



Appeal Decision

Site visit made on 8 November 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2022

Appeal Ref: APP/U4230/W/22/3301484

Unit 5, East Philip Street, Salford, M3 7LE

- 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 North & South Groundwork Services Limited against the decision of Salford City Council.
 - The application Ref 21/78884/OUT, dated 23 November 2021, was refused by notice dated 1 March 2022.
 - The development proposed is the partial demolition of existing industrial premises and conversion to 4 one-bedroom houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline, with all matters reserved except for scale and layout. I have determined the appeal on that basis, and treated plans showing details of access as being indicative.

Main Issues

3. The main issues are:
 - i. the effect of the proposal on the operating conditions of surrounding employment uses;
 - ii. whether the proposed loss of employment land is justified;
 - iii. whether the proposal would comply with development plan policy and the National Planning Policy Framework (the Framework) on flood risk; and
 - iv. whether the proposal would provide sufficient on-site amenity open space.

Reasons

Effect on surrounding employment uses

4. The appeal is concerned with a small industrial site, which comprises of one and two-storey brick buildings set around a yard. The proposed development would involve demolition of the single storey element and conversion of the two storey buildings to provide 4 one-bedroom houses.
 5. The wider area has been the subject of redevelopment over recent years, and residential uses are now prevalent. A number of employment uses remain
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however, including the cluster of business premises which the appeal site forms part of. There are at least 5 other business units in the immediate vicinity, including the adjacent Paradise Works, and Springfield Lane Business Centre to the east. As such, the appeal site falls within an established employment area for the purposes of Saved Policy E5 of the City of Salford Unitary Development Plan 2006 (UDP).

6. Saved Policy E5 aims to protect and improve existing employment areas, in recognition of their role in providing an important source of local jobs. Criterion 1. of the policy indicates that the re-use of buildings for non-employment uses will only be permitted where the development would not compromise the operating conditions of other remaining employment uses. This is consistent with Framework paragraph 187, which says that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
7. In this case, the proposed development may not directly affect the operation of nearby business uses, but it could have indirect effects. The introduction of a sensitive, residential use into this established employment area has the potential to create conflict. Noise and activity arising from existing operations could cause disturbance to future residents, and subsequent complaints may result in pressure for restrictions on the activities of existing businesses. To avoid such a situation, it is important to understand the type of activities taking place nearby, identify any sources of potential conflict with the proposed residential use, and consider any mitigation measures which might be necessary.
8. I acknowledge that there are other houses nearby, but the appeal site is immediately adjacent to employment uses which may be noisy at times. Indeed, at the time of my visit, there was a significant amount of activity ongoing around the site, with vehicle movements and machinery being operated. Some of this activity may have been connected to the site itself, so would cease if the proposal went ahead, but other surrounding uses also have the potential to cause noise and disturbance. Use of the adjacent Paradise Works and Irwell House for gallery and exhibition space may not be particularly noisy, but when visiting the area, I also noticed what appeared to be a workshop within Irwell House, immediately adjacent to the appeal site, with joinery work underway. There is also an auto repair business located within Paradise Works.
9. Insufficient information has been provided to demonstrate that the proposal would not compromise the operating conditions of existing businesses. In the absence of any assessment of the surrounding activities, including details of any appropriate mitigation measures to ensure satisfactory living conditions for future occupiers of the proposed houses, I am unable to conclude that criterion 1. of Saved Policy E5 is met. As it is unclear whether the proposal can be effectively integrated with existing businesses, there is also conflict with Framework paragraph 187.
10. It has not been demonstrated that future occupiers would have a satisfactory level of amenity, so the proposal also fails to comply with Saved UDP Policies DES7 and EN17, and Framework paragraph 130.

Loss of employment land

11. The failure to comply with criterion 1. of Saved Policy E5 means that planning permission should not be granted, but for completeness I have also considered the additional requirements contained in criterion 2 of the policy. Of particular relevance is the need to demonstrate that there is no current or likely future demand for the site or building for employment purposes.
12. The appellant has described the buildings on site as being dilapidated and non-compliant with health and safety requirements, and when I visited the site I noted their run-down appearance. The appellant has explained that, in order to accommodate commercial goods vehicles within the site, it has been necessary to create an opening in the brick boundary wall, which links into the adjacent industrial estate. However, this facility may not be available in future, owing to plans to redevelop the adjacent Springfield Lane Industrial Estate.
13. As a result of the poor condition of the buildings, and problems associated with vehicle movements in and around the site, the appellant says they have moved the business to another location in Salford. That said, the site appeared to be in use at the time of my visit.
14. Whatever the current use, it is clear that the site is in need of modernisation and improvement. Problems for accommodating larger vehicles may well act as a constraint to future employment use, particularly if the ability to use the adjacent site is lost. This may limit demand, but the site is in an accessible and central location, with other business uses nearby.
15. Policy EMP3 of the Established Employment Areas Supplementary Planning Document (SPD) clearly sets out the type of information required to demonstrate that there is no likely future demand for the site, to meet the requirements of Saved Policy E5. In this case, no marketing or viability information has been provided, so it is unclear whether there is any demand for alternative employment uses.
16. Without further information to the contrary, demand for the future employment use of the site cannot be ruled out. Such uses may be lower value, but paragraph 7.7 of the SPD identifies that there will always be a need for lower grade employment areas which form an important part of a balanced portfolio of sites and premises.
17. I note the appellant's comments about a previous grant of planning permission, now lapsed, for residential development on the land opposite. I note the appellant's comment that this would have resulted in the loss of employment uses at Paradise Works, but as I have not been provided with any details about the that scheme, or its justification, I am unable to comment further.
18. In the absence of further information to demonstrate a lack of demand for future employment use, the proposed loss of employment land has not been justified. As such, the proposal fails to comply with criterion 2. of Saved Policy E5 and the further detailed guidance in the SPD.

Flood risk

19. Section 14 of the Framework says that development should be directed away from areas at risk of flooding. Paragraph 162 indicates that a sequential test should be applied to steer new development to areas with the lowest risk of

flooding from any source, and that development should not be permitted if there are reasonably available sites which could accommodate the proposal in areas with a lower risk of flooding. Saved UDP Policy EN19 confirms that development will not be permitted where it would be subject to an unacceptable risk of flooding. Further detail on flood risk in Salford, including application of the sequential test, is contained within the Flood Risk and Development Planning Guidance 2008 (FRD).

20. The appeal site is close to the River Irwell, and is identified as being within Flood Zone 2 in the Environment Agency's flood maps. The submitted Flood Risk Assessment (FRA) does not address the sequential test, but in their appeal statement, the appellant has suggested that there are currently no sites of a similar size available in City Centre Salford, in any flood risk zone. However, it is unclear what geographical area has been considered. The appeal statement refers to the city centre, but there may be alternative sites within the wider borough which are suitable for 4 one-bed dwellings. Furthermore, there is no clear reason why 4 houses could not be provided as part of a larger site, or another conversion scheme, in an area of lower flood risk.
21. Large areas of the borough are outside of flood zones 2 and 3, and from the information provided, I am unconvinced that there are no other reasonably available sites that could accommodate the level of development proposed, with a lower risk of flooding. Therefore, insufficient information has been provided to conclude that proposal complies with the sequential test.
22. Even if it had been demonstrated that there are no sequentially preferable sites available, the proposal would need to meet the exception test, the requirements of which are set out in Framework paragraph 164. In this case, the proposed change from employment to residential use would not result in wider sustainability benefits, and the submitted FRA fails to demonstrate that the development would be safe for its lifetime. Based on the information provided, the proposal would not meet the exception test either.
23. I recognise that a large number of homes have been built in this area in recent years, but each case must be assessed in light of its particular circumstances, with appropriate mitigation measures put in place. The appeal site is close to the river and the FRA acknowledges that the car park and ground floor would be flooded in the event of a 1:1000 year event. The proposed ground floor level would be slightly higher than the predicted level of a 1 in 100 year flood event + 35% allowance for climate change. However, the Council's drainage engineer has indicated that, in cases such as this which could result in deep flooding to the ground floor, it would be necessary to raise finished floor levels to a higher level, in accordance with the details set out in policy FDR4 of the FDR.
24. Given these circumstances, the proposed mitigation, which relies on the display of an emergency flood warning and evacuation procedure in each of the houses, is inadequate. The information provided in the FRA fails to demonstrate that the development would not be subject to an unacceptable risk of river flooding, and does not consider other sources of flooding either.
25. The site is already covered with buildings and hardstanding, some of which would be replaced by permeable surfaces. Whilst this may help to reduce the risk of flooding elsewhere, it is not sufficient to overcome the deficiencies identified above. Any measures to mitigate against flood risk which may be

provided in association with future redevelopment of the Springfield Lane business centre are as yet unknown, and cannot be relied upon to make the appeal site safe from flooding.

26. For the above reasons, I conclude that insufficient information has been provided to show the proposal would comply with Saved UDP Policy EN19 and the Framework in respect of flood risk. Amongst other things, the Framework only accepts development in areas of flood risk where it is demonstrated that there are no suitable alternative sites at lower risk of flooding.

Amenity space

27. The proposed development would not provide any private amenity space, and only limited areas of communal space are shown on the submitted site plan. As such, the proposed layout would not reflect that of nearby residential development on Twillbrook Drive and Georgette Drive, which takes the form of modern, semi-detached two storey houses with private gardens.
28. I note the requirement in Saved UDP Policy DES1 for development to have regard to the character of the area and pattern of streets, but the proposed re-use of the existing buildings would make it difficult to create a layout with private amenity space. Furthermore, residential development close to the appeal site takes the form of tower blocks as well as modern houses, and a layout comprising of houses with private gardens forms only part of the character of the area.
29. Paragraph 130 of the Framework requires a high standard of amenity for future users, but the Council has not identified any specific policy requirement for communal or private amenity space in new residential development. Whilst on-site provision would be desirable, the proposed one-bed houses would not be intended for families, so the provision of private gardens for children to play is not an issue here.
30. I agree that the amount of landscaping on site could be increased, but access and landscaping are matters reserved for future determination, so there would be the opportunity to address these issues at a later date, if the scheme were otherwise acceptable.
31. For health and wellbeing purposes, it is important for future occupiers to have convenient access to open space, but the site is directly opposite an area of communal gardens which local residents are able to make use of. Beyond that lies the riverside path, which provides good opportunities for outdoor recreation such as walking, cycling and running. Overall, the area immediately surrounding the appeal site is well provided for open space, which future residents would be able to easily access. As such, the lack of on-site open space is not a reason to dismiss the appeal.
32. Saved UDP Policy DES6 requires that development adjacent to watercourses, including the River Irwell, makes a positive contribution to the waterside environment. In this case, the nature of the proposal which involves the re-use of existing buildings, would make it difficult to improve the waterside environment in the ways listed in the policy. Nonetheless, the site currently appears run down and unattractive, with graffiti on the walls and barbed wire above the entrance gates. The proposed partial demolition and re-use of the buildings has the potential to improve the appearance of the site considerably.

33. For these reasons, I conclude that the site has the potential to provide sufficient on-site amenity space. I have identified no conflict with Saved Policy DES1, which requires development to respond to its physical context and respect the positive character of the local area. The proposal would make efficient use of land and I am satisfied that a scheme could be developed which would comply with Framework paragraphs 124 and 130, which require the provision of well designed, attractive and healthy places.

Planning balance and conclusion

34. The site would provide an additional 4 dwellings in an accessible location, close to Manchester city centre, and would provide an opportunity to improve the appearance of the site. Furthermore, I am satisfied that the site is capable of providing sufficient on-site external amenity space.
35. However, these positive factors do not overcome the deficiencies I have identified in relation to the potential impact on neighbouring employment uses, the loss of employment land and flood risk.
36. Based on the information provided, the proposal conflicts with the development plan. No other considerations outweigh this finding, so the appeal must be dismissed.

R Morgan

INSPECTOR