
Appeal Decision

Site visit made on 28 February 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 March 2017

Appeal Ref: APP/B4215/W/16/3164609

Northern Lawn Tennis Club, Palatine Road, Manchester M20 3YA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Neville Hewer against the decision of Manchester City Council.
 - The application Ref 111419/JO/2016/S2, dated 10 February 2016, was refused by notice dated 7 June 2016.
 - The application sought planning permission for *Erection of new building 8.43 metres high adjacent to 5A Parkfield Road South to accommodate 2 double and 1 single tennis court with associated landscaping following demolition of existing indoor court building* without complying with conditions 2 and 8 attached to planning permission Ref 077757/FO/2005/S2, dated 13 June 2012.
 - The conditions in dispute are Nos 2 and 8 which state that:
 - "2) *The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority: Methodology for Scheme Assessment Work Revision D, M1514.07A, M1514.08B, M1514.09A, M1514.10A, M1514.11A, M1514.12F received via e-mail 9 June 2009, M1514.15A, M1514.16A, M1514.17A, M1514.18A, M1514.19A, M1514.20A, M1514.21A, M1514.22A, M1514.23A, M1514.24A, M1514.25, M1514.26, M1514.27B received via e-mail 9 June 2009, 895.03 stamped as received by the local planning authority on 30 May 2008, 895.16 stamped as received by the local planning authority on 30 May 2008, 895.17 stamped as received by the local planning authority on 30 May 2008, 895.22 stamped as received by the local planning authority on 30 May 2008, 895.19 Rev D stamped as received by the local planning authority on 2 April 2009, 895.21 Rev C stamped as received by the local planning authority on 2 April 2009, 895.20 Rev E stamped as received by the local planning authority on 22 April 2009, 895.15 Rev E stamped as received by the local planning authority on 22 April 2009.*"
 - "8) *Notwithstanding the approved plans, full details of the Green Roof to be installed (Including details of irrigation) shall be submitted to and approved in writing by the Local Planning Authority, prior to commencement of development. The development shall be implemented in accordance with the approved details, unless otherwise agreed in writing.*"
 - The reasons given for the conditions are:
 - (2) *"To ensure that the development is carried out in accordance with the approved plans. Pursuant to Policy H2.2 of the Unitary Development Plan for the City of Manchester and Policies SP1 and DM1 of the emerging Core Strategy."*
 - (8) *"To ensure that the Green Roof is successful, safeguarding the amenities of the area and in accordance with Policy H2.2 of the Unitary Development Plan for the City of Manchester and Policies SP1, DM1 and EN15 of the emerging Core Strategy."*
-

Decision

1. The appeal is allowed and planning permission is granted for Erection of new building 8.43 metres high adjacent to 5A Parkfield Road South to accommodate 2 double and 1 single tennis court with associated landscaping following demolition of existing indoor court building at Northern Lawn Tennis Club, Palatine Road, Manchester M20 3YA in accordance with the application Ref 111419/JO/2016/S2 dated 10 February 2016 subject to the conditions set out in the attached schedule.

Background and Main Issue

2. Planning permission was granted for the erection of a new building to contain indoor tennis courts with associated landscaping following the demolition of an existing indoor court building (Ref 077757/FO/2005/S2). Though the permission was granted in June 2012, both main parties consider it to be extant following the commencement of works on site and I have no reason to disagree with their conclusions on this matter.
3. The extant consent includes a condition which specifies the approved plans (condition 2) and a condition requiring full details of the Green Roof to be submitted to and approved by the Council (condition 8). Variations to conditions 2 and 8 are sought to reflect proposed changes to the design of the new building including to not sink it into the ground by 2 metres and to replace the originally proposed Green Roof with a non-reflective sheet metal roof and photovoltaic panels (PV panels).
4. The Council refused the application that is the subject of this appeal due to concerns about the impact of the proposed roof materials on the character and appearance of the area, including on the Blackburn Park Conservation Area (CA). The appellant argues that the proposed building would not be visually prominent or harmful to the character of the CA.
5. Having regard to the background to the application and the imposition of the conditions, the main issue is the effect of the proposed changes to the roof material of the new building on the character and appearance of the area including the CA.

Reasons

6. The appeal site is located in the Blackburn Park Conservation Area (CA). The CA comprises the area bounded by Barlow Moor Road, Palatine Road, Lapwing Lane and Wilmslow Road and is principally an area of large mid-19th to early 20th century family houses with spacious gardens, arranged along tree lined roads.
7. The appeal site comprises an existing indoor court building with adjacent outdoor courts forming part of the wider Northern Lawn Tennis Club (NLTC). It is located at the edge of the NLTC site, to the rear of residential properties fronting Blackburn Gardens, Parkfield Road South and Elm Road. The main clubhouse and another indoor court building are located at the other end of the NLTC site to the appeal site, with a number of outdoor courts located on the area in between. The position of the appeal site relative to surrounding residential properties together with existing landscaping both on and off the site means that public views of it are extremely limited.

8. Notwithstanding that the proposed indoor court building would not be sunk into the ground, its design, bulk, form and above ground height would remain as originally proposed and as approved by the extant consent. Consequently though I have had regard to the concerns raised by interested parties, I agree with the Council and consider the proposed amendments to condition 2 to reflect this change to be acceptable as the change would not affect the character and appearance of the area.
9. Though I acknowledge that the proposed indoor court building would have a large roof, the size and shape of the roof would be unaltered by the proposal and would remain as previously approved. I understand from the Council that a Green Roof was originally proposed for the building in order to reduce the perceived scale and mass of the building and to make it appropriate within the context of the CA. However Green Roofs are not in evidence in the area immediately surrounding the appeal site and do not appear to form part of the character and appearance of the area. In addition I am not convinced that the Green Roof would have any significant effect in reducing the perceived scale and mass of the building.
10. The existing indoor court building that is to be retained on the NLTC site is of a similar design and appearance to the proposed indoor court building and has a sheet metal roof similar to that proposed albeit without the PV panels. Though I note the comments made by the Council and interested parties in relation to the appearance of the building, and that it is positioned further away from residential properties, it nevertheless comprises part of the character of the immediate surrounding area. Whilst surrounding residential properties have more traditional roofing materials, the nature and scale of the NLTC site means that it has a very different character and appearance to the wider CA and I consider therefore that the proposed use of sheet metal roofing would not be out of keeping with or harmful to the character of this part of the CA.
11. Though the PV panels would appear to represent a new feature within the area, I consider that existing and proposed landscaping, the limited scale of the panels relative to the scale of the roof of the proposed building, their reasonably unobtrusive position relative to public vantage points and the fact that they would be flush with the roof means that they would not be harmful and that the character and appearance of the CA would be preserved.
12. Taking the above matters into consideration, I conclude that the proposal would preserve the character and appearance of the CA in accordance with the expectations of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. For the same reasons it would accord with paragraph 132 of the National Planning Policy Framework (the Framework), with policies SP1, EN3 and DM1 of Manchester's Local Development Framework Core Strategy Development Plan Document and Policy DC18 of the Unitary Development Plan for the City of Manchester. These policies seek to ensure, amongst other things, that development is well designed, has regard to the character of the surrounding area and preserves the historic environment including Conservation Areas.

Other Matters

13. In reaching my decision I have had regard to the significant number of objections to the proposal received from interested parties, some of whom live near to the appeal site. As stated, the proposal does not include any changes

to the above ground size of the proposed indoor court building which was previously approved by the Council. Whilst it appears that the originally proposed Green Roof was agreed upon in an attempt to mitigate the visual impact of the proposed building, for the reasons stated above I do not consider that the proposed change in materials would result in any harm to the character or appearance of the CA or to the visual amenity of surrounding residential properties.

14. Additionally I do not consider that the proposal would result on any adverse effect on the living conditions of nearby residents having regard to glare and reflection from the PV panels or noise, disturbance or air quality issues arising from the construction period which is likely to be relatively short lived. I note that no objections were raised by the Council in relation to this issue.
15. The fact that there may be other sites available nearby to accommodate such a building is not a matter for me to consider in dealing with this appeal. Neither is the concern that the proposal may affect property values nearby as planning is concerned with land use in the public interest, so the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a matter for me to consider.
16. Though it seems likely that the previously proposed Green Roof would have provided some biodiversity benefits, I have not been provided with any substantive evidence in relation to this issue or how these benefits would compare to the environmental benefits that would arise from the proposed PV panels and additional landscaping.
17. Finally whilst I have had regard to concerns raised regarding consistency and precedent, for the reasons stated, the impact of the proposal is considered acceptable on its merits and based on the particular circumstances of the case. Therefore I do not consider that my decision would set an undesirable precedent.

Planning Obligation

18. I have considered the Planning Obligation in light of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the Framework and I note that the extant permission was subject to a S106 legal agreement, albeit it appears that the previous agreement also related to the Green Roof and to landscaping.
19. Within the Obligation the owner undertakes to facilitate some free community use hours of the facilities at the NLTC together with other community use of the facilities. No substantive information has been provided by either of the main parties regarding the need for the Obligation and I note that the Council's leisure department made no comments on either the application or the Planning Obligation. In the absence of this it seems to me that the likely purpose of the Obligation is to enable some community use of the facilities at the NLTC. However the evidence before me does not demonstrate that the Obligation is necessary to make the development acceptable in planning terms. Consequently I am unable to take the undertaking into account in determining the appeal.

Conditions

20. I have had regard to the conditions suggested by the Council. However I note that some of them are different to those imposed on the extant permission and I have seen no evidence from the Council explaining the reason for the proposed changes to the previously imposed conditions. Consequently I have imposed all of the conditions imposed on the extant permission with the exception of conditions 2 and 8 which have been varied to reflect the proposed amendments to the new building and condition 1 which has been removed as development has already commenced on site. I have also amended the wording of some of the original conditions slightly to reflect the fact that development has already commenced.
21. Though I understand that some of the original conditions have been discharged, I have no information before me about which conditions were discharged and what information was submitted to discharge them. Consequently I have imposed all conditions that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

22. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be carried out in accordance with the following approved plans: M2609.04, M2609.05C, 895.15, 895.16, 895.17, 895.19I, 895.20F, 895.21G.
- 2) No external walls or roof of the building shall be constructed until samples and specifications of all materials to be used on all external elevations of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples and specifications.
- 3) No demolition or above ground development comprising the erection of the building or site works of any description shall commence until there has been submitted to, and approved in writing by the local planning authority a scheme of landscaping, which shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities. In addition, all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall include seeding with a Native British Wildflower Flora mix appropriate to the soil and climate of the site.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No demolition or above ground development comprising the erection of the building or site works of any description, shall commence (and before any equipment, machinery or materials are brought onto site) until all the existing trees or hedges to be retained on the site have been protected by a fence, to be approved in writing by the local planning authority, erected around each tree or group of vegetation at a radius from the bole or boles of 5 metres or such distance as may be agreed in writing by the local planning authority. This fencing shall be maintained until all equipment, machinery, surplus materials and soil have been removed from the site. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon without the prior written approval of the local planning authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.
- 6) In this condition "retained tree" means an existing tree or hedge which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of five years from the date of the completion of the building for its permitted use.
 - (i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written consent of the local planning

authority. Any topping or lopping approved shall be carried out in accordance with BS3998 Tree Work or any equivalent replacement British Standard.

(ii) If any retained tree is removed, uprooted or destroyed or dies, a replacement tree shall be planted at the same place, or as agreed with the local planning authority, and the trees shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(iii) Prior to the commencement of any demolition or further construction operations on site (including operations associated with the provision of approved drainage details) an arboriculture method statement that accords with the principles and recommendations within BS5837(2005): Trees in relation to construction Recommendations and current best arboricultural practice shall be submitted to and approved in writing by the local planning authority. This method statement shall detail the methods relevant and necessary to ensure the protection, retention and long term health of the retained trees. To ensure the efficacy of the arboricultural method statement, details relating to on-site supervision and monitoring of tree protection methods shall also be included. The approved scheme shall be implemented on site prior to the commencement of further works and retained for the duration of the works.

- 7) Notwithstanding the approved plans, full details of the photovoltaic panels to be installed shall be submitted to and approved in writing by the local planning authority prior to the installation of the photovoltaic panels. The development shall be implemented in accordance with the approved details.
- 8) No demolition or above ground development comprising the erection of the building shall commence until there has been submitted to, agreed and approved in writing by the local planning authority a scheme to augment the existing landscaping for the existing indoor court building on site, which shall include details of planting boxes to be mounted on the west elevation, a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities. The development shall be implemented in accordance with the approved details.
- 9) External lighting shall be designed and installed so as to control glare and overspill onto nearby residential properties.
- 10) Before the use of the development hereby approved commences, the building, together with any externally mounted ancillary equipment, shall be acoustically insulated in accordance with a scheme submitted to and approved in writing by the local planning authority in order to secure a reduction in the level of noise emanating from the property.
- 11) No works relating to the construction of the development hereby approved, including works of demolition and site clearance shall take place except between the hours of 07:30 to 19:30 Monday to Friday and 08:00 to 16:30 on Saturdays. No construction (including demolition works) shall be carried out on Sundays or recognised public holidays.
- 12) No demolition or above ground development comprising the erection of the building shall commence unless and until a survey of the site in a form and carried out by a person previously approved in writing by the local planning

authority has been carried out and demonstrates to the local planning authority's written satisfaction that no protected species inhabit the site. Should the survey reveal the presence of any protected species, a scheme for the protection of their habitat or the provision of alternative habitat, shall be submitted to and agreed in writing by the local planning authority before further development commences, and implemented in full in accordance with the approved details and to a timetable agreed in writing by the local planning authority. Details submitted shall also provide for the protection of nesting birds.

- 13) No demolition or above ground development comprising the erection of the building shall commence until a scheme showing the provision to be made for disabled people to gain access to the building; and including route widths, levels and gradients, shall have been submitted to and approved by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.
- 14) The details of an emergency telephone contact number for the site contractor shall be displayed in a publicly accessible location on the site from the commencement of further development until construction works are complete.
- 15) The wheels of construction contractors' vehicles leaving the site shall be cleaned and the access roads leading to the site swept daily in accordance with a management scheme submitted to and approved in writing by the local planning authority prior to any further works commencing on site.
- 16) No further development shall commence until details of the measures to be incorporated into the development (or phase thereof) to demonstrate how Secured by Design accreditation will be achieved have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with these approved details. The development hereby approved shall not be occupied or used until the local planning authority has acknowledged in writing that it has received written confirmation of a Secured by Design accreditation.