeds.

Conclusion

31. For the reasons given above, I conclude that the appeal should succeed on ground (g) only. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

32. It is directed that the enforcement notice is varied by the deletion of 28 days and the substitution of 12 months as the period for compliance.

33. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Debbie Moore

Inspector