

Appeal Decision

Hearing held on 19 July 2022

Site visit made on 20 July 2022

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Appeal Ref: APP/M4320/W/21/3281083

Safe Regeneration Ltd, Waverley Street, Bootle L20 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant part outline/part full planning permission.
 - The appeal is made by 123 Accommodation C.I.C. against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2020/00705, dated 28 April 2020, was refused by notice dated 18 February 2021.
 - The development proposed is the three phased development of SAFE St Mary's complex building, vacant land to the South and East bounded by railway line and canal basin; full planning permission is sought for phases one and two as follows; phase one included the demolition of the existing buildings on site and the development of a three storey arts hub building comprising accommodation for SAFE, flexible office/studio/meeting spaces, day nursery and multipurpose hall space alongside the erection of canal side pods for community use (Use Class E), the remodelling and extension of the existing Lock and Quay public house to create bed and breakfast facility, serviced apartments and commercial/training unit (Use Class E) relocated from existing SAFE complex and associated parking. Phase two includes the development of mixed tenure housing including 41 No. 2 and 3 bedroom, two and three storey townhouses and a four-storey apartment block consisting of 66 No. 1 and 2 bedroomed self-contained apartments with associated parking and public realm works and the erection of a substation. Phase three seeks outline permission in respect of means of access, layout and scale for the development of four storey 80-bed extra care facility (Use Class C2) including community hairdressing salon and cafe with appearance and landscaping reserved for future consideration
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fourth reason for refusal is in relation to manoeuvrability and turning spaces for larger vehicles on the appeal site. However, the appellant submitted a swept path drawing to the Council in the lead-up to the hearing, and the Council has confirmed that this suitably demonstrates that larger vehicles could safely access the site. This is therefore no longer a main issue.
3. A number of documents were submitted in the lead-up to, and at, the hearing. They are listed at Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any

party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional documents and drawings.

4. A s106 Planning Obligation, dated 19 August 2022, (the s106) secures:
 - a monitoring fee to be paid to the Council in respect of monitoring the delivery of the s106 obligations;
 - a contribution towards introducing short stay parking bays along Carolina Street, and the creation of speed limits, one way systems, and parking restrictions on the proposed roads within the appeal site;
 - provision of public open space, play areas, multi-use game area, and their maintenance and management; and,
 - 100% of the proposed dwellings to be affordable housing, with a split of 85% affordable rent and 15% shared ownership.
5. The Council's CIL compliance statement sets out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken it into account.
6. The appeal is for part-full planning permission and part-outline planning permission, with appearance and landscaping the reserved matters. The outline element relates to the proposed extra care facility. I have taken account of this as appropriate throughout my Decision.

Main Issues

7. The main issues are:
 - whether or not the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of outdoor amenity space;
 - the effect of the proposal upon the local highway network, with regard to on-street car parking and highway safety; and,
 - whether or not the proposal represents 'over-development'.

Reasons

Living conditions

8. The New Housing SPD, June 2018 (NH SPD) sets out minimum garden sizes for houses¹. However, these are qualified and it is stated at paragraph 6.1 that smaller spaces may be acceptable if that is consistent with the character of the local area or due to particular site constraints. The Flats and Houses in Multiple Occupation SPD, June 2018 (FHMO SPD), sets a minimum standard for private outdoor space per flat at 20 sq m. It is acknowledged this could form part of communal area(s) and need not necessarily be directly associated with each proposed flat. Paragraph 33 of the FHMO SPD finds that smaller spaces might be acceptable, but only in exceptional circumstances, including proximity to local centres.

¹ 50 sq m for 1-2 bedroom properties, 60 sq m for 3+ bedroom properties; neither to include front gardens

9. The average amount of proposed private outside space for the proposed houses would be 53 sq m, although this includes fourteen 3-bed houses with below 45 sq m. The average private outside space for the proposed flats would be 13 sq m, and only seven of the 66 proposed flats would provide private open space of greater than 5 sq m. A total of 361 sq m of communal open space is proposed, in the form of roof terraces to the blocks of flats, various pieces of green space throughout the proposal, and a larger space alongside the canal.
10. Many of the proposed properties would therefore have small areas of private outside space. It is also clear from the proposed layout plans that many of the proposed rear gardens would provide limited useability and amenity value. The proposed communal open space alongside the canal would be of reasonable size and with a pleasant aspect over the water. The proposed roof terraces would be elevated, offering good views, but relatively small and compromised by lift cores, limiting their amenity value. The remainder of the appeal site offers only incidental communal open spaces or a relatively small and narrow piece of land heavily overshadowed by proposed development.
11. There are no particular site constraints that necessitate this sub-standard provision of outdoor amenity space. It is rather a result of the amount of built development that is proposed. The local area is largely terraced or semi-detached housing with gardens. I acknowledge that there is an existing area of open space outside of St Mary's Church, easily accessible to the future residents. Both North Park and Bootle South Recreation Ground are also walkable to the appeal site, although at a few minutes walk for both. Bootle New Strand Train Station and various bus routes also provide access to further recreation opportunities further afield.
12. However, the proposal's outdoor amenity space would be significantly below the standards set out in the SPDs. There are no exceptional circumstances to justify it. The space that is proposed is sometimes small, or awkwardly shaped, or compromised. Adequate on-site provision of communal open space and private gardens and balconies is an important element of providing acceptable living conditions for future occupants. This is not achieved by the proposal.
13. My attention has been drawn to an appeal decision² where the Inspector concluded that a proposal with no private outside space was acceptable. However, I am not aware of the full detail of the case, the precise nature of the proposed accommodation, or the precise location of the site. I have made my judgement of the appeal proposal based on its specific characteristics. The appellant has also stated that because the future occupants would be affordable housing tenants, the properties could be allocated to appropriate tenants, including based on the amount of private outside space they would require. However, this does not overcome the fundamental objection to the inadequate provision of outside space, both private and communal, in the appeal proposal. That the accommodation would be for affordable housing tenants with more limited choice regarding the quality of their housing places, if anything, a greater requirement on creating a development of suitable quality.
14. Overall, the proposal would not provide acceptable living conditions for future residential occupants due to insufficient amount and quality of proposed outdoor amenity space. Consequently, the proposal fails to comply with Policies

² Ref APP/M4320/W/20/3266042, dated 9 July 2021

EQ2 and HC3 of A Local Plan for Sefton, April 2017 (the LP), which protect the living conditions of future occupants and require residential development to create an acceptable residential environment. The shortfall to the standards set out in the NH SPD and FHMO SPD are significant and over-ride the site constraints and exceptional circumstances caveats. Policy HC4 of the LP is referenced in the reason for refusal but relates to house extensions or building conversions to flats, neither of which apply to the appeal proposal. There is therefore no conflict.

Highway safety

15. Policy EQ3 of the LP, states that proposals should have regard to the Council's parking standards. It does not set those standards as a minimum figure and there is in-built flexibility to the policy. The Sustainable Travel and Development SPD, June 2018 (the STD SPD), at Appendix C, sets out the car parking standards. Paragraph 4.2 finds that appropriate parking should be provided so as not to compromise highway safety. Paragraph 107 of the Framework finds that parking standards should take into account the accessibility of the site, local car ownership levels, and availability of public transport, amongst other factors.
16. The Council confirmed at the hearing that it is only the car parking for the proposed residential units that causes concern. The parking standards in the STD SPD are for 199 spaces for the proposed residential units. It is proposed to provide 140 spaces. However, the appeal site is within easy and safe walking distance of Bootle town centre, a number of bus routes, and a train station. Evidence has been provided that existing car ownership in Bootle is fairly low, at 66% of dwellings with no cars, 29% with 1 car, and 6% with 2 or more cars. The proposal is for 100% affordable housing, which has lower car ownership levels than market housing. It is therefore likely that the car ownership levels for the future occupants of the proposed development would be no higher, if not lower, than the average for Bootle.
17. Applying the Bootle ratios to the proposed development results in an expected car ownership of 44 cars. There is therefore significant headroom between the proposed number of car parking spaces and the likely number of future cars owned by the future occupants. Concern has also been raised that some of the proposed spaces would be less convenient than parking on surrounding roads, in particular Waverley Street. However, none of the proposed dwellings would be materially nearer Waverley Street than the proposed spaces and, even where the distances would be similar, it is likely that future occupants would choose to park in an identified, off-street space, rather than inconsistently along various parts of Waverley Street, which has dropped kerbs, is fairly narrow, and largely requires owners to partially park on the pavement.
18. It is therefore unlikely that there would be any material increase in demand for on-street car parking on surrounding streets. The roads to be created as part of the proposal would be controlled by the s106 to only provide on-street car parking in a managed way, providing allocated residents only bays. The proposal would not, therefore, likely cause harm to highway safety, either on the appeal site or on surrounding streets. It complies with Policy EQ3 of the LP and the STD SPD, which both make it clear that the parking standards are flexible and primarily relate to protecting highway safety. Paragraph 111 of the

Framework also confirms that development should only be refused if there would be an unacceptable effect on highway safety.

Over-development

19. I have been presented with several calculations of the dwellings per hectare (dph) of the proposal. It is also noted that the number of dwellings proposed to the part of the appeal site that is in a LP site allocation would only be 80 units, compared to the policy allocation of 72. However, these calculations and numbers are largely moot because the important factor in considering 'over-development' is not numerical density, but an assessment of whether or not the proposal can be successfully accommodated on the appeal site.
20. In the case of the appeal proposal, as I have established above, insufficient private and communal open space, both in terms of size and quality, is proposed. There is sufficient car parking. However, this has come at a cost in terms of the amount and nature of the proposed open space. The tension between these factors has not been satisfactorily resolved and it is likely that this is a function of too much development being proposed on the appeal site. The proposed design is compromised and does not manage to accommodate the proposal on the appeal site without causing unacceptable harm.
21. Therefore, the proposal would be 'over-development' of the appeal site and fails to comply with Policy EQ2 of the LP, which requires high quality design. It also fails to comply with paragraph 124 of the Framework, which, whilst supporting efficient use of land also highlights the importance of securing well-designed and healthy places.

Other Matters

22. Several letters of support for the proposal have been submitted, including from the YMCA and a petition. They particularly highlight: the importance of the applicant SAFE Regeneration in providing community and business support for the area and local people and the importance of this factor given the deprivation in the area; poor quality of the existing urban realm particularly alongside the canal; and, the importance of the opportunity for investment in the area and a catalyst for wider regeneration. A letter of objection has also been received regarding noise from the proposed commercial uses and the potential effect on the living conditions of existing and future residential occupiers. I have taken all of these factors into consideration. Many of the factors have played an integral part in my overall planning balance, as set out in more detail below.

Planning Balance

23. The community-led regeneration is an important aspect of the proposal. There would be significant job creation both during construction and operation and there is potential that it would act as a catalyst for wider regeneration. The appeal site is in a deprived area where this type of investment would be particularly beneficial. I place significant positive weight on the economic benefits of the proposal.
24. The proposed canal-side communal open space and landscaped area would be publicly accessible. This would bring benefits not just to future occupants but to the wider community and I place significant positive weight on this factor. A biodiversity net gain would be achieved and could be controlled by condition.

The commitments to low carbon development similarly so. Both of these elements would comply with, but not exceed, policy requirements and I place moderate positive weight on them.

25. There would be communal cycle parking spaces and 'car club' spaces for electric vehicles, all of which could be used by the wider community as well as the future occupants of the proposal. I place limited positive weight on these factors.
26. That the proposal would provide adequate car parking and would not unacceptably harm highway safety weighs neutrally in the planning balance.
27. The proposal is a mixed-use scheme with 100% affordable housing, an extra-care facility that the Council has confirmed would meet the needs of the area, and commercial aspects including significant community facilities and facilities designed to facilitate community-led regeneration. All of these land uses are important elements of the proposal, although I note that some are already existing on the site, such as the SAFE offices and the pub. However, to accommodate all the proposed uses on the appeal site the proposal represents 'over-development', for the reasons set out above. What would otherwise be benefits of the proposal are being achieved at the expense of the overall quality of the design through the 'over-development' of the site, thus negating the quality and value of the proposed uses. In particular, the proposal would create unacceptable living conditions for the future residential occupiers of the proposal.
28. These factors therefore weigh negatively in the planning balance and I place significant weight on the harm caused by the 'over-development' and inadequate future living conditions, and the related conflicts with Policies EQ2 and HC3 of the LP, and the Framework. This outweighs the benefits of the proposal, which fails to comply with the Development Plan when considered as a whole.

Conclusion

29. For the reasons above, the appeal is dismissed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANT:

John Barrett, of counsel	Kings Chambers
Katie Dickson MATP MRTPI	Managing Director, Greyside Planning
Louise Sheridan RIBA ARB	Director, Ellis Williams Architects
Joanne Mills	Director, Greyside Planning
David Schumacher CMILT MCIHT	Managing Director, Prime Transport Planning

FOR THE LOCAL PLANNING AUTHORITY:

Anthony Gill, of counsel	Kings Chambers
Catherine Lewis MRTPI	Senior Planner, Sefton Metropolitan Borough Council (SMBC)
Dr Stephen Birch CEnv MIEEM	Associate Director, WSP UK Ltd
Brian Goodwin MIPROW	Senior Engineer, SMBC
Neil Kennard	Solicitor, SMBC

ANNEX B: DOCUMENTS

- 1 Hearing Key Plans & Evolution of Scheme Key Plans, dated 12 July 2022
- 2 Addendum to List of Core Documents Appendix 2 Statement of Common Ground, updated 18 July 2022
- 3 Community Infrastructure Levy Regulations Statement Version 2, updated 14 July 2022
- 4 Final Statement of Common Ground, dated 25 May 2022
- 5 Town house Private Amenity Area Schedule, dated 29 June 2022
- 6 Apartment Private Amenity Area Schedule, dated 29 June 2022
- 7 Art Hub Swept Path Analysis Drawing Ref P20012-004A
- 8 Information Note HRA/AA
- 9 Sefton MBC statement on pitch issues
- 10 Appeal Ref APP/M4320/W/20/3266042, Former Central Buildings, Church Road, Crosby, L23 5RD, Decision Letter dated 9 July 2021