
Appeal Decision

Site visit made on 19 December 2024

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Appeal Ref: APP/Z4310/W/24/3350796

52 Lark Lane, Liverpool L17 8UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Rob Gurtman against the decision of Liverpool City Council.
 - The application Ref is 23F/2596.
 - The development proposed is erect metal pergola type structure with fixed glazed roof at the side and front of the site in connection with the use of the side and front as external eating and drinking areas operating between 08:00 and 22:00 hours and relocate/enclose bin storage area.
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Decision

1. The appeal is allowed and planning permission is granted for erect metal pergola type structure with fixed glazed roof at the side and front of the site in connection with the use of the side and front as external eating and drinking areas operating between 08:00 and 22:00 hours and relocate/enclose bin storage area at 52 Lark Lane, Liverpool, L17 8UU in accordance with the terms of the application, Ref 23F/2596, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
3. I have utilised the description of development found within the decision notice. In following the evidence, I note that a new description was added to account for the proposed hours of operation in association with the external areas. As such, this description acknowledges all matters of the development proposed.

Main Issue

4. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Lark Lane Conservation Area (CA).

Reasons

5. The CA and Lark Lane lies to the south-east of Liverpool city centre. The appeal site forms a part of an area of shops and food and drink establishments which line along Lark Lane itself. Most buildings within this area of the CA are constructed of brick and feature intricate detailing below the gutter to the roof and around the windows to the front elevation.
6. Lark Lane grew in response to the expansion of the city and the creation of Sefton Park. Lark Lane was linked directly to Sefton Park at its northern end. Late

Victorian villas were built in the CA so that the wealthy could take advantage of the adjacent park. The significance of the CA is derived from the attractiveness of the buildings experienced throughout Lark Lane and the surrounding streets.

7. 52 Lark Lane is alike its neighbour on the opposite side to the entrance of Hadassah Grove. These properties are different to those found within Lark Lane due to their set back from the pavement edge with a forecourt area to the front. The appeal property hosts a different appearance to those found throughout the CA due to its wider frontage and white rendered elevation. Therefore, these elements, in addition with its forecourt to the front provide a sense of spaciousness from the public footpath on Lark Lane. As such, the appeal site makes a positive contribution to the character and appearance of the CA.
8. The proposed structure would be constructed to the front and side elevation of the appeal building. This would appear as an ancillary element with decorative features. The proposed structure would still present a sense of space to the front elevation due to its glazed roof and open space between each support of the pergola. Furthermore, the proposal would retain the upper floor and ground floor window detail, as the highest point of the structure would be located between these two elements of the building. The existing railings which face onto Lark Lane would be retained. Owing to the characteristics of the pergola and the intervisibility through the railings, this would not unacceptably reduce the sense of space when viewed from Lark Lane.
9. The Council note of a sense of space experienced to the entrance into Hadassah Grove. This is through the setback of the appeal building and the other building to the opposite side of the entrance into Hadassah Grove. During my site visit, I noted that this sense of space is eroded due to the provision of a historic high boundary wall which runs from the front of the appeal site along its side boundary. As such, when viewed from Lark Lane, this entrance is already concealed and the sense of space experienced is reduced due to this structure. The proposed development would not unacceptably reduce the space further.
10. The Council have cited a previous appeal decision (appeal reference APP/Z4310/W/23/3319301) for a similar proposal at 56-58 Lark Lane which is the neighbouring building on the opposite side to the entrance of Hadassah Grove. This building features many similarities to the appeal property such as the provision of a forecourt and set back from the pavement edge. However, the decisive differences between the two appeals are that the materials and design of the pergola in this appeal are different. This is due to the design detail included in the proposal compared to that in the appeal cited.
11. To conclude, I find that the proposal would preserve the character and appearance of the CA and accords with Policies HD1, UD1, UD2 and UD7 of the Liverpool Local Plan 2022. These policies require proposals to preserve or enhance the elements which contribute to the character and appearance of a Conservation Area, respond to street character, be of an appropriate form and function to the building and its context.

Other Matters

12. Interested parties have commented during the application stage and during this appeal. Comments refer to the effect of noise generated from the appeal site, the comings and goings of its customers and the management of waste. In following

the reasoning provided by the Council, the appeal proposes to utilise the external outside areas between 08:00 and 22:00. These hours are consistent with those approved in a previous application for the site. The Council state that the full external area of the site, including the space to the side, benefits from these hours. The provision of a pergola structure adjacent to the high brick wall which runs along the boundary to Hadassah Grove would assist in the reduction of noise generated from the use of this space which already benefits from planning permission. Patrons would arrive and leave the appeal site along Lark Lane, moving away from immediate residential properties, with particular regard to those located on Hadassah Grove.

13. With regard to the management of waste, the timber enclosure which would divide the service area of the site from the external seating area, the door to the bin storage building and the boundary brick wall along Hadassah Grove would reduce the opportunities for vermin to access the waste storage area. Refuse collection times would be undertaken from Monday to Friday between 09:00 to 17:00, with no out of hours collections. The bin storage area is located to the rear of the site. On waste collection days, bins would be required to be moved from the rear to the front of the site. However, whilst this would be undertaken along the area adjacent to Hadassah Grove, the covered nature of part of this area would reduce the noise of bin movements and this would also be undertaken during normal working hours. As such, I do not consider that residential amenity would be unacceptably affected with regards to waste.
14. Comments have also been received regarding the apparent proliferation of bars along Lark Lane, and the effect that this has had on the Conservation Area. Each planning application is determined on its own merits, following the planning policy applicable to that proposal, and any other material considerations.

Conditions

15. Statutory consultees did indicate which conditions it wanted to be considered in the event that the appeal was allowed. As such, I have assessed the proposal and these conditions, and any other conditions relevant to this appeal. These suggested conditions have been amended to ensure that they meet the six tests for imposing planning conditions. Subsequently, I have requested comment from both parties on the attached conditions. I have consulted the parties on these conditions. The Council commented with suggested amendments to these conditions. I have taken these comments into account.
16. In addition to the statutory time condition [1] a condition specifying the approved plans [2] are justified in the interest of certainty. A condition requiring the colour of the approved structure [3] has been imposed. The Council requested that the structure is painted black. This matches the colour stipulated in the application form. As such, this condition is necessary to ensure that an appropriate colour finish is applied to and retained over the lifetime of the development. The provision of a condition which restricts the use of the external covered space between 08:00 to 22:00 [4], and the restriction on the playing of music [5] is necessary to safeguard the living conditions of neighbouring occupiers.
17. Highways Development Control requested the provision of a condition which required the submission of a scheme for the design and construction of highway improvement works and for that scheme to be completed in accordance with

these approved details. These works would be outside of the site boundary, not related to the proposed development, nor would it be necessary in relation to the approved development. As such, I have omitted this suggested condition from this decision.

18. The Council have also suggested that a condition be imposed to restrict the manufacturer make and model of the development structure, as this would ensure that there is no deviation from the plans assessed. However, this condition is not necessary as any deviation from the plans would be in breach of condition 2 which lists the approved plans. Therefore, for this reason, I have not included this suggested condition.

Conclusion

19. For the reasons given above the appeal should be allowed.

J Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers:
 - Proposed Block Plan: 4.050_Rev A
 - Proposed Ground Floor Plan: 4.100_Rev A
 - Proposed Level 01 Plan: 4.101_Rev A
 - Proposed Elevations: 4.102_Rev A
 - Proposed Side Elevations: 4.103_Rev A
 - Proposed Column Detail: 4.104_Rev A
 - Proposed Canopy Details: 4.105_Rev A
 - Proposed Canopy Details: 4.106_Rev A
 - Proposed Canopy Plan: 9.100_Rev _
 - Proposed Canopy Gutter Details: 9.101_Rev A
 - Drainage Plan: 4.010_Rev A
 - Bin Store: 3.107
- 3) The PPC aluminium awning structure and steel columns of the approved development shall be finished in black and retained as such.
- 4) The external eating and drinking areas hereby approved shall only be open to customers between 08.00 and 22.00.
- 5) Amplified or other music shall not be played in the external eating and drinking areas hereby approved, including any music directed towards the external eating and drinking areas from within doorways or window openings of the host premises.

End of Conditions