



Appeal Decision

Site visit made on 30 January 2020

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2020

Appeal Ref: APP/J4423/W/19/3240400

86 Lynthorpe House, Charlotte Road, Sheffield S1 4TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Vintin (PTA Developments) against the decision of Sheffield City Council.
 - The application Ref 17/03867/COND4, dated 31 July 2018, sought approval of details pursuant to condition No 9 of planning permission Ref 17/03867/FUL granted on 22 December 2017.
 - The application was refused by notice dated 23 May 2019.
 - The development proposed is erection of 6no apartments in 1x two-storey block and alterations to existing workshops and office buildings for use as 6no apartments including parking, amenity space and landscaping works.
 - The details for which approval is sought are: Remediation – validation report
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. In 2017 planning permission was granted for the erection of six apartments together with alterations to existing workshops and office buildings for use as a further six apartments including parking, amenity space and landscaping works¹. Four conditions were imposed on the decision regarding the investigation of contamination and its remediation.
3. An application to discharge condition Nos 6 and 7² was approved by the Council following the submission of a Phase I and II Site Investigation Report, Ref RZ/9165/170220/P1+2 FINAL Revision A dated April 2018 (SIR) by the appellant. This contained a Remediation Strategy for the site.
4. Condition No 9 of the original planning permission requires that a Validation Report be submitted for approval following completion of the measures identified in the Remediation Strategy. The appellant submitted a Remediation Validation Report (RVR)³ in order to discharge Condition No 9⁴ to confirm that the appropriate Remediation Strategy had been carried out. The dispute

¹ 17/03867/FUL (the original permission)

² 17/03867/COND1

³ Document RZ/11534/180731/VR

⁴ 17/03867/COND4

between the parties relates to the extent of the area that has been effectively remediated.

5. Within that context, the main issue is whether or not appropriate information has been submitted within the RVR to demonstrate that the measures identified in the approved Remediation Strategy have been carried out sufficiently to grant consent for the details required by condition No 9 of planning permission Ref 17/03867/FUL.

Reasons

6. The site location plan⁵ submitted with the original planning application shows a red line defining the application site, including the area of Public Open Space (POS) fronting Baron Street. This was not revised during the course of the application. However, a proposed site layout plan⁶ was submitted which annotated the site as defined on the site location plan with part contained within a red line and part, including some of the garden space to the proposed apartments and the POS, within a blue line.
7. I am advised that the land within the blue line is owned by the Council but on a long lease with the appellant. The nature of the blue line within a planning application is to denote land which is either within the control or ownership of the applicant.
8. Figure A2 of the SIR shows boreholes were undertaken in the area of the site covered by the blue line, as well as within the red line. As a result of the findings from the samples taken from the boreholes, the SIR states that due to the contamination of shallow Made Ground at the site, remedial measures are required to make the site suitable for residential use. Therefore, a capping layer of clean imported soil materials of a minimum of 600 mm depth should be provided to isolate the existing Made Ground in soft-surfaced / landscaped areas following redevelopment. The cover system was only required in areas of proposed soft landscaping where future receptors may come into contact with underlying soils; existing made ground could remain below hardstanding or areas of hard landscaping such as gravelled areas.
9. The appellant has submitted a revised Remediation Validation Report (RVR) as part of the appeal⁷ which states that the area to the west of the buildings is going to be reinstated as public open space on completion of the construction works, however the area lies outside of the defined site boundary and therefore does not require remedial works.
10. Drawing reference RZ/11534/2.0 in the revised RMR shows six validation pits in parts of the two areas of soft landscaping to the rear of the two blocks of houses. However, the garden space for the two residential blocks, contained within the brick wall and access gate extends further than that which has been demonstrated within the RMR to have been effectively remediated. Hence it is not clear from the various reports whether the area that forms part of the garden space of the apartments, which includes soft landscaping, but is in the annotated blue line has been effectively remediated.

⁵ 4201-100-001 Rev A

⁶ 4201-100-006 Rev F

⁷ RZ/11534/180731/VR2

11. There is passing reference to the area of POS in the Councils planning application report as it being "*enclosed within the construction fencing but will be reinstated as open space in the long run*". Furthermore, condition No 27 of the original planning permission states that the Baron Street Public Open Space shall be retained and shall remain accessible for public use at all times. Moreover, condition 13 requires that before the development is commenced details of the proposed footpath across the Baron Street Open Space shall have been submitted to and approved in writing by the Local Planning Authority and the flats shall not be occupied unless the footpath has been provided in accordance with the approved details. Thereafter the footpath shall be retained. While the POS is within the blue line of the site layout plan, this together with the contents of the SIR leads me to the conclusion that these works are part of the appeal scheme and were considered as such by the Council in its determination of the planning application.
12. The purpose of the remediation is to ensure that the site could be considered as 'suitable for use' and mitigate any risks to future residential occupiers. In my view, this should apply to the entirety of the garden space, where there are small areas of planting, and would apply equally to an area of open space used by the public. Therefore, I have to conclude that parts of the garden space for the residential properties and the area of POS should be effectively remediated. Even though these areas are contained within the blue line on the site layout plan, they are contained within the red line on the site location plan accompanying the planning application, and I am satisfied that the Council considered those areas as part of the planning application.
13. Therefore, for the reasons above, I conclude that appropriate information has not been submitted within the RVR to demonstrate that the measures identified in the approved Remediation Strategy have been carried out sufficiently to grant consent for the details required by condition No 9 of planning permission Ref 17/03867/FUL.

Other matters

14. The appellant raises concerns regarding the failure of the Council to effectively communicate with him and to adhere to deadlines. However, I have, as required, determined the appeal on the planning considerations and issues involved.

Conclusion

15. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR