



Appeal Decision

Site Visit made on 6 July 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/V4305/W/21/3272780

Knowsley House, Charley Wood Road, Knowsley L33 7BB

- 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 N. Investments Ltd against the decision of Knowsley Metropolitan Borough Council.
 - The application Ref 20/00020/FUL, dated 15 January 2020, was refused by notice dated 12 November 2020.
 - The development proposed is Change of use from Office Use (B1) to Hotel use (C1) with associated car parking and landscaping.
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Decision

1. The appeal is allowed, and planning permission is granted for Change of use from Office Use (B1) to Hotel use (C1) with associated car parking and landscaping, at Knowsley House, Charleywood Road, Knowsley L33 7BB, in accordance with the details of application Ref 20/00020/FUL, dated 15 January 2020, subject to the attached Schedule of Conditions.

Preliminary Matters

2. Following submission of the appeal a revised National Planning Policy Framework (the Framework) was published. The main parties were given the opportunity to comment on the revision; both considered there were no changes that were material to the proposal. I have had regard to the revised Framework in reaching my Decision.
3. The appellant submitted a copy of a letter from Accor Hotels with the appeal, dated 30 March 2021, which did not form part of the planning application. The Council has had, and taken, the opportunity to comment on it during the appeal. I therefore consider no one would be prejudiced by me accepting this evidence at this stage. I have therefore taken account of it in reaching my Decision.
4. In its statement the Council contend that the site of Barclaycard in Kirkby town centre would be a sequentially preferable site. Notwithstanding the late introduction of this site for consideration, at minimum, as the evidence does not clearly demonstrate that the site is currently available or would be available within a reasonable timescale, I conclude that at this stage, even if I were to consider the site, it does not constitute a sequentially suitable site.
5. There is no dispute between the parties that the appeal site has been vacant for 20 years. It is also accepted that the site has been suitably marketed for 14 years without any success in attracting an occupier. The parties also agree that due to its location it is highly unlikely to attract an end user for office use.

Furthermore, it is also accepted that the form and configuration of the building would be highly unlikely to attract an end user for industrial use. Additionally, the Council has concluded that the loss of the site for employment purposes would not adversely affect the supply of employment land required over the plan period. From the evidence provided and my observations on site, I have no justifiable reasons to disagree with the parties on these matters.

6. The appellant submitted a signed and dated Unilateral Undertaking (UU) during the appeal, agreed between the main parties. I have had regard to its contents in reaching my decision.

Main Issues

7. Considering the above, and the evidence before me, the main issue is whether there are any sequentially preferable sites within or on the edge of Kirkby town centre.

Reasons

The site

8. The site relates to a vacant eight-storey office building and its curtilage, located on what I shall refer to as Knowsley Industrial/Business Park (KIBP), given the variety of descriptions used by parties in the evidence provided of the area which the site is located within. The immediate surrounding land uses are industrial, with the wider KIBP comprising of primarily industrial and business uses.

The proposal

9. As noted, the proposal seeks to change the use of an existing building with an office use to a 140-bedroom hotel with ground floor lobby, restaurant, and meeting rooms along with providing associated car parking and landscaping.

Key policy context - local

10. Policy CS1 of the Knowsley Local Plan Core Strategy 2016 (CS) seeks to, among other things, direct new development to existing urban areas, with an emphasis on areas within/easily accessible from areas in need of regeneration; maintain the existing settlement hierarchy, including the role of Kirkby as a larger suburban centre; maintain and enhance the borough's town, district and local centres, and to maximise opportunities for regeneration and development within Principal Regeneration Areas, Kirkby town centre being one of them.
11. Policy CS4 of the CS requires, among other things, new main town centre uses¹ to be primarily located within existing town centres, in accordance with Policy CS6 of the CS. The policy requires a sequential approach to site selection to be applied, with locations in existing town, district and local centres being considered first, followed by edge of centre locations. It is only if "suitable sites" are not available in these locations that out of centre sites shall be considered.
12. Policy CS6 of the CS outlines Knowsley's hierarchy of centres and seeks to enhance the vitality and viability of the centres and maintain appropriate local service provision. The policy permits proposals for retail and other main town

¹ A hotel is defined as a main town centre use in the CS and the Framework

centre uses outside of existing centres if they would complement regeneration opportunities, avoid significant impact on the vitality and viability of the centres, and comply with the sequential test as outlined in Policy CS4.

13. Policy CS10 of the CS supports comprehensive regeneration to enhance the vitality and viability of Kirkby town centre. This is to be done by, among other things (and in no order of priority), encouraging a wider mix of town centre uses, services and facilities, including leisure facilities and enhancements to the evening economy and existing market; and directing other town centre uses toward the existing town centre.
14. Saved Policy EC6 of the Knowsley Replacement Unitary Development Plan 2006, (UDP), permits, among other things, proposals for new tourist facilities provided, in the case of new town centre uses, a sequential approach to site selection has been undertaken. The policy explanation indicates that the term tourism includes business and domestic visits.

Key policy context - national

15. Paragraphs 86, 87, 88 and 91 of the Framework collectively advise that: planning policies and decisions should support the role that town centres play at the heart of local communities; a sequential test should be applied to applications for main town centre uses outside of existing centres; main town centre uses should be in town centres, with edge of centre locations subsequently considered; applicants and local planning authorities should demonstrate flexibility on issues such as format and scale; only if "suitable sites" are not available (or likely to become available within a reasonable period) should out of centre sites be considered; where an application fails to satisfy the sequential test it should be refused.

Sequential test

16. I have not been provided with a definition of the phrase "suitable sites" *vis a vis* Policy CS4 of the CS, and no definition is provided in the Framework, *vis a vis* paragraph 90.
17. The Planning Practice Guidance (PPG) seeks to provide some guidance on matters to consider when plan-making and/or determining whether a proposal complies with a sequential test². The PPG also suggests considering the "suitability" of sites, again without defining the term. Other factors outlined in the PPG include the current situation; recent take-up of land for, and the supply of and demand for, town centre uses; accessibility; availability; viability, and the scope for flexibility in the format/scale of the proposal.
18. The PPG affirms that the sequential test supports the Government's 'town centre first' approach. However, it also notes that "as promoting new development on town centre locations can be more expensive and complicated than building elsewhere, local planning authorities need to be realistic and flexible in applying the test"³.
19. The PPG advises that it is for the applicant to demonstrate compliance with the sequential test. The main factors considered by the parties in addressing the

² PPG Paragraphs 010 Reference ID: 2b-010-20190722 and 011 Reference ID: 2b-011-20190722

– Revision date: 22 07 2019

³ 013 Reference ID: 2b-013-20190722 – Revision date: 22 07 2019

question of whether there are suitable sequentially preferable sites are: availability, size, accessibility, locational sustainability, visibility, policy requirements, proximity to demand generators, and viability.

20. The 3 sites parties disagree on are land of the former Municipal Building, land of the former Knowsley College and land on Cherryfield Drive. These 3 sites are owned by the Council and located within or on the edge of Kirkby town centre. The sites are all available, subject to planning permission being granted and the Council realising 'best value'. They are of varying sizes, and although 2 of them are much larger than the appellant desires, the Council has clearly indicated that it would be willing to sub-divide a site to accommodate a hotel development.
21. I consider that there would not be any significant differences between the 3 sites and the appeal site with regard to accessibility, locational sustainability, and/or visibility. Although the appellant has reservations regarding policy constraints, the Council, without prejudice, has clearly indicated that a hotel development on either of the 3 sites is likely to be policy compliant.
22. The appellant suggests that the majority of future customers for the hotel accommodation and the additional facilities it would provide, ie restaurant and meeting rooms, would be people visiting KIBP for business-related purposes. The appellant considers that Kirkby town centre does not provide such a business demand generator.
23. However, the Hotel Viability Study commissioned by the appellant found that visitors to KIBP, unless they desired the demand drivers of a City, mainly stayed overnight at hotels within proximity of KIBP, ie the Travelodge or Holiday Inn Express, for short stays, or The Suites Hotel, for longer stays. For a good number of the businesses on KIBP, the distance to Kirkby town centre is similar to the distance to the Holiday Inn and The Suites Hotel, with the Travelodge being located further from parts of KIBP than Kirkby town centre.
24. Therefore, although a hotel located as proposed would potentially be a little closer for many corporate visitors to KIBP than a hotel in/on the edge of Kirkby town centre, given that Kirkby town centre is within proximity of KIBP, I am not convinced that corporate visitors to KIBP would not utilise an 'economy' hotel located in/on the edge of Kirkby town centre for short stays.
25. Notwithstanding some of the concerns expressed by the Council regarding the robustness of the Hotel Viability Study, which I consider the appellant has addressed, there is no doubt in my mind that constructing a new 140-bedroom hotel in/on the edge of Kirkby town centre would be much more costly than converting the appeal building. As such, it is not surprising that the Hotel Viability Study concludes that it would cost £millions more to build a new hotel in/on the edge of Kirkby town centre than it would to convert Knowsley House. It is reasonable to conclude, therefore, but again not surprising, that the proposed change of use/conversion would be deemed to be more commercially attractive to a developer than a new build.
26. To my mind the 2 forms of development are not directly comparable; which raises the question, if all other things were equal, of whether in principal it can be concluded that no suitable sites exist in/on the edge of a centre, on the basis of it being less costly to convert an existing building located out of centre than to build a new one in or on the edge of a centre.

27. For the reasons outlined, I consider that it has not been unequivocally demonstrated that there are no suitable, sequentially preferable sites in or on the edge of Kirkby town centre for a hotel development along the lines of that proposed.
28. As such, the proposal does not fully accord with policies CS1, CS4, CS6 and CS10 of the CS, Policy EC6 of the UDP or paragraphs 86, 87, 88 and 91 of the Framework. Thus, in addition to the proposal not passing the sequential test, it would not maximise opportunities for regeneration and development within the principal regeneration area of Kirkby town centre; nor would it direct a tourist facility that is designated as a main town centre use to a town centre.

Other considerations and planning balance

29. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
30. The development would generate around 10 full-time and 20 part-time jobs. The appellant has submitted a UU which would secure a contribution towards supporting the delivery and monitoring of a social value strategy. This would create employment opportunities, and provide skills training to support professional development, for local people, during both the conversion and operating phases; along with promoting equal opportunities within the employment process.
31. I consider the obligations are necessary to make the development acceptable in planning terms, are directly related to it, and fairly and reasonably related in scale and kind. Accordingly, I consider the obligation meets the relevant statutory⁴ and national policy⁵ tests, while also complying with the provisions of CS Local Plan policies CS2, CS4 and CS27 and the Supplementary Planning Documents Adding Social Value to Development and Developer Contributions. Consequently, the development would make an appropriate contribution to adding social value to development in the Borough.
32. I attach significant weight to the creation of jobs and provision of skills training for local people and the promotion of equal opportunities in the employment process.
33. The proposal would bring a site on KIBP that has been vacant for a long time back into use; a site which the Council accepts (and I agree) is highly unlikely to be sought after in the foreseeable future for either office or industrial use. I attach significant weight to this factor.
34. As the development would be located on KIBP the investment would support the maintenance and growth of KIBP. The maintenance and growth of KIBP would also be economically beneficial to the area, including Kirkby town centre. I attach significant weight to such benefits.
35. Use of the site as proposed and the associated parking and landscaping would enhance the appearance of the area; a matter to which I attach moderate weight.

⁴ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

⁵ Paragraph 57 of the Framework

36. The provision of meeting rooms and restaurant facilities that, in particular, users of/visitors to KIBP could take advantage of would provide additional social and economic benefits. However, given the limited extent of meeting rooms that would be provided, and the lack of detail as regards the extent of food & drink that non hotel users would have access to, I attach limited weight to the provision of such facilities.
37. As noted, the appellant has submitted a copy of a letter of support for the proposal from Accor Hotels. Although this indicates an interest, as no evidence of any formal agreement for Accor to operate from the site has been provided, I attach limited weight to this matter.
38. Collectively, I consider the benefits outlined above to constitute other considerations that weigh heavily in favour of the proposal.
39. Additionally, although the proposal is unlikely to contribute to the regeneration of Kirkby town centre to the extent that such a development within/on the edge of the town centre would, the social and economic benefits that it would provide would make a positive contribution to, and support, the regeneration of the wider area.
40. On balance, I consider the range of benefits outlined constitute other considerations that outweigh the harm I have found in respect of the proposal not passing the sequential test and not maximising the regeneration of Kirkby town centre.

Conditions

41. The conditions suggested by the main parties have been considered taking account of advice in the PPG and the tests within the Framework. Some have been amended or amalgamated for clarity or to avoid duplication, and some have been omitted, taking account of policy, guidance, and comment. Any attached pre commencement conditions are ones the appellant has agreed to.
42. I have specified the approved plans, for the avoidance of doubt. A condition requiring a construction management plan is attached to ensure the free flow of traffic on the surrounding network during construction; this is required pre commencement to demonstrate traffic flow on the surrounding network will not be hindered during any phase of the development.
43. Conditions related to parking, turning areas, visibility splays, car parking management, travel plan and associated facilities have been attached in the interests of highway safety and to promote modes of transport other than the private motor car. I have not attached a condition related to a Traffic Regulation Order as it has not been demonstrated that this would pass the necessary conditions tests outlined in the Framework and the PPG. A condition is attached to protect nesting birds. Conditions requiring details of external materials and landscaping are attached to maintain and enhance the character and appearance of the area. Conditions related to noise, ventilation, odour control and kitchen drainage have been attached in the interests of public health and safety and to ensure satisfactory conditions for visitors. I have attached a condition related to land contamination, proportionate to the nature and scale of the proposal, taking account of site history and submissions, in the interest of public health and safety.

Conclusion

44. I have found that the proposal does not accord with the development plan. However, I have concluded that there are other considerations that outweigh the harm I have found due to non-compliance with certain development plan policies. It is for these reasons that I conclude other than in accordance with the development plan. For the reasons outlined, the appeal is therefore allowed, and planning permission is granted, subject to the conditions attached.

J Williamson

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 plans: 08 (Location Plan), 04E (Proposed Site Plan), 05C (Proposed Floor Layouts), 06 and 07A (Proposed Elevations).
- (3) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the local planning authority. The CEMP shall include, but is not confined to:
 - site management arrangements, including on-site storage of materials, plant and machinery; on-site parking and turning provision for site operatives, staff, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
 - construction/delivery hours and location of access/exit points on the site for construction traffic;
 - measures to control the emission of noise, dust and dirt during construction;
 - a construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials to minimise waste and to maximise re-use and recycling; and
 - a crane management and protection plan.

The approved CEMP shall be adhered to throughout the clearance, demolition, and construction period for the development.

- (4) The development hereby permitted shall not be brought into use until parking and turning areas for motor cars, motorcycles and bicycles, and details of associated facilities, have been provided and made available for use, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The details shall demonstrate that vehicles will be able to enter and leave the site in a forward gear and shall include provision of electric car charging points, covered secure bicycle parking and the use of permeable surfacing materials. Following implementation, the approved details shall be maintained and retained thereafter for the lifetime of the development, free from impediment to their intended purposes.
- (5) The development hereby permitted shall not be brought into use until visibility splays have been provided at the junction of the access(es) with the public highway, in accordance with details that have previously been submitted to and agreed in writing by the local planning authority. Following implementation, the visibility splays shall thereafter be

maintained and retained for the lifetime of the development, kept clear of any obstruction.

- (6) The development hereby permitted shall not be brought into use until a Car Park Management Plan (CPMP) has been submitted to and agreed in writing by the local planning authority. The development shall be implemented in accordance with the agreed CPMP, which shall apply throughout the lifetime of the development.
- (7) The development hereby permitted shall not be brought into use until the relevant parts of the travel plan produced by John Davies Associates, Ref JDA/JCD/313/2/4, dated November 2019, capable of being implemented prior to occupation, have been implemented. The parts of the travel plan that are identified to be implemented after the development has been brought into use shall be implemented in accordance with the timetable contained therein and shall continue to be implemented if any part of the development is occupied.
- (8) No removal of vegetation or demolition works of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August in any year, unless a suitably qualified ecologist has previously undertaken a detailed check for active birds' nests immediately before any clearance or demolition works take place and has provided written confirmation that no birds would be harmed and/or that appropriate measures will be provided to protect nesting birds on site. Such written confirmation shall be submitted to and approved in writing by the local planning authority prior to the works commencing.
- (9) No works to any external elevations shall take place until details and samples, where relevant, of the materials to be used on the external elevations of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- (10) The development hereby permitted shall be carried out in complete accordance with the recommendations outlined in the RandTech Consulting Report, Ref MDR/J4006b, dated 15/09/2020. All the recommendations in the report shall be implemented and operational prior to the development hereby approved being brought into use and maintained and retained thereafter for the lifetime of the development.
- (11) The rating levels for cumulative noise from all plant and machinery at the development hereby permitted shall not exceed 5 dB below the background level (LA90) at any noise sensitive premises, as assessed in accordance with British Standard 4142:2014+A1:2019 (or any subsequent guidance or legislation amending, revoking and/or re-enacting BS4142 with or without modification).
- (12) The development hereby permitted shall not be brought into use until details of extract ventilation and odour control equipment for the ground floor restaurant, including any details of any noise levels from fixed machinery, noise control, and external ducting, in accordance with the recommendations made in the Redmore environmental Odour Impact

Assessment, Ref 3028r2, dated 28th November 2019, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, which shall be implemented and operational prior to the development being brought into use. The approved details shall be retained and maintained thereafter for the lifetime of the development.

- (13) The drainage from the kitchen area of the development hereby permitted shall incorporate a grease trap, details of which shall have previously been submitted to and agreed in writing by the local planning authority prior to its connection to any private or public sewer. The trap shall be installed and operational prior to the kitchen area being brought into use. It shall thereafter be retained, operated, and maintained in accordance with the manufacturer's recommendations.
- (14) Prior to the development hereby permitted being brought into use, a scheme for soft and hard landscaping, including timescales for implementation, shall have been submitted to and approved in writing by the local planning authority and fully implemented. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species.
- (15) No boundary treatment shall be installed other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The details to be submitted shall include plans showing the locations of existing, retained and proposed new boundary treatments, scaled drawings indicating the positions, height, design, materials, type, and colour of the proposed boundary treatments, and timescales for implementation. The approved details shall be implemented and retained and maintained thereafter for the lifetime of the development. Any boundary treatments that need replacing shall be replaced with similar treatments.
- (16) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the

remediation works shall be submitted to the local planning authority within 10 working days of the report being completed and approved in writing by the local planning authority.

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