



Appeal Decision

Site visit made on 23 May 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th June 2023

Appeal Ref: APP/Z4310/W/22/3306693

Stanhope Street/Grafton Street/Mann Street, Liverpool L8 5RE

- 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 Mr S Campbell against the decision of Liverpool City Council.
 - The application Ref 21F/0730, dated 1 March 2021, was refused by notice dated 25 August 2022.
 - The proposed development is described on the application form as 'Temporary permission for the erection of a mixed-use venue, constructed from shipping containers, and all associated works.'
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Decision

1. The appeal is allowed and planning permission is granted for mixed use venue constructed from shipping containers on part of the existing car park for a temporary three year period, to be used for exhibition space; community/cultural group space; music events; food and beverage; temporary market space; conferencing; and educational/workshop space at Stanhope Street/Grafton Street/Mann Street, Liverpool L8 5RE in accordance with the terms of the application, Ref 21F/0730, dated 1 March 2021, and subject to the attached schedule of conditions.

Preliminary Matter

2. During the course of the application, the description of development was altered to include additional detail about the range of uses that the proposed space would cater for. I have assessed the proposal on the basis of this longer description, which has been used in the Council's decision notice and appellant's appeal form. In the interests of certainty, and to accurately reflect the range of uses proposed at the site, I have also used this revised description, with superfluous wording removed, in the above decision.

Main Issue

3. The main issue is the effect of the proposal on highway safety.

Reasons

4. Over recent years the Cains Brewery Village has been developed to provide an eclectic mix of food and drink outlets, with spaces for music and arts, centred around the imposing Grade II listed former brewery. The proposed temporary venue, which would be formed of shipping containers, would contribute to the aim of creating a vibrant, mixed-use entertainment and cultural destination at

the Village, as set out in the Baltic Triangle Strategic Regeneration Framework 2020 (SRF).

5. In principle, the proposal would also comply with Policy CC14 of the Liverpool Local Plan 2022, which relates to the Baltic Triangle area. The Policy allows for entertainment uses, night-time activities, leisure and food and drink uses, subject to detailed criteria set out in the Policy.
6. The proposal would occupy part of an existing car park, which, according to the appellant, has a total capacity of 146 spaces. The proposed scheme would result in the loss of 44 spaces, so 102 would remain following the development.
7. At the time of my visit on a weekday morning, the existing car park was being well used, but there were a reasonable number of spaces available. The appellant's parking survey also identified that the car park was not operating at full capacity. Given that, the proposed loss of spaces is unlikely to result in significant displacement of existing users or demand for additional on-street parking nearby.
8. In any case, I note the appellant's comment that the site forms part of a wider outline planning permission for the Brewery site, which includes proposals to redevelop the car park for commercial and residential uses. It appears that the loss of the car park has already been established, therefore, which accords with the SRF aim of reducing the dominance of car parking in the area.
9. As recognised in the SRF, the area is already an important entertainment and music destination, which is popular with locals and visitors. Some patrons of the proposed mixed-use venue are likely to be existing customers of the Brewery Village or other pubs and bars nearby, so would be in the area anyway. Even so, the proposed venue, which at full capacity could accommodate up to 600 people standing, would likely generate new visitors, both from the local area, and possibly from further afield too.
10. Although outside of the main city centre, the Cains Brewery Village is within walking distance for many residents of the area, some of whom may be customers of the proposed development. The area is also easily accessible by bus from a wider area, with regular services into the evening. Given the nature of the proposal as an entertainment venue, and its accessible urban location, it is likely that a significant proportion of visitors would travel to the site by walking, cycling, bus or taxi. Other forms of transport such as electric scooters may also be used.
11. As the closest city centre railway stations are around a mile away, travel by train may be less attractive to some visitors. Nonetheless, travel by train would be an option for visitors coming from further away, which could be combined with local buses or taxis to reduce walking distance.
12. The proposed venue would incorporate a bar and would operate predominately in the evenings. Given the nature and proposed location of the scheme, I give little weight to the Council's suggestion that visitors to the proposed venue would be less likely to drink alcohol, and therefore more likely to drive, than patrons of other elements of the Brewery Village. Nonetheless, whilst a significant proportion of visitors would be likely to travel to the proposed venue by alternative modes of transport, inevitably others would choose to drive, either individually or as a car share.

13. The appellant's transport statement estimates likely modal split for visitors based on comparable types of events and venues. This suggests that, if the venue was operating at full capacity, there could be up to 110 additional vehicles as a result of the proposal. It is not possible to anticipate the level of use of the facility at this stage, including the number of times when it operates at full capacity, but assuming that many people will travel in other ways or car share, this figure seems reasonable as a worst-case scenario.
14. The figure of 110 vehicles includes taxis, which would just be dropping off, so the number of private cars looking for space to park could be considerably lower. Even so, if operating at or near full capacity, the proposal could generate a moderate number of additional trips by private car, which would need to be accommodated in the surrounding area.
15. When I visited the area, on a weekday morning, I saw that there was a considerable amount of on-street parking in the streets around the appeal site, with few spare spaces. However, there was little activity at the Brewery Village at that time, and proposed use would be unlikely to be busy either. It seems likely that the on-street parking at the time of my visit was largely associated with the many local businesses in the nearby area.
16. The proposal does not specify the times when events would be running, and the venue could be operational during the daytime. However, the appellant has indicated that the busiest times are likely to be weekend evenings. The appellant's parking beat survey, carried out over a weekend in June 2021, indicates that there is likely to be some capacity for on-street parking nearby at times when the proposed venue is likely to be busiest. That said, parking restrictions in the area, along with existing demand from local residents and businesses, means that for visitors to the proposed venue, opportunities for on-street parking in the immediate vicinity are likely to be limited.
17. The demand for parking generated by the proposal is likely to exceed places where patrons could park for free in the immediate vicinity. However, in an urban location such as this, the availability of ample free parking close to a venue would be unusual. Many of those travelling by car would anticipate the likely need to use a car park, which may well involve a charge. Alternatively, if they wished to park on street for free, leave their car further away and walk.
18. There are various car parks in the vicinity which patrons of the proposed venue could use. There is likely to be some capacity in the immediately adjacent car park, which would still have around 100 spaces following the development. The appellant's parking survey found that, at weekends, the busiest times of the car park were during the afternoon, but there would still be capacity of around 20-30 spaces, which would increase significantly into the late afternoon and evening, as the venue becomes more busy and as existing users of the car park dissipate. The appellant's Technical Note estimates that there could be capacity of around 45 free spaces from 7pm on a Saturday, when the venue is likely to be becoming busier.
19. Other surface level car parks in the surrounding area could also serve the proposal, and the SRF notes that the large Kings Dock multi-storey car park, which was under construction at the time of its writing, could help serve demand at Baltic Triangle.

20. Whilst there are a variety of parking options available nearby, some people may try to park for free, as close as possible to the venue. The appellant's parking survey has found evidence of existing parking on double yellow lines and on pavements in the area. I acknowledge that there is potential for demand from the proposal to result in inconsiderate or inappropriate parking, including across accesses or too close to junctions. However, the Council does have the ability to enforce the existing parking restrictions in the area. It could also implement measures to reduce pavement parking.
21. The Council has provided no specific evidence of existing highway safety problems in the area, and despite the prevalence of on-street parking in the area, accident data shows a very low level of incidents in the surrounding area. I am therefore unconvinced that the proposal would result in unacceptable highway safety conditions.
22. I note the Council's comments that a travel plan for the proposed venue may not be particularly helpful, as visitors to the venue may be making one-off trips, rather than regular journeys. Nonetheless, information about public transport options and parking availability could usefully be provided on the event website and sent out with advance tickets. This would assist people in planning their journeys, and could help to discourage on-street parking. In this regard, I note the appellant's comments that guests would be encouraged to park in the adjacent car park, with a possible reduction in parking fee or reimbursement, to encourage off-street parking.
23. Both parties have referred to the BOXPARK scheme, which has recently been granted planning permission at the Cains Brewery Village. The submitted information indicates that the BOXPARK scheme would provide for music events, arts and fashion shows, so the use would be not dissimilar to that proposed in the current appeal. Although the BOXPARK scheme would make use of an existing building already used for leisure purposes, it seems likely that, like the appeal before me, the BOXPARK scheme would attract additional visitors to the Brewery Village. In both cases, it is likely that a proportion of those customers would choose to travel by car, and so would need to find somewhere to park.
24. The highway impacts of the BOXPARK scheme were considered acceptable by the Council. Given the accessibility of this location by a range of alternative travel modes, and the availability of car parks in the wider area, I have identified no clear reason to take a different view here. In any case, the current proposal is for a temporary, three year period, so if problems were to arise as a result of the development, they would be for a limited period only, and would not endure.
25. Taking the above considerations into account, I am not persuaded that the proposal would have an unacceptable effect on highway safety.
26. I have identified no conflict with Local Plan Policy TP6, which promotes layouts which are accessible for pedestrians and encourage walking.
27. Local Plan Policy TP8 requires that all new developments which generate a demand for car parking should make provision to meet such demand on site. In this case, the nature of the development means that is not possible, but some parking for the scheme would be available at the immediately adjacent car park. The Council has not indicated any specific car parking standard which

it considers should be met, and I have identified no other conflict with the policy.

28. I am satisfied that safe and suitable access to the site could be achieved for all users, as required by paragraph 110 of the National Planning Policy Framework (the Framework). As I have identified no unacceptable highway safety impacts, there is no reason to withhold planning permission, in accordance with the advice in Framework paragraph 111.

Other Matters

29. The site is very close to the Grade II listed Grapes Public House and Higsons Brewery, commonly referred to as the Cains Brewery. In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I must have special regard to the desirability of preserving the setting of the listed building in this appeal.
30. The imposing red brick and terracotta former brewery with its tower and chimney is a large and very prominent building which forms the heart of the Cains Brewery Complex. Its interesting architecture affords aesthetic significance, and its former use as a pub and brewery is immediately apparent from the inscription on the brickwork. The building has historic and evidential significance, and as a former place to work and socialise, also has communal significance.
31. The proposed development would be formed of double height shipping containers. Use of this type of structure as a building is already a feature of this area, and reflects the industrial nature of the Baltic Triangle area and its maritime past. The scale and height of the development would not compete with that of the listed building, and in visual terms, the proposal would be acceptable in this location. I am satisfied that the scheme would preserve the setting of the listed building,

Conditions

32. The proposal seeks permission for a temporary 3 year period. In the interests of certainty, a condition is necessary specifying that the use must cease after that date, and the land restored to its former condition. I have made minor working changes to the Council's suggested condition to make it more precise.
33. To safeguard highway safety and the living and working conditions of nearby occupiers, a pre-commencement condition requiring the submission of a Construction Method Statement for the Council's written approval is necessary. I have imposed a suitable condition, with minor wording changes to avoid duplication.
34. The Council has suggested a condition requiring details of boundary treatments, the design and location of external lighting and colour of external surfaces. I agree that this is necessary, to ensure that the proposal is of an acceptable appearance which safeguards the setting of the listed building.
35. There are residential developments near to the site, and to protect the living conditions of occupiers, a condition limiting operating hours is necessary. A condition controlling the orientation and luminance of external lighting at nearby habitable room windows is also necessary, to minimise disturbance.

36. The Council has suggested a condition requiring details of a Servicing and Waste Management Strategy for its written approval. I agree that this is necessary to safeguard the local environment and the living and working conditions of nearby occupiers, and I have imposed a suitable condition. The required Servicing and Waste Management Strategy could address the need to store refuse within the curtilage, and sort and store bottles inside. As such, the Council's suggested additional conditions relating to these matters are not necessary.
37. The proposal includes the sale of food and drink, and in order to protect the living and working conditions of nearby occupiers, it is necessary to ensure that fume extraction systems do not cause problems in terms of noise and odour. I have imposed a suitable condition requiring details of such installations to be submitted and approved by the Council. I have excluded some of the suggested detail in the interests of brevity, but these matters can in any case form part of the Council's approval of details. For similar reasons, a condition controlling noise from plant is necessary. I have imposed the Council's suggested condition with minor wording changes to improve precision.
38. The appellant has provided a Noise Impact Assessment (ADC Acoustics) which demonstrates how the proposed development could be constructed and operated so as not to cause unacceptable disturbance to nearby occupiers. The Council's Environmental Health officer has indicated that the conclusions and recommendations contained in the report are acceptable, and I have no reason to disagree.
39. Full details of the building construction, ventilation systems and treatment of entrances was unknown when the ADC report was prepared, so the report recommends the submission of various further details. To ensure that the development safeguards the living conditions of nearby occupiers, I agree that the submission and approval of such details, and their subsequent implementation, are necessary. Accordingly, I have imposed a condition requiring a scheme of noise mitigation measures to be submitted to the local planning authority. The mitigation measures should reflect the recommendations of the ADC report.
40. The Council has suggested a condition requiring boundary doors and windows to be kept closed between 2300 and 1000, to minimise disturbance. However, this matter could usefully be included as part of the wider noise mitigation strategy for the site, so it is not necessary to impose a separate condition.
41. To ensure that the development is accessible to all users, a condition is necessary requiring that the inclusive/accessible design features shown on the approved floor plan, which include accessible toilet and platform lift to allow wheelchair users to access the mezzanine floor, are fully implemented.
42. The site is currently tarmacked, and it is unclear why the proposal would result in any additional surface water being discharged to the highway than in the current situation. If anything, the proposed use of green roof should assist in reducing surface water run off. The Council has not explained why the suggested condition requiring details of a surface water drainage scheme is necessary, and I have not imposed it.

43. In order to meet promote sustainable transport and meet the Council's standards, it is necessary to impose a condition requiring that details of cycle parking be submitted and implemented.

Conclusion

44. I have found that the proposed temporary events venue would not result in unacceptable risks to highway safety. As the proposed use complies with the development plan, the Act and the Framework, the appeal is allowed subject to the attached conditions.

R Morgan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the expiration of this period, the development hereby permitted shall be discontinued and the land restored to its former condition.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawings:
P2020.07_000 – Site location plan
P2020.07_002 – Proposed site plan
P2020.07_200A – Proposed elevations
P2020.07_100C – Proposed floor plans
P2020.07_201 – Proposed street elevation

Supporting documents:
Planning Statement (Baltic Planning and Development, March 2021)
Design and Access Statement, Rev C (Baltic Entertainment Ltd, May 2021)
Transport Statement (revised) (SCP, 27 April 2021)
Transport Technical Note (SCP 20 July 2021)
Noise Impact Statement (ADC Acoustics, 2 March 2021)
Heritage Statement (February 2021)
- 3) No development shall take place, including any site clearance or ground works, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The Statement shall provide for:
 - i) Construction traffic routes, including provision for access into and out of the site for visitors, contractors and deliveries
 - ii) Location of directional signage within the site
 - iii) Parking for contractors, site operatives and visitors
 - iv) Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of construction

- v) Schedule for large vehicles delivering/exporting materials to and from site
- vi) Storage of plant, materials and temporary containers on site
- vii) Measures to control noise and dust
- viii) Details of street sweeping/street cleansing/wheel washing facilities
- ix) Details for the recycling/disposing of waste resulting from construction works
- x) Phasing of works including start/finish dates
- xi) Delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Details of the following external works shall be submitted to and approved in writing by the local planning authority before they are implemented:

- i) All new boundary treatment, gates and means of enclosure, other than where the containers form the boundary
- ii) Full details of the design and location of new external lighting
- iii) Colour finish to all externally treated surfaces.

The development shall be carried out in accordance with the approved details and retained as such thereafter.

- 5) The premises shall only be open for business between the following hours:
1000 – Midnight Mondays - Fridays
1000 Saturdays - 0100 Sunday mornings
Midday - 2300 on Sundays and bank holidays.

- 6) No part of the development shall be occupied or brought into use until a Servicing and Waste Management Strategy has been submitted to, and approved in writing by, the local planning authority.

For the avoidance of doubt the Strategy shall set out design and operational proposals for servicing and the storage, transfer and collection of waste, ensuring that appropriate arrangements are made and that logistical requirements are appropriately considered and addressed.

The Strategy shall be subsequently implemented in accordance with the approved details.

- 7) Before the use hereby permitted takes place, a fume extraction system shall be installed to all areas where hot food is to be prepared, in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval, for so long as the use continues.

For the avoidance of doubt, any fume extraction system shall not be operated outside of the opening hours of the premises.

- 8) Throughout the lifetime of the development, any external lighting fittings shall be orientated so that measurements taken at any nearby habitable roomed windows do not exceed 6 lux. In the event of this luminance level being exceeded, the fittings shall be re-orientated so that the above requirement is met.

- 9) The rating level of the noise emitted from any plant shall not exceed the existing background noise level. The rating level and background noise level shall be determined at the nearest noise sensitive premises. The measurements and assessments shall be made according to BS4142 2014 Method for Rating Industrial and Commercial Sound.
- 10) A scheme of noise mitigation measures for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The scheme shall reflect the recommendations contained in the Noise Impact Assessment by ADC Acoustics Ltd (ref ARR/PPN/C/3187.01, dated 2 March 2021). The approved details shall be implemented in full prior to the development being brought into use, and thereafter shall be retained and adhered to at all times for the lifetime of the development.
- 11) Prior to the development being brought into use, accessible/inclusive design features shall be installed in accordance with the details and specifications shown on drawing no P2020.07_100C (proposed floor plans). The accessible/inclusive design features shall be retained as such thereafter.
- 12) A scheme for the provision of cycle parking, which accords with the Council's current standards, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is brought into use, and shall be retained as such thereafter.