



Appeal Decision

Site visit made on 5 January 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2021

Appeal Ref: APP/Q4245/W/20/3255839

United Services Club, 28 Southern Road, Sale M33 6HQ

- 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 United Services Club (USC) against the decision of Trafford Borough Council.
 - The application Ref 98968/FUL/19, dated 25 September 2019, was refused by notice dated 17 April 2020.
 - The development proposed is the erection of single detached dwelling with detached garage, car-parking and associated external works including alterations to the existing car park of the United Services Club.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the site visit, the Government has published its Housing Delivery Test (HDT) results on 19 January 2021. The HDT outcome for the Council indicates that the delivery has been below the requirement at 61%, which results in a requirement to apply paragraph 11 d) of the National Planning Policy Framework (the Framework). It is common ground between the main appeal parties that the Council do not have a 5-year housing land supply and thus, I have not invited comments on the HDT. I will not prejudice any party, in taking this approach and the outcome of the HDT into account in reaching my decision.

Main Issue

3. The main issue of this appeal is the effect of the proposed development on highway/pedestrian safety, with particular regard to the users of the Public Right of Way (PROW).

Reasons

4. The PROW enables pedestrians to access Southern Road from both Belmont Road and Stamford Street. Currently, the PROW comprises of 2no access points from Belmont Road and Stamford Street, which converge on an open area between the USC and No 30 Stamford Street. The PROW then proceeds along a dedicated footpath (the footpath) between the existing car park and the concrete post and timber panel fencing (the fencing) that encloses an underutilised area of the USC, which then adjoins Southern Road. At the time of my visit, during a mid-week morning, a metal gate was closed, preventing any vehicular access to the existing car park. The area surrounding the site is

subject to a Traffic Regulation Order (TRO). I am informed that the TRO has recently been introduced.

5. The proposed development seeks to erect a single dwelling on the existing car park, with 2no. car parking spaces. The first space would be to the front of the property and a second space would be sited to the rear of its garden and in front of a detached single garage. Access to the second parking space and the detached garage would be through the reconfigured USC car park. Additionally, the underutilised area between the USC and the PROW, behind the fencing, would be opened up, to facilitate the parking of 6no. angled parking spaces and a dedicated disabled parking space. A further 2no. parking spaces would be provided in the area between the USC and No 30, which have been identified for staff use.
6. I accept that the footpath, which forms a section of the PROW is not adopted. Additionally, I note the assertions from the appellant that the footpath is seldom used and the general misgivings in the physical condition of the PROW and its surroundings. Furthermore, I note the alternative route that is available along Park Avenue for pedestrians travelling from, and to Belmont Road. However, no such alternative is available for pedestrians travelling from, and to Stamford Street from Southern Road, without incurring a notable diversion. Nonetheless, I am provided with details¹ that demonstrate that the PROW is a popular route, frequently used by pedestrians in the area.
7. Although, the survey was only undertaken for a period of 2no. days² and similar to the opening hours³ of the USC, no data is therefore recorded before 13:00hrs on either day. Even so, the data indicates that 122no. pedestrians used the footpath during the time of the survey. It is also, noted that direction in travel of pedestrians, both to and from Southern Road is similar. On the basis of the survey, I also note in a letter⁴ supporting the application, that it is asserted that the PROW is used on average by 6no. pedestrians per hour. I considered this to be a reasonable assumption, especially given the number of pedestrians using the PROW that I encountered during my visit.
8. I have little doubt that the proposed development would reduce the safety of pedestrians using the footpath, which forms a section of the PROW. Currently, there are no vehicles parked between the PROW and the USC or in the area between the USC and No 30. Additionally, whilst a turning area would be available in the main body of the proposed car park to allow vehicles to enter and leave the site in a forward gear, this would require a notable part of the PROW to be used by vehicles, sometimes in a reverse gear. It has been suggested that the integrity of the PROW could be maintained through signage and road markings.
9. However, I am not convinced that such matters would provide suitable mitigation, given the proximity of the proposed parking spaces and the requirement for vehicles to manoeuvre within the PROW. Additionally, I find that the design of the existing footpath, further reduces any conflict between vehicles and pedestrians, mainly through the presence of a kerb. In this respect, I acknowledge the assertion from the appellant that there is no legal

¹ Entry and Exit Counts, Survey and Presentation by Trafficsense Ltd (the survey)

² Friday 17 January 2020 to Saturday 18 January 2020

³ 13:00hrs to 0.00hrs on both days

⁴ SCP dated 23 January 2020

requirement for physical structures to delineate the footpath or any planning control to ensure that they are kept in place.

10. Even though the PROW would not deviate from its existing route, the changes proposed in the appeal scheme would not protect and enhance the PROW. This is contrary to Paragraph 98 of the Framework. Furthermore, due to the above reasons, the proposed development would conflict with Paragraphs 109 and 110 c) of the Framework, as there would be unacceptable impact on highway safety, and a failure to create a safe place, where the possibility of conflict between pedestrians and motorists would be apparent. The Council's Supplementary Planning Document SPD3: Parking Standards and Design 2012 (SPD) reiterates that potential conflicts between pedestrians and vehicles should be avoided and the movement arrangement of pedestrians and cyclists should be prioritised over motorised vehicles. In this instance, I do not consider that a suitably worded condition could be imposed, to ensure that otherwise unacceptable development could be made acceptable.
11. For the reasons given above, I conclude that the proposed development would significantly harm highway/pedestrian safety with particular regard to the users of the PROW. This would be contrary to the highway/pedestrian safety aims of Policies L4, L7 of the Council's Local Plan Core Strategy 2012, the SPD and the requirements of the Framework.

Other Matters

12. The appellant argues that the Council is not able to demonstrate a 5-year supply of deliverable housing sites. This represents a housing shortfall. In these circumstances, Paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission. However, my findings in this case are that harm to highway and pedestrian safety is sufficient to significantly and demonstrably outweigh the tilted balance in favour of granting permission.
13. I acknowledge that the site comprises a brownfield site and the proposed development would positively contribute to the Council's housing supply, albeit modestly. There would be some limited economic and social benefits resulting from the proposed development, through the construction phase and the subsequent occupation of the scheme. The proposed development would also provide essential finances to the USC through the sale of the land, which would contribute to its viability in the long-term, and allow essential repairs and maintenance to be undertaken. This would be at a time when there are additional constraints and circumstances specifically brought about by the ongoing pandemic.
14. I also recognise that the proposed disabled parking space and the installation of disabled toilets at the USC would have a positive impact with regard to the public sector equality duty (PSED), contained in the Equalities Act 2010. In association, I note the comments from the appellant surrounding the physical condition of the PROW and the assertion that it is unusable for wheelchairs, pushchairs and anyone with mobility constraints, contrary to the PSED. However, these wider issues surrounding the PROW are not within my jurisdiction or consideration at this appeal. Although, I acknowledge the potential physical improvements to the area of the PROW, especially between the USC and No 30 and the removal of the fencing, albeit with vehicles parked. However, this is only a small section of the PROW, but would nonetheless, form

part of the overall improvements that would be likely to the character and appearance of the site and surrounding area as a direct consequence of the proposed development.

15. Furthermore, whilst crime and anti-social behaviour have been cited as issues by the appellant, little evidence has been supplied to support these assertions. I have also had regard to comments from the appellant who has expressed concern about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

Planning Balance and Conclusion

16. In this case, there is evidence before me to suggest that the development plan is out of date and that the tilted balance outlined at Paragraph 11 of the Framework should be engaged. Additionally, I accept the absence of other harm arising from the proposed development. However, these and the other benefits of the proposed development, both individually and cumulatively, which would arise, do not significantly and demonstrably outweigh the harmful effects to highway/pedestrian safety identified in my assessment.
17. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework. In this instance, I have considered but rejected the possibility that a split decision might be acceptable.
18. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR