

Appeal Decision

Site visit made on 5 October 2022

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal A - Appeal ref: APP/D0650/C/22/3294209

The Hillcrest Hotel, 75 Cronton Lane, Widnes WA8 9AR

- The appeal is made by The Hillcrest Hotel under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Halton Borough Council.
- The notice was issued on 11 February 2022; reference No. 21/00042/GENU.
- The breach of planning control was: The unauthorised development of an outdoor canopy roof as depicted in the images presented in Appendix 1 to the notice.
- The requirements of the notice are:
 1. Demolish the unauthorised development.
 2. Remove the material resulting from the demolition of the unauthorised development and lawfully dispose of the resulting waste.
- The period for compliance with the requirements is 28 days.
- The appeal was made on ground (g) as set out in the amended Act.

Summary of decision: The enforcement notice is quashed.

APPEAL B - Appeal ref: APP/D0650/W/22/3294211

The Hillcrest Hotel, 75 Cronton Lane, Widnes WA8 9AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal was made by The Hillcrest Hotel against the decision of Halton Borough Council.
- The application ref: 21/00656/FUL was dated 29 October 2021.
- It was refused by a notice dated 10 February 2022.
- The development was described as: Retrospective application for the construction of a retractable canopy over the external seating area.

Summary of decision: The appeal succeeds. Planning permission is granted for the retention of the canopy.

Procedural matter

1. There was no s.174 appeal on ground (a) against the enforcement notice. As the s.78 planning application appeal seeks planning permission to retain the development enforced against, that is considered first.

Appeal B – s.78 - the outdoor canopy

2. The appeal concerns a black painted steel framed canopy that extends over much of the western end of the road frontage external seating area to The Hillcrest Hotel at No. 75 Cronton Lane, Widnes. The canopy has a flat roof with lines of downlighting lamps providing lighting to the seating area in the evening. The canopy has been built forward of the main hotel building, bounded by a low white painted wall set a metre or so behind a low dark brick wall at the back of the road footway. A small hipped roof building, displaying the sign “Cocktails” stands alongside the western end of the canopy.
3. Immediate surroundings are mostly residential, with a mix of housing of different sizes and design. There is single storey detached housing opposite; a 3 storey residential block a short way of it to the west. Cronton 6th Form College is about 100m to the west. There are rows of shops and commercial premises some 250m to the east.

Council reasons for refusal - s.78 appeal

4. The Council said the appeal canopy failed to comply with planning policy BE1 and policy BE2 of the Halton Unitary Development Plan. That was because:
 1. The development is situated forward of the street building line causing a significant intrusion into the street scene.
 2. The overall scale, size, height and massing of the outdoor canopy roof over an outdoor seating area provides the appearance of a permanent large single storey structure that is out of keeping with and fails to respect its surroundings.
 3. The overall appearance presents an incongruous feature in the context of the surrounding residential area. This is exacerbated when the structure is illuminated.
5. The Halton Delivery and Allocations Local Plan was adopted on 2 March 2022. Policies GR1: Design of Development and GR2: Amenity, set out under the heading General Requirements, are most relevant.
6. The courts have confirmed that Inspectors need to make their decisions on planning appeals on the basis of the development plan and national policy which are in place at the time of their decision - rather than at the time of the event or any earlier stage. Where relevant policy has changed it is likely it may be necessary to offer the parties the opportunity to comment, *Cheshire East BC v SSCLG* 2013 EWHC 892 (Admin) [20 March 2013]. Because later policies GR1 and GR2 are general requirement policies so similar to policies BE1 and BE2, invitation to comment is unnecessary.
7. The Council’s 3 reasons for refusing to grant planning permission to retain the appeal canopy relate to the question as to the acceptability or otherwise of the appearance of the outside area canopy on the street scene. In my view those reasons are apposite, but do not amount to a persuasive objection to the retention of the canopy.
8. Approached from the east along Cronton Lane, the dominant feature of The Hillcrest Hotel is the somewhat uncompromising bulk of the flat roofed 3 storey bedroom block on the eastern side of the main canopied entrance to the hotel. The appeal canopy is clearly visible from the east, but is not an unduly prominent feature when seen against the background of the main hotel

building, the cocktail building immediately alongside and the tall trees at the western boundary. From the west, the view to the canopy is largely shielded by the cocktail building, significantly reducing any adverse effect on the immediate street scene. In terms of the application of policy GR1: Design of Development, the appeal canopy design may be somewhat utilitarian rather than of high quality. But it is adequately functional and well enough suited to its location and purpose. I find adequate compliance with the provisions of policy GR1.

9. Similarly, I find that the appeal canopy is not, as the Council determined, of such a size that it is unacceptably out of scale with its surroundings. Certainly, the hotel development is on a much larger scale than of the single storey housing opposite. But the low canopy itself is not an unsympathetic addition to the hotel building and the overall development of its site. The canopy is a reasonable addition to the large Hillcrest Hotel, and should be judged against that, rather than the housing across the road. In that regard, it is notable that there was local support for the appeal development, none saying the canopy was an unacceptably incongruous feature of this part of Cronton Lane.
10. The Council were concerned that any intrusion would be exacerbated at night when the underside of the canopy was illuminated. The hotel has an illuminated sign, the entrance foyer is mostly glazed as is the public floor area above. Seen against that background and the fact that the canopy lighting is aimed directly downwards, any light polluting effect of the canopy is likely to be limited and acceptable.
11. My conclusion is that, particularly examined against the provisions of local policy, planning permission should be granted for the retention of the appeal canopy. As the s.78 planning application appeal succeeds, the enforcement notice dealing with the same development is quashed. The enforcement notice appeal made on ground (g) does not fall to be considered.

FORMAL DECISIONS

Appeal A - Appeal ref: APP/D0650/C/22/3294209

12. The enforcement notice is quashed.

Appeal B - Appeal ref: APP/D0650/W/22/3294211

13. The appeal is allowed. Planning permission is granted for retention of the retractable canopy built over the external seating area at The Hillcrest Hotel, No. 75 Cronton Lane, Widnes WA8 9AR in accordance with the terms of the application 21/00656/FUL dated 29 October 2021 and the attached plans.

John Whalley

INSPECTOR