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## Appeal Decisions

Inquiry held 4 – 7 July 2017

Site visit made on 6 July 2017

**by Philip Lewis BA (Hons) MA MRTPI**

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

**Decision date: 30 August 2017**

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### **Appeal A Ref: APP/B4215/W/16/3163305 Irvin Drive, Manchester M22 5LR**

- 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 Peter Ashley Carparks Limited against the decision of Manchester City Council.
  - The application Ref 112323/FO/2016/S2, dated 27 May 2016, was refused by notice dated 1 September 2016.
  - The development proposed is described as 'car storage structure and use of site to provide airport car parking incorporating block car parking (for purposes of meet & greet) and park & ride car parking'.
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### **Appeal B Ref: APP/B4215/W/17/3168121 Irvin Drive, Manchester M22 5LR**

- 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 Peter Ashley Carparks Limited against the decision of Manchester City Council.
  - The application Ref 114349/FO/2016, dated 28 October 2016, was refused by notice dated 13 January 2017.
  - The development proposed is described as 'erection of a 4 storey multi-storey car park to provide off-airport car parking facilities for 2,244 cars with associated landscaping (resubmission of planning application 112323/FO/2016/S2)'.
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### **Decisions**

1. Appeals A and B are dismissed.

### **Application for costs**

2. At the Inquiry an application for costs was made by Peter Ashley Carparks Limited against Manchester City Council. This application is the subject of a separate Decision.

### **Procedural matters**

3. As set out above there are two appeals on this site. They principally differ in the location of the respective accesses, site layout, design detail and number of car parking spaces proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. During the Inquiry it was clarified that it is proposed in Appeal A to provide facility for parking 2,367 vehicles and in Appeal B for parking 2,240 vehicles and I have dealt with the appeals on that basis.
5. A unilateral undertaking under Section 106 of the Planning Act (S106) was submitted at the inquiry<sup>1</sup>. The S106 includes obligations relating to the use of the appeal site for the parking of motor vehicles only for long stay parking and regarding a financial contribution to make a Traffic Regulation Order to restrict on-street parking on Irvin Drive in respect of Appeal A.
6. The appellant submitted an additional plan in respect of Appeal A<sup>2</sup> which identifies an area of the appeal site where it is proposed that there shall be no parking of any vehicle or vehicular activity between 2300 and 0700 on any day. I have had regard to the plan in the light of the Wheatcroft judgement<sup>3</sup> and am satisfied that the scheme is substantially the same as that originally proposed. I consider that no interests would be prejudiced by this minor change which is a matter which could be the subject of a planning condition were I minded to allow the appeal. I have taken the revised plan into account in making my decision.

### **Main Issues**

7. Having had regard to the procedural matters and in light of all that I have read, heard and seen, I consider the main issues for the appeal are:
  - The effects of the proposed developments on the character and appearance of the area; and
  - The effects of the proposed developments on the living conditions of nearby residents.

### **Reasons**

#### *Character and appearance*

8. The appeal site is a surface level car park used for long stay airport parking and has an area of about 1.23 hectares. It is situated between Styal Road, Finney Lane and Irvin Drive. I saw at the site visit that the site boundaries are defined by security fencing and hedges and noted the existing lighting columns within the site.
9. The site is situated on the edge of the settlement of Heald Green and has open land which is designated as Green Belt across Styal Road to the west and to the north. Whilst there is disagreement between the parties as to whether the site is urban or indeed semi-rural in character, it is clearly in an area of transition between the settlement and open land beyond. Due to the nature of the use of the site and the heights of buildings and boundary treatments, it has some openness to its character.
10. Each appeal relates to the construction of a multi storey car park building. Mr Mason for the Council states that the proposed car park buildings would measure about 120 metres by about 57 metres, figures which were not

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<sup>1</sup> Document 4

<sup>2</sup> Plan reference M15-25-10K.B

<sup>3</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

disputed at the inquiry. It was clarified at the Inquiry that the buildings would have a height of about 12.7 metres to the top of the upper parapet.

11. Buildings in the surrounding area are predominantly domestic in scale, such as the nearby buildings on Irvin Drive and Daisy Bank Lane, with occasional larger commercial buildings at the Telephone Exchange, The Heald Green Public House and at the nearby Office Park. Whilst there are buildings of a similar height and indeed taller than those proposed, height is but one dimension in the consideration of scale. There is no evidence before me of buildings of anything like a similar footprint, mass or scale in the area. The telephone exchange for example, whilst being taller than the appeal buildings has a considerably narrower frontage and depth and a substantially smaller footprint. Although Mr Chetwyn for the appellant referred to large buildings at Manchester Airport when giving his evidence, no specific building was identified. The proposed buildings undoubtedly are of a different order of scale and mass to those nearby.
12. The proposed buildings are single block structures. Although the design was revised between Appeal scheme A and B, and the building in Appeal B is set back further from Styal Road, with changes to the proposed elevations, each would nevertheless have a strong horizontal emphasis from the deck arrangements and green walls. Whilst it would be possible to see into the buildings and the towers and areas of timber cladding on the exterior elevations of the building would have some limited effect in breaking down the elevations, this would not serve to diminish significantly the overall sense of scale and mass of the proposed structures.
13. I saw at the site visit that the appeal site boundaries onto Styal Way and Finney Lane are clearly defined by the existing boundary treatments and the edge of the highway. I have had regard to the five elements cited by Mr Chetwyn which it is said help to make places legible and that buildings of this scale may become landmarks. However, whilst these site frontages may not be particularly remarkable, I do not accept that there is any pressing need to better define the streets or provide enclosure due to any deficiencies in legibility or need to improve the understanding of the orientation of the junction.
14. Although the appeal site is not of any particular landscape or townscape quality, I consider that due to its character and that of the surrounding area it has some sensitivity to change. The appeal buildings, in the form of large singular buildings with a significant mass and scale would change the open character of the appeal site and appear discordant with the established development in the area. Although in Appeal B, the access would be removed from Irvin Drive to Styal Road which would provide some visual improvement on Irvin Drive, and the appeal schemes provide opportunities for greater control of lighting of the site, the effects of the both of the appeal schemes would be to give rise to significant harm to the character and appearance of the area.
15. I have had regard to the planning history of the appeal site and nearby land including the car parking scheme at Heald Green House. I have taken into consideration the approval of several schemes for outline planning permission and reserved matters at the appeal site, with the last such application approved in 2001 for the erection of two 3 storey office blocks (LPA ref

061360/MO/SOUTH2/01). This planning permission was not implemented and is no longer extant. Whilst the height of the buildings previously permitted appears to be similar to those before me, the footprints of the buildings are substantially smaller, and they would have been sited further from the buildings on Irvin Drive and Heald Green House than the appeal schemes. In terms of their external appearance, the office blocks would have had a strong horizontal emphasis, but were not of a similar scale or mass to the appeal schemes. Given that the previous schemes were not built and do not have planning permission and are not of the same scale or mass of those before me, I give them little weight.

16. As such the appeal proposals conflict with Manchester's Local Development Framework Core Strategy Development Plan Document (Core Strategy) Policy SP1 which amongst other things sets out core development principles including that development in all parts of the City should make a positive contribution to neighbourhoods of choice, including creating well designed places that enhance or create character.
17. Core Strategy Policy DM1 identifies a number of specific issues to which all development should have regard. These include amongst other things, appropriate siting, layout, scale, form, massing, materials and details and the impact on the surrounding area in terms of design, scale and appearance of the proposed development and having regard to the character of the surrounding area. Whilst it has been stated that the appellant has had regard to the specified issues set out in the policy in formulating the schemes, it is my judgement that the effects of the scheme on the character and appearance of the area would nevertheless be unacceptable and that the appeal schemes would not protect local character as set out in paragraph 13.7 of the Core Strategy text.
18. The National Planning Policy Framework (the Framework) in paragraph 56 sets out that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Whilst the Framework in paragraph 60 includes that decisions should not attempt to impose architectural styles or particular tastes, it states it is proper to seek to promote or reinforce local distinctiveness. In paragraph 64 the Framework sets out that permission should be refused for development of a poor design that fails to take the opportunities for improving the character and quality of the area or the way in which it functions. Given the harm found, the appeal schemes conflict with the design policies of the Framework.
19. The Guide to Development in Manchester Supplementary Planning Document and Planning Guidance (SPD) adopted in 2007 includes amongst other things guidance in respect of the importance of creating a sense of place, high quality design and respecting the character and context of the area. The appeal scheme fails to accord with the guidance set out in the SPD.

### *Living conditions*

### *Outlook*

20. Across Irvin Drive from the appeal site are situated a number of two storey dwellings which face the appeal site. Further along Irvin Drive and to the south of the appeal site is Heald Green House, a building which contains a number of apartments.

21. I saw at the site visit that the present outlook for the properties at Irvin Drive is towards the existing boundary fences and hedges over which more open views exist towards Styal Road. The building proposed in Appeal A would be situated about 45.1 metres from the front of dwellings on Irvin Drive and that in Appeal B, 43.1 metres. Due to the very broad horizontal expanse of the proposed buildings, about 120 metres across and their height, despite the proposed boundary treatments and landscaping and the separation distance from the dwellings on Irvin Drive, the outlook from the dwellings on Irvin Drive would change substantially.
22. The proposed cross sections plan<sup>4</sup> shows that the first floor window head level of the property on Irvin Drive to be substantially below the top parapet level of the appeal building, at 70.46 metres compared with 77.63 metres. Whilst I note the overall differences in height between the buildings is less, there is a significant difference between the upper floor window height and the top of the upper parapet of the appeal buildings, which despite the separation distance would contribute towards overbearing and dominating effects. The appellant has provided an extract from the Urban Design Compendium which shows relationships between buildings of different scales within different street types. Whilst there is no policy or guidance before me regarding separation distances, I have not been convinced that the street types within the extract are sufficiently similar to the circumstances in this case so as to demonstrate that the relationships proposed between the appeal schemes and the dwellings on Irvin Drive and Heald Green House to be acceptable.
23. I have had regard to the appellant's comments concerning the visual permeability of the proposed buildings, but consider that at best, limited views would be obtained into the car decks when illuminated and that there would not be significant views through the buildings. Consequently, this would not diminish the monolithic appearance of overall mass of these large buildings, each of which would appear dominant. The scale of the buildings proposed would not be adequately mitigated by the separation distances, proposed boundary treatments and landscaping which would be considerably lower than the appeal buildings, nor by the external appearance and building materials.
24. Heald Green House is orientated so that it faces along the line of Irvin Drive, rather than directly towards the appeal buildings. However, whilst not directly to the front, the proposed buildings at about 33.65 metres away would be prominent in the outlook of apartments in the Heald Green House, with the first floor window head identified at 73.72 metres against a parapet height of 77.63 metres. It was not disputed at the Inquiry that the elevation of the appeal buildings facing Irvin Drive would also be visible from some windows of apartments in Heald Green House, which due to its length would appear obtrusively prominent. There is no evidence before me that the windows in Heald Green House which would have visibility of the appeal buildings do not serve habitable rooms. The outlook from the apartments of dwellings at Heald Green House would change significantly, with the appeal buildings being dominant due to their scale.
25. I find therefore that the appeal proposals would have an unacceptable effect upon the living conditions of the occupiers of dwellings on Irvin Drive and Heald

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<sup>4</sup> (CD 16-22 M15-25-18 rev B)

Green House in respect of outlook and agree with the Council that the schemes would give rise to unacceptable over-bearing effects for their occupiers.

*Noise and disturbance*

26. The present use of the appeal site is as a car park which operates 24 hours a day with vehicles parked on a long stay basis. There is no dispute that the number of vehicles which could be accommodated on site is not limited by the planning permission. It was confirmed at the Inquiry that the site is operated as both a meet and greet and park and ride operation associated with Manchester Airport and that some customers visit the site to leave or collect cars on a pre-booked basis.
27. It is not disputed that the site may be operated with more than 630 vehicles parked. The maximum number of vehicles parked is identified in evidence is 757 and whilst it has been stated that about 900 could be accommodated, there is no substantial evidence that this is realistic. In any event the increase in the number of vehicles proposed in the appeals would be significant, with Mr Booker in his proof identifying 718 movements per day for Appeal A and 674 vehicle movements per day in Appeal B as opposed to 228 as existing.
28. Whilst the appellant has provided technical noise evidence, no alternative assessment has been provided by the Council, which directed its objections to the evidence provided. It is not disputed that the noise environment at the appeal site and Irvin Drive is heavily influenced by aircraft noise associated with Manchester Airport throughout the day and much of the night time periods. The appellant's noise assessments identify that lower noise levels are experienced only in the early hours of the morning and it was confirmed that this is due to flights being less frequent.
29. The World Health Organisation (WHO) Guidelines on suitable internal and external noise levels for steady sound in and around residential properties recommendations include that in bedrooms, sound should be less than 45 dB  $L_{Amax}$ , over 8 hrs at night. Whilst Mr Bassett for the appellant has pointed out at the Inquiry that such a level of noise is not achievable in many parts of the country and that the figure is increasingly aspirational and is no longer included in the relevant British Standard, it is the measure used in the appellants own assessments and I nevertheless consider the Guidelines to be appropriate for use in these appeals in the absence of alternative standards.
30. During the quieter period at night there would be a significant number of vehicle movements associated with the development which could give rise to individual noise events, which it is predicted would marginally exceed 45 dB  $L_{Amax}$  at nearby dwellings and thereby could disturb sleep of residents. Whilst there is only a relatively short period each night when residents would experience lower levels of noise due to fewer aircraft overflying the dwellings which is significantly below the 8 hours in the Guidelines, it would be reasonable to expect that such quieter periods should be safeguarded. Although the predicted exceedance over the WHO figure is marginal, noise in excess of the Guidelines could give rise to sleep disturbance for the part of the night when the noise environment is not significantly affected by aircraft noise.
31. However, the appellant has proposed that the parking areas within 25 metres of dwellings on Irvin Drive would not be used at night to ensure that sound experienced at nearby dwellings from the development would not exceed the

WHO guidelines. Plans have been provided in respect of each appeal identifying such areas. Whilst the Council questioned the evidence of the appellant regarding the technical justification for the separation distance proposed, it has not provided any alternative technical evidence. I am satisfied from the acoustic assessments and from the oral evidence of Mr Bassett given in response to questions from the Council that the 25 metre figure is derived from technical assessment and has a degree of in built conservatism. In Appeal B, the site access is proposed off Styal Road which would lead to a reduction in vehicular activity on Irvin Drive. I consider that the proposed condition would be sufficient to safeguard the living conditions of occupiers of dwellings on Irvin Drive in terms of noise and disturbance.

32. In regards to Heald Green House, whilst the Council has set out that at 35 metres from bedroom windows, noise events would exceed the 45 dB  $L_{Amax}$  threshold, no technical evidence has been provided to challenge that of the appellant. Although the proposed site access in Appeal B and customer drop off point is considerably nearer to Heald Green house than existing, on the balance of evidence, I am satisfied that it would not give rise to unacceptable noise and disturbance.
33. Therefore, in the absence of any contrary technical evidence, I consider that subject to the identified areas not being used at night, the appeal scheme would not give rise to unacceptable noise and disturbance to the occupiers of dwellings on Irvin Drive or Heald Green House. I am satisfied that this matter can be addressed by way of planning conditions were I minded to allow either appeal.
34. The appellant has provided a S106 unilateral undertaking which includes provision for a financial contribution to make a Traffic Regulation Order (TRO) to restrict on-street parking on Irvin Drive in respect of Appeal A only. I understand from the comments by interested persons that unregulated on-street parking on Irvin Drive is causing difficulty to residents such as through the blocking of drives and therefore in respect of Appeal A, the S106 provision for a TRO should a TRO be confirmed, would constitute a benefit.

#### *Living conditions conclusions*

35. To conclude on this matter, whilst I find that there would be no harm in terms of noise and disturbance and that the proposed TRO in respect of Appeal A could address parking issues on Irvin Drive, this does not outweigh the harm found in respect of outlook. The appeal schemes would have an unacceptable effect upon the living conditions of the occupiers of dwellings on Irvin Drive and Heald Green House in respect of outlook. Core Strategy Policy DM1 identifies a number of specific issues to which all development should have regard, including amongst other things the effects on amenity. It is my judgement that the effects on the scheme on the living conditions of residents of dwellings on Irvin Drive and at Heald Green House are unacceptable and that the appeal schemes would not protect amenity as set out in paragraph 13.7 of the Core Strategy. In addition, the appeal schemes would not secure a good standard of amenity for all existing and future occupants of land and buildings as set out in the Framework in paragraph 17. The appeal proposal does not conflict with Manchester City Council Unitary Development Plan (UDP) saved Policy DC26 which is concerned with noise and development.

## **Other matters**

### *Manchester Airport and the economy*

36. The appeal site is well situated for Manchester Airport in terms of distance and proximity to the strategic road network and functions already as an airport related car park. Core Strategy Policy CP1 includes that the growth of Manchester Airport will act as a catalyst for the regional economy and it is clear that passenger numbers are set to rise significantly in the future, doubling by 2040. There is no dispute that there will be an increase in demand for further airport parking. However, such car parking need has not been quantified, nor is there any assessment before me of any shortfall in provision. Therefore I apply any such benefit limited weight. I have also had regard to the Core Strategy policies cited by the appellant which deal with the priorities and locations for economic growth and the airport as set out in Mr Copestake's proof and the statement of common ground. The appeal site is not however allocated for any airport related development nor within the area covered by Core Strategy Policy MA1 which is concerned with an expansion of the developed Airport area.
37. Paragraph 17 of the Framework includes that planning should proactively drive and support sustainable economic development, whilst paragraph 18 and 19 sets out Government commitments to sustainable economic growth. I have taken into account that the appeal scheme would give rise to the generation of construction jobs and additional operational jobs, which are benefits which weigh in favour of the schemes.

### *Green Belt*

38. I have had regard to the designation of land in the area close to the appeal site as Green Belt and the fact that the appeal site is already developed as a car park, outside of the Green Belt. Additionally, I have had regard to the appellant's comments that car park development within the Green Belt would be inappropriate development and that it would be preferable to redevelop the previously developed appeal site rather than a Green Belt location. It is not demonstrated however that there are no alternative locations for the provision of further airport parking outside of the Green Belt.

### *Accessible location*

39. Whilst the appeal site is situated in walking distance of public transport facilities at Heald Green Railway station and bus stops and services and facilities at Heald Green and staff employed there would have a reasonable access to public transport, services and facilities, this demonstrates lack of harm in these regards and is not a matter which weighs significantly in favour of the schemes.

### *Principle of development and allocated use*

40. The principle of development is not in dispute with the site already developed as a car park. The appeal site is allocated for Use Class B1 business development by saved Policy EW9 of the UDP. However, given that the permitted use is as a car park and that it has been demonstrated that there is no reasonable prospect of the site being used for its allocated use as per paragraph 22 of the Framework, I give the conflict with saved Policy EW9 minimal weight. It is not disputed that the increase in parking spaces would

give rise to a more efficient use of the land nor that the site is previously developed.

41. The appeal site falls within a Public Safety Zone as identified under Dft Circular 1/2010, which is concerned with minimising the risk to people. No conflict has been demonstrated with the appeal schemes and the Public Safety Zone.

### **Planning balance**

42. I have found that the appeal proposal would give rise to unacceptable harm to the character and appearance of the area and to the living conditions of nearby residents, conflicting with Core Strategy Policies CP1 and DM1. There is also conflict with saved Policy EW9 which I afford limited weight. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004. In respect of these matters, I also find conflict with the relevant policies of the Framework and the SPD.
43. The appeal schemes would give rise to some economic benefits to weigh against the harm found and the policy conflicts. However, the benefits of the schemes in regards to the economic development of the airport, are unquantified and the site is not specifically designated for airport related development. The benefits in terms of construction jobs would be short term and the additional operational jobs are limited. The assessable location of the appeal site in regards to Heald Green is also a benefit of limited weight. In totality, these benefits are not so significant to indicate that planning permission should be granted for either of the appeal schemes.

### **Conclusion**

44. For the above reasons and having considered all matters raised, both appeals are dismissed.

*Philip Lewis*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

|               |                                                                                 |
|---------------|---------------------------------------------------------------------------------|
| Mr Ian Ponter | Of Counsel<br>Instructed by Liz Treacy, City Solicitor                          |
| He called     | Paul Mason B.Arch, Dip.Arch, RIBA, MIHBC<br><br>Jennifer Connor BA(Hons), DipTP |

### **FOR THE APPELLANT:**

|                 |                                                                                                                                                                                                                                                                                                              |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mr John Barrett | Of Counsel<br>Instructed by Knights 1759 Solicitors                                                                                                                                                                                                                                                          |
| He called       | Dave Chetwyn MA MRTPI IHBC FInstLM<br>D <sup>2</sup> H Land, Planning Development) Limited<br><br>William Booker BSc (Hons) SCP - Singleton<br>Clamp and Partners Ltd<br><br>Paul Bassett BSc MSC FIOA Hepworth Acoustics<br><br>Carl Copestake BA(Hons) DIP.UPI.MRTPI Knights<br>Professional Services Ltd. |

### **INTERESTED PERSON:**

Peter Burns, Heald Green Ratepayers Association

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Appellants opening statement
- 2 Local Planning Authority opening submissions
- 3 Guide to Development in Manchester Supplementary Planning Document and Planning Guidance Adopted April 2007
- 4 S106 Unilateral Undertaking dated 5 July 2017 submitted by appellant
- 5 Draft list of planning conditions submitted by Local Planning Authority
- 6 Closing submissions by Local Planning Authority
- 7 Closing submissions by appellant
- 8 Costs application on behalf of appellant
- 9 Local Planning Authority response to the appellant's application for a partial award of costs.