The Planning Inspectorate

Appeal Decision

Site visit made on 20 July 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/B4215/W/20/3250805
Riverside Lodge, 208 Palatine Road, Manchester M20 2WF

- 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 Mr M Hawthorn, Landmark Investments Ltd against the decision of Manchester City Council.
- The application Ref:125186/FO/2019, dated 15 October 2019, was refused by notice dated 13 March 2020.
- The development proposed is rooftop extension to Block A to form 4 x 2 bedroom apartments and provision of an additional 5 car parking spaces.

Decision

1. The appeal is allowed and planning permission is granted for rooftop extension to Block A to form 4 x 2 bedroom apartments and provision of an additional 5 car parking spaces at Riverside Lodge, 208 Palatine Road, Manchester M20 2WF, in accordance with the terms of the application, Ref:125186/FO/2019, dated 15 October 2019, subject to the conditions set out in the schedule attached.

Procedural Matters

2. The name of the applicant as stated on the application form is Mr M Hawthorne. However, on the appeal form it is stated as Mr M Hawthorn. It has been confirmed by the appellant that the correct spelling is Mr M Hawthorn and I have used this in the banner heading above.

3. I have used the Council's description of the development proposed in the banner heading and formal decision above as it is more precise.

4. The Council refer to Proposed Elevations (Sheet 1) Drawing No. 1399.P.16A within its delegated report. However, the appellant has submitted Proposed Elevations (Sheet 1) Drawing No. 1399.P.16B. The Council has confirmed that it notified neighbours and determined the application based upon Proposed Elevations (Sheet 1) Drawing No. 1399.P.16A and a copy has been provided. For the avoidance of doubt and in the interests of fairness, I have determined the appeal on the basis of Proposed Elevations (Sheet 1) Drawing No. 1399.P.16A.

5. An interested party has asserted that the appellant did not serve the correct form to notify all interested parties of the appeal. Nevertheless, as the Council notified all interested parties of the appeal, I am satisfied that no individual or group have been denied the opportunity to take part in or comment on the appeal and, as such, their rights have not been prejudiced.

Background and Main Issue

6. A previous application for the same scheme was approved in October 2014[1]. Although some conditions were discharged, that permission was never implemented and lapsed. In its determination of the application which is the subject of this appeal, the Council concluded that, subject to conditions, the part of the proposal comprising a rooftop extension to Block A to form 4 x 2 bedroom apartments was acceptable. The singular reason for refusal concerns the part of the proposal comprising the provision of an additional 5 car parking spaces.

7. I have given careful consideration to the representations submitted in relation to the proposed rooftop extension to Block A. However, from the evidence before me and mindful that there have been no relevant changes in the national or local policy context in the period since the previous application was granted in 2014, I find no reason to take a different view from that of the Council in its assessment or conclusions on the acceptability of the rooftop extension. Therefore, I shall limit my considerations of the proposed development to the provision of an additional 5 car parking spaces.

8. In the context of the above, the main issue is the effect of the proposed provision of an additional 5 car parking spaces on the character and appearance of the area.

Reasons

9. The appeal site comprises two blocks of flats with undercroft parking facilities and an adjacent, elongated lozenged shaped, grassed strip of land. Block A is 4 storeys and Block B is part 4/part 5 storeys. The Blocks are set back from the highway and enclosed along Palatine Road by a steel fence with soft landscaping behind.

10. To the north of Block B is a strip of woodland, beyond which stands three detached houses. To the south of Block A is Riverside Court, a group of residential flats. To the west of Blocks A and B is a wooded area and to the east, on the other side of Palatine Road, is a modern residential development located behind a Site of Biological Interest. Along the appeal site's rear boundary are a row of trees which are protected by a Tree Preservation Order. The appeal site is located within Flood Zone 3.

11. The adjacent grassed strip of land runs parallel to Palatine Road in front of Riverside Court and the Britannia Hotel complex. It is bordered to the north, south and west by an unadopted access road which, from the evidence before me and my observations on site, is used for informal unauthorised parking. At the time of my site visit boulders were sited on the grassed area and some small trees and to-let boards were also present. The land had an unmaintained appearance.

12. This part of Palatine Road is generally characterised by development which is set well back from the highway and enclosed by strong, back of pavement, boundary treatments with soft landscaping and/or mature trees and established vegetation behind. These combine to provide a formal character but pleasant verdant feel to the area which make a positive contribution to its character and appearance.

[1] Application Ref: 106052/FO/2014/S2.

13. An exception to this is the part of Palatine Road incorporating the grassed strip of land. The absence of any formal boundary treatment in this area allows clear views to the parts of Riverside Court and the Hotel which lie adjacent to the access road. Consequently, although the grassed strip of land contributes to the verdant character and appearance of the area, in distinct contrast to nearby parts of Palatine Road, this section of the street scene possesses a more urban backdrop.

14. The proposal would introduce 5 car parking spaces, including one disabled space, within the northern section of the grassed strip of land. The spaces would be in an echelon arrangement, have electric vehicle charging points and slot drains. Additional landscaping of Butchers Broom shrubs and Blackthorn shrubs at the sides is proposed.

15. I acknowledge that the provision of an additional 5 car parking spaces in this location would result in the loss of part of this green space and its replacement with hard surfacing. However, a large majority of the land would be retained as a green buffer between the commercial and residential uses to the west and the highway to the east.

16. Moreover, the proposed additional landscaping would soften the very functional nature and appearance of the car parking bays and electric chargers. In doing so it would substantially mitigate any adverse visual effects that the proposal would have on the character and appearance of the immediately adjacent gardens of Riverside Court, the street scene and the area.

17. Accordingly, I conclude that the proposed provision of an additional 5 car parking spaces would not have a harmful effect on the character and appearance of the area. As such, it would accord with Policy DM1 of the Manchester Core Strategy Development Plan Document (CSDPD), adopted 2012, insofar as it seeks that all development should have regard to the character of the surrounding area; effects relating to landscape; and green infrastructure including open space, both public and private.

Other Matters

18. A significant number of representations on a variety of matters have been submitted by interested parties opposing the proposed development. Other matters not referred to above which have been raised in relation to the proposed provision of an additional 5 car parking spaces comprise: loss of amenity/recreational land; drainage and increased flood risk; highway and pedestrian safety; distance of the disabled parking space from the flats; inadequacy of the number of spaces; effect on the informal/unauthorised parking; increased congestion; potential for the spaces to be misused and attract litter; and, vulnerability of the cars to anti-social behaviour.

19. The loss of a quarter of the landscaped strip for car parking would not affect the living conditions of local residents, with regard to the provision of amenity space, to a harmful degree. No objections were received from the Environment Agency in relation to flood risk and I have imposed a condition to secure full details of the proposed soakaways within the car parking area. The Local Highway Authority raised no concerns in relation to any highway matters and there is nothing in the evidence before me that leads me to take a different view. I have imposed a condition requiring that the car parking spaces and signage are made available prior to the flats being occupied. Consideration of

the future management of the car parking spaces is not within the remit of an appeal under Section 78 of the Town and Country Planning Act 1990 (the Act).

20. Representations on wider matters include: effects on the living conditions of occupiers of Blocks A and B during the construction period; human rights; the design/appearance of the proposal in the townscape; noise transfer; energy efficiency of the proposed flats and provision of sustainable homes; ecological sensitivity of the area; effect on existing trees; and, cycle storage provision.

21. I have imposed conditions to secure the submission of details and/or implementation of measures to address, control and/or, where necessary, mitigate any potential adverse effects relating to these matters. On this basis, the proposal would not constitute a breach of Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. Article 1 of the First Protocol is the right to the peaceful enjoyment of possessions including property, and Article 8 is the right to respect for private and family life, home and correspondence.

22. Reference is also made to: increased density of development contrary to Policy H6 of the CSDPD; fire safety in Block A; effects on the living conditions of occupiers of Block B, with regard to loss of privacy and overshadowing; equality, with regard to access to the fifth floor; and, capacity of services and facilities within Block A, including water, sewage, refuse storage and fob entry.

23. As the proposal is for a single storey on an existing block of flats it will not increase the density of development in the area. The need for, or provision of, fire safety measures within Block A would require to be addressed through Building Regulations. I have no reason to question the Council's assessment or conclusions regarding the acceptability of the separation distances between the Blocks of flats and the daylight sunlight report. The lift in Block A enables full access to the existing four floors. No substantive evidence has been provided which verifies that the addition of 4 flats would have a harmful effect on the provision of the services and facilities referred to above. As such, the proposal would not constitute a breach of Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, outlined above.

24. I have also been referred to other matters regarding land ownership; maintenance of the grassed strip of land; breaches of leasehold contracts and covenants; the circumstances of the previous approval by the Council; precedent; and, effect of the proposal on property values.

25. Civil and/or legal issues are not matters for me to consider under Section 78 of the Act and it is not within the remit of the appeals process for me to comment on Council procedures. Each application and appeal must be determined on its individual planning merits. It is a well-founded principle that the planning system does not exist to protect private interests such as the value of land and property.

26. Overall, having examined the evidence before me, I am satisfied that these other matters individually or collectively, do not provide justification to withhold permission for the appeal proposal.

Conditions

27. The Council and interested parties have suggested a number of conditions that they consider would be appropriate were I minded to allow the appeal, which the appellant has commented on. I have considered the suggested conditions in light of the advice set out in both the National Planning Policy Framework and the National Planning Practice Guidance. The appellant has given his written agreement to all pre-commencement conditions.

28. Planning permission is granted subject to the standard three year time limit condition. I have imposed a condition specifying the relevant drawings as this provides certainty. Whilst the appellant states that the materials of external elevations were approved as part of the previous application[2], limited details have been provided as part of the appeal in this regard. Therefore, to ensure that the external appearance of the development is compatible with its built context, a pre-commencement condition relating to materials of external elevations is reasonable and necessary.

29. The appellant asserts that an acoustic report was submitted as part of the application to avoid the discharge of conditions again. However, I note that the Noise Assessment submitted as part of the appeal dates from August 2017. Therefore, in the interests of the living conditions of future residents of the development, with regard to noise, a pre-commencement condition relating to acoustic insulation is reasonable and necessary. In addition, to prevent a general increase in the pre-existing noise levels around the site, a condition relating to acoustic insulation is necessary.

30. To ensure the adequate provision of car parking when the development is occupied, a condition relating to car parking facilities and associated signage is necessary. To reduce the risk of associated flooding, a pre-commencement condition requiring details of the proposed soakaways to the car parking area is necessary.

31. In the interests of the character and appearance of the area, a condition relating to the implementation of the hard and soft landscaping scheme is necessary. Having regard to the presence of ecologically sensitive areas in the wider locale and in line with comments submitted by the Greater Manchester Ecology Unit, to ensure the protection of the habitats of species, a condition relating to bio-enhancements is reasonable and necessary.

32. To minimise the environmental impact of the development, a condition regarding the implementation of the submitted Sustainability Statement is necessary.

33. Although the appellant declares that a Construction Method Statement (CMS) was approved as part of the previous application[3] and a CMS has been submitted with the appeal, relevant information contained within the appendices is missing. Therefore, in the interests of pedestrian and highway safety and to ensure the general amenity of the area during the construction period, a pre-commencement condition requiring the submission of a CMS and adherence to it during the construction period is reasonable and necessary.

[2] Application Ref: 106052/FO/2014/S2; Discharge of Condition Ref: CDN/17/0508.
[3] Application Ref: 106052/FO/2014/S2; Discharge of Condition Ref: CDN/17/0508.

34. To protect trees of amenity value adjacent to and within the site as well as the character and appearance of the area, a condition relating to works to retained trees and the erection of fencing is necessary.

35. To ensure the adequate provision of cycle parking when the development is occupied, a condition requiring the provision of space and facilities for cycle parking is necessary.

Conclusion

36. For the reasons given above and subject to conditions, I conclude that the appeal should be allowed.

F Cullen

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved drawings:
a) Existing Site Plan Drawing No. 1399.P.02
b) Proposed Site Plan Drawing No. 1399.P.03A
c) Parking Plan Drainage Plan Drawing No. 1399.P.04A
d) Existing Plans Drawing No. 1399.P.10
e) Existing Elevations Drawing No. 1399.P.11
f) Proposed Plans Level 5 Drawing No. 1399.P.15B
g) Proposed Elevations (Sheet 1) Drawing No. 1399.P.16A
h) Proposed Elevations (Sheet 2) Drawing No. 1399.P.17B

3) No development that is hereby approved shall commence unless and until samples and specifications of all materials to be used on all external elevations of the development have been submitted to and approved in writing by the City Council as local planning authority.

4) Before the development commences a scheme for acoustically insulating the proposed residential accommodation against noise from Palatine Road shall be submitted to and approved in writing by the City Council as local planning authority. There may be other actual or potential sources of noise which require consideration on or near the site, including any local commercial/industrial premises. The approved noise insulation scheme shall be completed before any of the dwelling units are occupied.

Upon completion of the development and before first occupation of the residential units, a verification report will be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that the internal noise criteria has been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the internal noise criteria.

5) The development hereby approved shall be acoustically insulated in order to secure a reduction in the level of noise emanating from the apartments. The scheme shall be submitted to and approved in writing by the City Council as local planning authority and completed before the development becomes operational.

Upon completion of the development a verification report will be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that the noise criteria has been met. Any instances of nonconformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

6) The car parking facilities and associated signage, as indicated on the approved drawings, shall be made available for use prior to the residential accommodation hereby approved being occupied. The car parking facilities shall then be available at all times whilst the dwelling units are occupied.

7) Before the development hereby approved commences, details of the proposed soakaways to the car parking area shall be submitted to and be approved in writing by the City Council as local planning authority. The development shall then be implemented and thereafter maintained in accordance with the approved details.

8) The hard and soft landscaping scheme approved by the City Council as local planning authority shown on Drawing No. 1399.P.04.A, stamped as received on 31 January 2020, shall be implemented not later than 12 months from the date of completion of the construction works. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

9) No part of the development hereby approved shall be occupied until details of proposed bio-enhancements, including a timetable for their installation and maintenance regime, have been submitted to and been approved by the City Council as local planning authority. The development shall be carried out in accordance with the agreed details.

10) The development hereby approved shall be implemented in full accordance with the measures as set out within the Sustainability Statement (Walker Design), stamped as received by the City Council as local planning authority on 5 December 2019: measures to secure predicted carbon emissions and the attainment of specified environmental efficiency and performance. Within 3 months of the completion of the construction of the authorised development a verification statement shall be submitted to and approved in writing, by the City Council as local planning authority, confirming the incorporation of the specified measures at each phase of the construction of the development.

11) 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 City Council as local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

1. the designated route for construction and delivery vehicles
2. the parking of vehicles of site operatives and visitors

3. loading and unloading of plant and materials
4. storage of plant and materials used in constructing the development
5. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
6. wheel washing facilities
7. measures to control the emission of dust and dirt during construction
8. a scheme for recycling/disposing of waste resulting from demolition and construction works
9. hours of working

12) In this condition 'retained tree' means an existing tree, shrub or hedge, within or adjoining the site, which is to be retained and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

(a) 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 approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction)

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree 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.

(c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

13) No part of the development shall be occupied until space and facilities for additional bicycle parking have been provided in accordance with details to be submitted to and approved in writing by the City Council as local planning authority. The approved space and facilities shall then be retained and permanently reserved for bicycle parking.

End of Schedule of Conditions