
Appeal Decision

Site visit made on 31 October 2017

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 8th December 2017

Appeal Ref: APP/Q4245/W/17/3179935

Land north of Station Road, Stretford M32 0DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by USL Consultants Ltd against the decision of Trafford Borough Council.
 - The application Ref 89551/OUT/16, dated 28 September 2016, was refused by notice dated 26 May 2017.
 - The development proposed is the erection of five apartment buildings containing a total of 10 residential apartments, together with associated car parking, open space and infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of five apartment buildings containing a total of 10 residential apartments, together with associated car parking, open space and infrastructure at land north of Station Road, Stretford M32 0DZ in accordance with the terms of the application, Ref 89551/OUT/16, dated 28 September 2016 subject to the conditions set out in the annex hereto.

Application for costs

2. An application for costs was made by USL Consultants Ltd against Trafford Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application is in outline but access, layout and scale are not reserved.

Main Issues

4. The main issues are as follows:-
 - The effect of the proposed development on the character and appearance of the area with particular regard to the street scene;
 - The effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to privacy; and
 - The effect of the proposed development on the living conditions of future occupants with particular regard to noise and vibration.

Reasons

Background considerations

5. The appeal site is notably linear as a result of its close association with the railway embankment to the north. Typically of such sites, it is effectively disused but nonetheless greenfield in nature being vegetated with rank grasses, scrub and some trees. It is in a highly sustainable urban location but previous attempts to gain planning permission for residential development, including at appeal in 2016,¹ have been unsuccessful.
6. The Council acknowledges that it cannot currently demonstrate a five-year supply of deliverable housing sites and so, following paragraph 49 of the National Planning Policy Framework ('the Framework'), relevant policies for the supply of housing should not be considered up-to-date. This in turn engages the so-called 'tilted balance' of the presumption in favour of sustainable development set out in the second limb of paragraph 14 of the Framework as there are no restrictions in force of the type indicated in Footnote 9 to the Framework.
7. Nevertheless, the starting point for the determination of the appeal is the development plan as a whole and in this case that comprises saved policies of the Revised Trafford Unitary Development Plan and the more recently adopted Core Strategy of 2012. The Council relies solely on the latter so far as its reasons for refusal are concerned, as these are concerned with the main issues now arising.
8. The merits of my colleague's² earlier appeal decision are not a matter for me but in any event I note, having carefully read his decision, that it was in respect of a denser scheme concentrated in two bulkier apartment buildings, rather than the five smaller buildings dispersed along the length of the site, which form the basis of the current proposal. The present appeal is therefore in respect of a proposal that is substantially different in its approach to the development of this clearly quite challenging site and I therefore determine this appeal on the specific merits of the scheme now before me.

Effect on character and appearance of area

9. While I acknowledge the previous Inspector's conclusion that the appeal site affords some relief to the density of the terraced housing in the streets nearby and introduces an open and green element within the urban area hereabouts to contribute to a feeling of spaciousness, I do not consider that in this case that should be necessarily a decisive factor. Such contribution as it does make to the distinctive character of the area seems to me a de facto consequence of the difficulty of finding a more utilitarian function for the land alongside the railway, but bearing in mind its inaccessible nature it is of limited value as an open space beyond that visual impression and it is not protected in any formal sense for its aesthetic value. In any event it is pertinent to consider the degree to which the loss perceived by the previous Inspector would be replicated by the current scheme.
10. On Station Road itself the proposed buildings would clearly introduce built elements along the north side of the street where presently there is simply

¹ Ref APP/Q4245/W/16/3146020

² Referred to from hereon as 'the previous Inspector'

vegetation but much would remain as open and green, including the railway embankment itself and there would be scope for landscaping between the blocks, albeit more formal than at present and in some locations giving way to necessary parking provision, but the overall street scene resulting would not be inappropriate to, or incongruous within, an urban area such as this.

11. The previous Inspector was also concerned about views northwards along Bowness Street and Kendal Road specifically but the lesser mass of the buildings combined with their offset positioning in views northwards directly along the streets would retain some sense of greenery and openness across the embankment. The increased sense of enclosure would be limited in its impact and certainly not unacceptable in context.
12. As the appellant has pointed out, there are material differences between the current scheme and the one dismissed at appeal. Apart from the changed positioning relative to surrounding streets, the height of the blocks has been reduced to something more akin to the existing dwellings in the area, i.e. two storeys and, although shallow in depth, the linearity of the site does facilitate landscaping between the blocks in addition to car parking, as is evident from the layout referenced DP/SRM/CSL/01(Rev I). Taken as a whole, it seems to me that the revised scheme subject to this appeal is a workable concept which would introduce built development to the north side of Station Road in a manner which, despite the proximity of the blocks to the back of pavement towards the western end of the site in particular would not actually result in a cramped appearance overall.
13. Bearing in mind the disposition of the terraces to the south, end-on to Station Road, with consequential gable ends only to the south and the more open layout of the development west of Derwent Road, I consider the generally spacious feel of the road would not be unduly diminished, given the intermittent nature the blocks proposed interspersed, as they would be, with car parking and landscaping. Accordingly, the proposed development would not, in my assessment, represent a cramped, visually harmful or over dominant form of development. Nor do I consider that it would be unacceptably different in character to the surrounding area. If carefully executed in terms of the matters reserved for subsequent determination, namely appearance and landscaping, I see no reason why the proposed development should not enhance the character and appearance of the area and the street scene.
14. On that basis, in respect of this issue, I find no conflict with either policy L2 or policy L7 of the Council's Core Strategy, which respectively seek to meet housing need subject to criteria which include a lack of harm to existing character and achieve good design in context. Nor would there be a conflict with the intentions of the Framework in respect of those matters. In concluding thus I have no reason to consider my approach to be inconsistent with that of the previous Inspector as the proposal now at issue is plainly different in a manner which addresses the concerns he expressed.

Privacy of neighbouring occupiers

15. Policy L7 includes a criterion which seeks to prevent the harmful overlooking of existing residents as a consequence of new development and this intention is given a degree of precision through the Council's guidance *New Residential Development*. This carries moderate weight, albeit not the full weight of development plan policy, and in any event explicitly recognises at paragraph

- 11.1, under the heading *Privacy*, that some flexibility is needed to, amongst other things, recognise the particular circumstances of a site.
16. This seems to me to be a case in point. The windows in the gable ends of Nos. 1 and 2 Bowness Street would be well below the 21m guideline for major facing windows across public highways. However, the clear-glazed window at first floor level in the gable end of No 1 Bowness Street is complemented by a major window to the rear elevation and the clear-glazed window at ground floor level in the gable end of No 2 Bowness Street also appears to be secondary and is in any event currently obscured by a blind internally for privacy from the immediately adjacent pavement which would otherwise facilitate close scrutiny of the interior by passers-by. In all the circumstances, I do not consider the introduction of facing windows in the proposed apartment block on the north side of Station Road would materially diminish the living conditions of existing occupiers of those properties so far as privacy is concerned. In general I concur with the analysis set out in paragraphs 18-25 of the officer's report concerning these and other potential overlooking situations long the length of Station Road. There would be no unacceptable harm in that respect. Moreover, potential loss of privacy to the extension under construction at No 6 Kendal Road would be mitigated by a degree of offset, the intervening street vegetation and the fact that, according to the Council's statement, no windows are proposed in its northern flank elevation in any event.
17. All in all, I do not consider that the living conditions of neighbouring occupiers would be unacceptably compromised by loss of privacy as a consequence of the potential for being overlooked. Accordingly there would be no conflict with the intention of policy L7 of the Council's Core strategy in that respect or with equivalent intentions in the Framework. Moreover, the scope for the reciprocal overlooking of residents of the proposed development by residents of existing houses would be similarly limited to within acceptable bounds and there would be no unacceptable conflict with relevant policy intentions in that respect either.

Living conditions of future occupiers

18. Policy L5 of the Council's Core Strategy purports to focus on climate Change but is in fact a multi-faceted policy which deals with many aspects of environmental pollution including noise and vibration. L5.14 states that *"Where development is proposed close to existing sources of pollution, noise or vibration, developers will be required to demonstrate that it is sited and designed in such a way as to confine the impact of the nuisance from these sources to acceptable levels appropriate to the proposed use concerned"*.
19. The potential exposure of future residents to noise and vibration from the railway is plainly a material consideration notwithstanding that dwellings are routinely situated close to rail tracks in urban areas. Moreover, policy L7 concerns itself specifically (at L7.3) with the living conditions of future occupiers of development in a manner which encompasses considerations of that type.
20. In this case I note that the Council explicitly accepts the principle of residential development on this site. Paragraph 5.8 of its statement is unequivocal in that regard. I also note that Council's original refusal³ of 18 apartments on the site

³ Ref 78229/O/2012

in 2013 did not suggest any concern regarding noise and vibration and the previous Inspector, in dismissing the appeal regarding the 2015 application for 14 apartments,⁴ recognised that the Council's Pollution and Licensing service raised no objection on that score in respect of the scheme before him.

21. More pertinently, however, the present scheme was accompanied by a specialist Noise & Vibration Assessment which was unequivocal that, subject to detailed mitigation measures being incorporated in detailed design, the noise and vibration that would be experienced by occupants of the proposed flats would be within recognised limits of acceptability. The findings were specifically endorsed by the Council's Pollution and Licensing service which raised no objection on the basis of any consent being conditioned to secure the relevant measures.
22. The Council asserts in its second reason for refusal that proximity to the railway line... *"would result in an unacceptably poor level of amenity for future residents of the proposed apartments through noise and vibration"*. However, I have been presented with no technical evidence from the Council to gainsay the methodology and conclusions of the specialist assessment submitted. Such elucidation as there is of why the Council has overriding concerns is at paragraph 5.29 of its statement and in the committee minute supplied but this fails to address the essential question of why the Council is apparently unconvinced by the specialist technical evidence endorsed by its own officers with relevant expertise.
23. I therefore have no reason to doubt the veracity of the technical evidence or the Council officers' conclusions in relation to it. The effect of the proposed development on the living conditions of future occupants with particular regard to noise and vibration from the railway is demonstrably capable of being adequately mitigated by design measures so as to be within acceptable limits. It follows that I have no reason to consider that the proposed development would, in relation to this issue, conflict with the relevant aspects of either policy L5 or L7 of the Council's Core Strategy. On the basis of the evidence before me it would not and there is nothing to suggest that it would conflict with relevant intentions of the Framework either.

Other matters

24. It appears from relevant correspondence that Network Rail do not object provided that the 2 metre standoff from the railway embankment is maintained as now designed in to the scheme and the suggestion, effectively, from the Council that material weight should be given to the possibility that more intensive use of the railway⁵ could be compromised is not supported by evidence. On the contrary, paragraph 2.6 of the Noise & Vibration Assessment records consultations with Network Rail as suggesting that significant freight usage is unlikely and the Council's own statement continues with the suggestion that the matter is unlikely to be considered influential.⁶
25. Linear sites can be important for the maintenance of biodiversity. However, although the Council's statement record the site as part of a designated wildlife corridor⁷ the submitted ecological assessment is conclusive of limited value in

⁴ Ref 85022/OUT/15

⁵ Council's statement paragraph 5.31

⁶ Ibid.

⁷ Paragraph 4.4

biodiversity terms and there are no objections from the Greater Manchester Ecology Unit. In my assessment the scope for landscaping and the continued existence of the railway embankment itself minimises disruption of any corridor function in any event.

26. I am conscious that there have been a number of objections from local residents across a range of matters but many of these are embodied in the main issues, or have been addressed in the response of statutory and other consultees, including for example the highway authority and the police, or may in any event be addressed by the imposition of appropriate conditions.
27. In respect of conditions the Council suggests a significant number, which I have considered in the light of Planning Practice Guidance. Subject to some minor modification for precision and clarity I am satisfied that all are necessary and appropriate.

Overall conclusion

28. The proposal would make a modest contribution to addressing the Council's shortfall of deliverable sites and in terms of the presumption in favour of sustainable development any adverse environmental impacts of granting permission would not significantly and demonstrably outweigh the social and economic benefits of doing so when assessed against the policies in the Framework taken as a whole. In any event, for the reasons I have given I find no conflict with the policies of the development plan concerning the relevant environmental issues. On that basis there is a clear planning advantage in allowing the proposed development to take place.
29. For all the above reasons, and having taken all other matters raised into account the, I conclude that the appeal should succeed.

Keith Manning

Inspector

Annex: Schedule of Conditions

- 1) Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: DP/SRM/CSL/01 (Rev I), DP/SRM/SSec/07 (Rev A), DP/SRM/PEB1/02 (Rev O), DP/SRM/SPL/01 (Rev J) and DP/SRM/SSec/06 (Rev J).

- 4) No development shall take place unless and until:
- (a) A contaminated land Phase I report to assess the actual/potential contamination risks at the site has been submitted to and approved in writing by the Local Planning Authority.
 - (b) Should the Phase I report recommend that further investigations are required, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site, that has been submitted to and approved in writing by the Local Planning Authority.
- The investigation and risk assessment must be undertaken by competent persons and a written report of the findings shall be submitted to the Local Planning Authority for its approval in writing.
- The phase II report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to: - human health, - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, - adjoining land, - groundwaters and surface waters, - ecological systems, - archaeological sites and ancient monuments;
 - (iii) where unacceptable risks are identified, an appraisal of remedial options and proposal of the preferred option(s) to form a remediation strategy for the site must be submitted to the Local Planning Authority for its approval in writing. The development shall only be carried out in full accordance with a remediation strategy that has been approved in writing by the Local planning Authority and no building shall be occupied until a verification report has been submitted to and approved in writing by the Local Planning Authority.
- 5) No development shall take place unless and until full details of works to limit the proposed peak discharge rate of storm water from the development to meet the requirements of the Council's Level 2 Hybrid Strategic Flood Risk Assessment (SFRA) have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until such works as approved are implemented in full and they shall be retained and maintained to a standard capable of limiting the peak discharge rate as set out in the SFRA thereafter.
- 6) No development shall take place unless and until details of the disposal of both surface water and foul water drainage directed away from the railway have been submitted to, and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the parking of vehicles of site operatives and visitors
 - (ii) the loading and unloading of plant and materials
 - (iii) the storage of plant and materials used in constructing the development
 - (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - (v) wheel washing facilities, including measures for keeping the highway clean
 - (vi) measures to control the emission of dust and dirt during construction
 - (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - (viii) hours of construction activity.
- 8) No development shall take place until details of existing and finished site levels and floor levels relative to previously agreed off-site datum point(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 9) No development shall take place until a Crime Impact Statement has first been submitted to and approved in writing by the Local Planning Authority. The Statement shall demonstrate how Secured by Design principles and specifications will be incorporated into the design of the development to prevent crime and enhance community safety. Thereafter development shall proceed in accordance with the approved details, which shall be retained thereafter.
- 10) No development shall take place unless and until a Risk Assessment and Method Statement (RAMS) in relation to all works to be undertaken within 10 metres of the operational railway has been submitted to and approved in writing by the Local Planning Authority. The RAMS shall include, as a minimum, the following information:
- (i) full details of ground levels, earthworks and excavations to be carried out within 10 metres of the operational railway
 - (ii) details of measures to be taken to prevent construction materials from the development reaching the railway (including protective fencing)
 - (iii) details of all vibro-impact works to be carried out as part of the development
 - (iv) confirmation that any scaffolding which is to be erected/constructed within 10 metres of the railway/Network Rail boundary must be erected in such a manner that at no time will any poles over-sail the railway line.
- Any mitigation measures identified in the RAMS shall be implemented in full during the course of the development.
- 11) No clearance of trees and shrubs in preparation for (or during the course of) development shall take place during the bird nesting season (March-July inclusive) unless an ecological survey has been submitted to and approved in writing by the Local Planning Authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place during the

period specified above unless a mitigation strategy has first been submitted to and approved in writing by the Local Planning Authority which provides for the protection of nesting birds during the period of works on site. Any such mitigation strategy shall be implemented in accordance with the approved strategy.

- 12) The dwellings hereby approved shall not be occupied unless and until:
 - i) an access control feature (likely to be a chicane fence or similar) has been provided at the foot of, or along, the adjacent footpath/cycleway
 - ii) the adjacent footpath/cycleway has been suitably re-graded and
 - iii) suitable accommodation works for the car park entrances including the entrance works have been provided, all in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. These works shall be implemented in accordance with the approved details and retained thereafter.
- 13) The dwellings hereby approved shall not be occupied unless and until a retaining wall adjacent to and supporting the footway/cycleway has been provided in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The retaining wall shall be implemented in accordance with the approved scheme and shall be retained thereafter.
- 14) The dwellings hereby permitted shall not be occupied until the means of access and the areas for the movement and parking of vehicles and bicycles have been provided, constructed and surfaced in complete accordance with the plans hereby approved.
- 15) Notwithstanding the requirement for a full landscaping scheme at Reserved Matters stage, the development hereby permitted shall not be occupied unless and until a detailed scheme for the area of open space in the eastern part of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include details of planting, soft and hard landscaping, benches, lighting, boundary treatments, maintenance and all other operations to be carried out. The approved scheme shall be implemented in full prior to the first occupation of the development hereby approved and maintained thereafter.
- 16) Any application for reserved matters which includes landscaping shall be accompanied by details of the type, siting, design and materials to be used in the construction of boundaries, screens, hard surfacing or retaining walls. The approved structures shall be erected in accordance with the approved details. The structures shall thereafter be retained.
- 17) The development shall be carried out in accordance with the recommendations of section 6.0 of the submitted 'Noise & Vibration Assessment' (Ref.11168.03.v1, dated November 2016).

* * *