



Appeal Decision

Site visit made on 1 July 2019 by Darren Ellis MPlan

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/Z4310/W/3225354

Land East of Sefton Street / West of Caryl Street / North of Hill Street / South of Pleasant Hill Street, Liverpool L8 6UD

- 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 James Troop Estates Ltd against the decision of Liverpool City Council.
- The application Ref 19F/0278, dated 18 January 2019, was refused by notice dated 20 March 2019.
- The application sought planning permission to change the use of the vacant land of a former workshop to a carpark without complying with a condition attached to planning permission Ref 17F/0769, dated 25 April 2017.
- The condition in dispute is No 3 which states that: *"Prior to commencement of development, a scheme which details the following off-site highway works required to accommodate the development, together with a programme for completion of the works shall be submitted to and approved in writing by the local planning authority. The off-site highway works shall be implemented in accordance with the approved details and completed to the satisfaction of the local planning authority before the development is occupied/brought into use.*
 - (i) The proposed access from the site to Hill Street shall be constructed to a minimum width of 3.5 metres and this width shall be maintained for a minimum distance of 10 metres measured back from the nearside edge of the carriageway of Hill Street.*
 - (ii) That part of the access and egress extending from the nearside edge of the carriageway of Hill Street for a minimum distance of 10 metres into the site shall be appropriately paved in a bound material such as tarmacadam, concrete, block pavements or other material.*
 - (iii) All existing redundant vehicular access points onto Hill Street, Sefton Street and Pleasant Hill Street are required to be reinstated as footway to adoption standards by Liverpool City Council."*
- The reason given for the condition is: *"In the interests of highway and pedestrian safety and in accordance with Policies GEN6 and T8 of the Liverpool Unitary Development Plan."*

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before

deciding the appeal.

Preliminary Matter

3. The address of the appeal site has been amended in the heading above to accurately reflect the name of Pleasant Hill Street.

Background and Main Issue

4. Planning permission was originally granted in 2017 for the use of the appeal site as a car park for a period of five years until 30th April 2022. The application subject to this appeal sought to remove part (iii) of condition 3, to remove the requirement to reinstate as footway all of the redundant vehicular access points onto Hill Street, Sefton Street and Pleasant Hill Street. The appellant asserts that part (iii) of this condition is not reasonable or necessary as the condition of the pedestrian walkways around site periphery do not present a material danger to pedestrian safety, and that the financial cost of the works would render the development unviable.

5. The main issue is whether the condition is reasonable or necessary in the interests of the safety of users of the adjacent pedestrian footways and in terms of viability.

Reasons for the Recommendation

6. The appeal site comprises a large rectangular area of vacant land bound by Sefton Street, Hill Street, Caryl Street and Pleasant Hill Street, with a mix of solid hoardings and palisade fencing to the perimeter. The surrounding area is primarily of an industrial nature with on street car parking.

7. The approved development would introduce a 197-space car park at the appeal site, which will significantly increase the footfall on the pedestrian walkways around the site. Those walkways contain multiple redundant access points into the site which include dropped kerbs. Whilst there may be no recorded accidents at the site, I am unconvinced that they do not cause a hazard. The parked vehicles in the access points which I saw at my site visit, it seems to me, also contribute to that hazard. Given the significant increase in footfall more footpath users would be exposed to the hazard and lack of accessibility that the redundant vehicle access points causes for pedestrians and those who are disabled or have mobility difficulties. The part of the condition that is the subject of this appeal would require a level surface to be provided to the footway around the site and would improve safety and accessibility for all users, mitigating the harm identified.

8. The Planning Practice Guidance advises that conditions should not unreasonably impact upon the deliverability of a development, and I acknowledge the appellant's concerns regarding the cost of the works that would be required given the temporary nature of the planning permission. From the documents submitted with this appeal, I note that three of the six contractors the appellant contacted to provide estimates have responded to the appellant, and only one has provided a quote for the works. I am unconvinced that there would have been a different outcome in the unlikely event that the Council had contacted the contractors on behalf of the appellant. However, whilst I acknowledge that the works would be costly, there is insufficient evidence before me on the costs of the project as a whole to draw an accurate conclusion on whether the infilling of the access points would make the scheme unviable.

9. I recognise that the time-limited nature of the permission is also likely to have an impact on the economic success of the venture. However, the Council have indicated that they would be open to amend the time limit set in Condition 1 of the permission so that the five-year time limit starts on the date of the first use of the car park, to lessen the impact on viability, albeit that such an indication is not binding.

10. A future large-scale development at the site would likely include the highway improvements required as part of this permission, and such a development may be able to absorb the cost of these works more easily. However, previous permissions for the redevelopment of the site were not implemented and have long since lapsed. Moreover, there is no evidence before me that an alternative redevelopment scheme is proposed.

11. If the works required by condition 3 are not carried out then the harm that would be caused to pedestrian accessibility and safety would be significant. I therefore find the condition to be necessary and reasonable, in line with paragraph 55 of the National Planning Policy Framework. In addition, for these reasons removal of this part of the condition would be contrary to saved policies T8, T9 and GEN6 of the Liverpool Unitary Development Plan, which seek to protect and improve highway and pedestrian safety.

Conclusion and Recommendation

12. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed and the condition be retained in its current form.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR