



Appeal Decision

Site Visit made on 2 November 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/V2004/W/21/3275021

Lord Line Building, St Andrews Dock, Clive Sullivan Way, Hull HU3 4PB

- 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 Mr Mark Bailey of Manor Mill Resort Ltd against the decision of Hull City Council.
 - The application Ref 20/00812/OUT, dated 14 July 2020, was refused by notice dated 23 November 2020.
 - The development proposed is described on the application form as "the erection of building to provide self-contained flats with undercroft parking following demolition of Lord Line Building (Outline application - details of access, appearance, layout and scale submitted) – Resubmission".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with approval of access, appearance, layout and scale sought. Detailed matters relating to landscaping are reserved for future consideration. I have determined the appeal on this basis. I have taken the National Planning Policy Framework 2021 (the Framework) and any comments made thereon into account in my decision.
3. I have received a copy of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990. This was completed following the Council's decision on the application. It requires a payment to the local authority, to be applied to its costs incurred in providing off site open space. The Council has not disputed its content.

Main Issues

4. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to noise;
 - whether the appeal site would be a suitable location for new housing having regard to accessibility to local services and facilities;
 - the effects of the proposed development on the character and appearance of the area with specific regard to its design, the St Andrew's Dock Conservation Area (the SADCA) and a locally listed building;

- whether the proposed development would result in the unacceptable loss of employment land; and
- whether the proposed development would make acceptable provision for open space and trees.

Reasons

Living Conditions

5. The site is close to the A63, a busy dual carriageway, and Albert Dock to the east which includes Cranswick Country Foods and Dunston Ship Repairs. A Noise Impact Assessment (NIA) was undertaken by the appellant to determine levels across the site due to road traffic noise associated with the A63 and commercial noise arising from the ship repair activities at the dock area.
6. The NIA concludes that standard thermal double glazing would be sufficient for habitable rooms across the site. However, with a partially open window, the internal noise levels for all habitable rooms overlooking the A63 and dock area to the east would exceed the internal target criteria. The NIA recommends window trickle vents and/or through wall trickle vents as mitigation to allow ventilation when windows are shut.
7. The night time road traffic noise levels and the noise from the dock repair area have not been validated by onsite measurements. The Council's environmental health officer has not objected to the proposed development subject to conditions being imposed to require further survey work to address these matters as well as the impact on external amenity areas, and a review of the mitigation strategy.
8. My concern with this approach is the risk that the mitigation required to achieve acceptable noise levels, following these further surveys, is not achievable or may result in unsatisfactory living conditions for future occupiers. From the evidence, I am not therefore able to conclude that the proposed development would provide acceptable living conditions for future occupiers with regard to noise from the surrounding land uses, notably the A63 at night and the operational dock repair area.
9. The proposed development would therefore conflict with Policy 4 (5 a) of the Local Plan¹ which supports proposals for housing on previously developed land provided that the site is suitable for housing. It would also conflict with Policy 14 (a ii) which requires development to support the delivery of a high quality environment in terms of use and surrounding uses.

Suitable Location

10. Policy 26 (a) of the Local Plan requires development to provide all user modes of transport with safe, convenient and direct access, where relevant, to a range of elements including public transport, local services and facilities.
11. The site is within a reasonable walking or cycling distance from Hessle Road using the underpass below the A63, where there is a range of services and facilities. Hessle Road is also well served by buses which appear to be regular and operate throughout the day and well into the evening. The appellant's proposals for improving the environment of the underpass could make the

¹ Hull Local Plan 2016 to 2032, adopted 2017

route a more pleasant one for pedestrians and cyclists. However, future occupiers would still have to walk through part of an industrial estate to get to Hesse Road. This is not a particularly pleasant environment to walk or cycle through and is likely to be relatively quiet in the evening when the majority of businesses are closed. The available routes would feel physically isolated and unsafe dependent on the time of day and could deter some pedestrians or cyclists.

12. The site is close to the retail facilities at St Andrew's Quay. The retail units are not of the type that would serve day to day needs, being mainly furniture outlets, although there is a pub and a small number of eating establishments. There are also several eating establishments on Brighton Road, which are within a reasonable walking distance of the site but the walking or cycling environment to reach this location is also not ideal given the need to negotiate a roundabout below the A63. There is a wider range of services and facilities within 2km.
13. Future occupiers of the proposed development would have a choice of how to travel to services and facilities by modes of transport other than the car. However, I am not convinced that this would be a genuine choice given the barriers presented by the industrial estate and A63 – in both a physical and perceptual sense. Therefore, whilst there is a range of services, facilities and bus transport within a reasonable walking or cycling distance from the site, and similar to the distances identified in Policy 26 of the Local Plan, the routes to these by walking or cycling would not be safe or convenient for all future occupiers. It is likely that there would still be an over reliance on the private car. The site would not therefore be a suitable location for housing having regard to the accessibility of services and facilities.
14. Consequently, the proposed development would conflict with Policy 26 (a), which has been summarised above. It would also conflict with Local Plan Policy 14 (a iii) which requires development to support the delivery of a high quality environment in terms of layout and connectivity.
15. The site is near to the Trans Pennine Trail footpath which would offer the potential for active and healthy lifestyles to be encouraged, in accordance with Local Plan Policy 14 (b). This would not however outweigh the harm and conflict with the development plan that I have found in regard to this main issue.

Character and Appearance

16. The Lord Line Building is located within the SADCA and within the setting of the grade II listed hydraulic tower and pump house. I have therefore approached the appeal mindful of the provisions of sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Lord Line Building is identified by the Council as a locally listed building and therefore is a non-designated heritage asset for the purposes of paragraph 203 of the Framework.
17. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

18. The significance of the SADCA is its association with the city's maritime history in particular its sea fishing industry. The buildings and how their positions and relationship to the river allow their historic functions to be appreciated and understood are important elements of their historic and cultural significance. A number of the buildings and structures that were once within the SADCA have been demolished. The remaining buildings are in a poor state of repair and the SADCA is on Historic England's Heritage at Risk register.
19. The Lord Line Building is the largest and most prominent of the remaining buildings and is an important landmark to Hull's fishing industry. Given its scale and location, it is visible in the surrounding area including from the A63, one of the main routes into the city. Although it is in a poor state of repair the building makes a positive contribution to the SADCA given its imposing scale, its historical associations and communal heritage value.
20. The proposed development would involve the demolition of this building and its replacement. The proposed building would be of a similar scale and massing as the Lord Line Building. As a standalone building, its overall design would contribute to the delivery of a high quality environment and would complement the uses for the other buildings on the wider site that have permission or are subject to applications. However, given that the Lord Line Building is integral to the SADCA, in particular its historic and cultural significance, and makes an important contribution to its character and appearance, its loss would cause harm to the SADCA, failing to preserve its character or appearance, as well as to the locally listed building.
21. This harm would be less than substantial. I am therefore taken to paragraph 202 of the Framework which requires me to weigh it against the public benefits of the proposal. Policy 16 of the Local Plan also includes a balancing of benefits and harm and a requirement to demonstrate that the harm cannot be avoided.
22. The appellant considers that the demolition of the Lord Line Building is necessary to deliver substantial public benefits. However, the evidence submitted does not clearly demonstrate that the demolition of the building is necessary to enable the comprehensive redevelopment of the other buildings at St Andrew's Dock or the wider site as a whole. In addition, as the schemes relating to the other buildings appear to have the necessary consents, it would not be possible to link this appeal scheme to their implementation. The job creation, whilst beneficial, would be limited mainly to the construction phase. The proposed development would provide a number of residential units, however the Council confirms that it has more than five years supply of housing land, which the appellant does not dispute. Its demolition would remove a building that is a source of vandalism and anti-social behaviour.
23. There would be public benefits arising from the proposed development. However, for the reasons given above, I am not satisfied that they would, when taken together, outweigh the harm caused to the character and appearance of the SADCA and locally listed building, given the weight that I should attach to the conservation of a heritage asset.
24. The Lord Line Building has been vacant for a considerable period of time. The appellant's viability information and structural report indicate that a considerable investment would be required to refurbish the Lord Line Building and bring it back into use. However, from the evidence presented, I am unable to conclude whether appropriate marketing of the building has been

undertaken to demonstrate that no viable use can be found in the medium term or that conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible.

25. The proposed development would therefore conflict with Local Plan Policy 16 which only supports development that would cause harm to the significance of a designated heritage asset where it has been convincingly demonstrated that the harm cannot be avoided and there would be public benefits sufficient to outweigh the harm or loss caused. It would also conflict with Local Plan Policy 14 (a iv) which requires development to support the delivery of a high quality environment with regard to its relationship with the surrounding built form in terms of setting and relationship to key heritage assets and section 16 of the Framework.

Employment Land

26. The appeal site is located at St Andrew's Dock and within an area allocated for employment in the Local Plan. Local Plan Policy 1 (4) states that on allocated employment sites, development of uses outside classes B1, B2 and B8 will not be allowed unless it is demonstrated that the use of the site for other than B class use would not lead to a shortfall of land available to meet identified economic development B class needs within the relevant market area of the city.
27. The appeal site currently accommodates the former Lord Line Building which lies at the eastern end of the disused St Andrew's dock. This building is vacant and in a poor state of repair. A number of other buildings remain within the employment land allocation and appear to be in a similar condition.
28. The appellant has submitted an Employment Land/Market Assessment prepared by Avison Young dated April 2021 (the Avison Young report) to provide evidence on the current and future supply of employment land in Hull and market demand for employment use. It covers the city as a whole and the Western Corridor which the Council identifies as the relevant market area. The Council has not provided any evidence to contradict this report.
29. The Local Plan states that the overall requirement for general employment land over the plan period could be expected to be in the order of 50ha to 70ha. It allocates around 127ha of land for employment use across the whole Local Plan area. This figure excludes the Green Port Hull allocations which are associated with the Port of Hull and therefore unlikely to be available for general development. The figures presented in the Avison Young report identify that there is currently 90.42ha of land available for development, excluding the Green Port Hull allocations, and a further 37.96ha that is within active use, but such uses do not preclude the site from being developed in the future. The combined total of these figures is just over 128ha of land available for employment development within use classes E(g)(ii)², E(g)(iii)³, B2 and B8. Based on the uptake of land within the Avison Young report, this equates to a 40 year land supply, or 28 year supply if the land which is in interim/potentially temporary use is excluded.
30. In terms of the Western Corridor, the Council's officer report indicates that there is around 20.97ha of available land remaining within the allocated sites.

² Formerly use class B1(b)

³ Formerly use class B1(c)

The Avison Young report states that there is currently 11.9ha of land that remains undeveloped and not in active use and a further 8.99ha that is within active use, but such uses do not preclude the site from being developed in the future. This gives a total of 20.89ha, which is very similar to the Council's figure. Based on the uptake of land within the Avison Young report, this equates to a 21 year land supply, or 15.5 year supply if the land which is in interim/potentially temporary use is excluded.

31. Based on these figures, quantitatively at least, availability of employment land across the city is around double the overall requirement estimated in the Local Plan and would last well beyond the plan period. Whilst the quantitative surplus in the Western Corridor is not as great, it would still extend beyond the remainder of the plan period, even if further development was to commence at Priory Park following completion of the required junction improvements. Given the level of employment land availability, the appeal site is not of such a scale that its loss would lead to a quantitative shortfall of employment land to meet economic development needs within the city or the Western Corridor.
32. A quantitative assessment is only one consideration. The allocation of employment land is also about ensuring a wide portfolio of sites and providing flexibility in supply to meet a range of needs. However, given the land availability position there does appear to be a wide-ranging portfolio of sites that would provide flexibility in terms of the employment land that can be offered.
33. There are a number of larger allocations remaining, but many are smaller than the St Andrew's Dock allocation. However, within the Western Corridor there is also the Former Birds Eye factory site which is larger than the St Andrew's Dock allocation. Furthermore, the presence of the former dock area in the middle of the St Andrew's Dock allocation has the potential to affect the configuration of uses and therefore the space that is available.
34. Whilst a residential use on the allocated site could affect the types of employment uses that could be located within the wider allocation, prior approval exists for residential use at the Insurance Building in the south east corner of the site. The employment allocation is already affected in this regard.
35. In conclusion, there is a large and varied supply of employment land allocations across the city and within the Western Corridor to meet employment needs during the plan period. The loss of around 0.48ha for the appeal scheme would not result in a shortfall of land to meet identified economic development needs within the city or the Western Corridor.
36. Local Plan Policy 1 (4) also requires proposals for development of uses outside classes B1, B2 and B8 within allocated employment sites to demonstrate that there is no reasonable prospect of the site being used for a B class purpose. A reasonable prospect does not mean that an employment site or allocation has to be immediately available. In this regard the supporting text to Policy 2 of the Local Plan identifies that highways capacity potentially limits access to the St Andrew's Dock allocation, suggesting that the site will be delivered later in the plan period.
37. Given the appeal site's location and nature of the surrounding land uses, it is unlikely to be attractive for research and development uses. Such uses tend to be associated with academic or research institutions, or on a high quality

business park location and often have bespoke requirements. The configuration of the appeal site at the far end of the disused dock does not lend itself to B2 or B8 uses, either as a cleared site or refurbished building. Office development within employment land allocations is contrary to Policy 1 (5), which only supports office use outside the city centre in a limited range of circumstances which are not currently met at the appeal site.

38. I am therefore satisfied that it is less than likely that the appeal site would be used for a E(g)(ii), E(g)(iii), or B class purpose either through the reuse of the Lord Line Building or as a cleared site, and the reasonable prospect requirement of Policy 1 (4 a) is addressed.
39. For the reasons set out above, the proposed development would not have an unacceptable effect on the supply of employment land. It would therefore accord with Local Plan Policy 1 (4 a), the requirements of which have been set out above. Given this conclusion, the proposed development would also accord with the requirements of Policy 4 (5 b) of the Local Plan, which supports the reuse of previously developed land for housing provided that the site is not needed for employment purposes.

Open Space and Trees

40. The submitted plans show an area of open space in the form of an internal courtyard which both parties accept would not be sufficient to meet the requirements generated by the proposed development. Policy 42 of the Local Plan allows for open space provision to be offsite where it is demonstrated that it is not feasible to provide on-site space. Such provision would be provided through a legal agreement securing a financial contribution. The submitted information sets out that a contribution of £47,511 would be required. The appellant's unilateral undertaking includes a contribution for this amount. Based on the evidence before me, the appellant's unilateral undertaking would therefore address the requirements of Local Plan Policy 42.
41. Policy 45 of the Local Plan requires the planting of three new trees of native species and local provenance for each new dwelling. The policy applies a presumption that the trees will be planted as part of the development rather than offsite when appropriate. Landscaping is a reserved matter so further details would be submitted at a later stage. In addition, a planting scheme has been submitted by the appellant to demonstrate how planting could be accommodated within the site and on other nearby land under the control of the appellant. I am therefore satisfied that the provision of an appropriate tree planting scheme could be secured through conditions. Subject to this, the proposed development would accord with Policy 45 of the Local Plan.
42. Concluding on this main issue, subject to the unilateral undertaking and appropriate conditions, the proposed development would make appropriate provision for open space and trees. It would therefore accord with the requirements of Policies 42 and 45 of the Local Plan, as set out above.

Other Matters

43. The site is located beside the Humber Estuary Special Protection Area (SPA), Special Area of Conservation (SAC), protected under the Conservation of Habitats and Species Regulations 2017, and Ramsar site, listed under the Ramsar Convention. A screening report dated August 2018 was submitted by

the appellant that assesses the potential for impacts on these designated sites. However, the report relates to a previous application submitted by the appellant for the refurbishment of the Lord Line Building rather than its demolition and construction of a new building. No updates have been made to the screening report to reflect the current proposal or the more recent data that is available.

44. From the information submitted, I am not able to conclude that the proposed development would not adversely affect the integrity of the SPA, SAC and Ramsar site. Applying a precautionary principle therefore, the proposed development could result in likely significant effects. In line with paragraph 182 of the Framework, if I were minded to allow this appeal, it would be necessary for me to carry out an Appropriate Assessment to address this matter. However, given my overall findings on this appeal, it is not necessary for me to reach a view on this matter.
45. Harm to the setting of the grade II listed hydraulic tower and pump house is not specifically referred to in the Council's reasons for refusal. The consultation responses from Historic England and the Council's conservation and urban design officers make reference to harmful effects. The Lord Line Building makes an important contribution to the historic character of the area and provides historical context to the area in which the listed building sits. However, the ability to understand the listed building's historical associations would not be harmed. As such, the proposed development would not harm the significance of the listed hydraulic tower and pump house.

Conclusion

46. I have found in the appellant's favour in regard to the fourth and fifth main issue. However, this would amount to a lack of harm in each case which would be incapable of outweighing the harm that would arise in regard to the first three. This would result in conflict with the development plan as a whole. There are no material considerations, including the approach of the Framework, worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR