



Appeal Decision

Site visit made on 15 November 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2022

Appeal Ref: APP/U4230/W/22/3300648

299 Worsley Road, Swinton M27 0AR

- 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 The Trustees of Estrellas against the decision of Salford City Council.
 - The application Ref 21/79050/FUL, dated 24 December 2021, was refused by notice dated 13 April 2022.
 - The development proposed is the demolition of existing property and erection of detached building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit the built form at the appeal site, which included a detached property with detached outbuilding to the rear, had been demolished. I have determined the appeal accordingly.
3. The Council's decision notice makes reference to policies TC1, TC2, D2 and D5 of the Publication Salford Local Plan: Development Management Policies and Designations (January 2020) (the eLP). The weight to be afforded to policies in emerging plans will depend on a) the stage of preparation of the eLP; b) the extent to which there are unresolved objections to relevant policies; and c) the degree of consistency of the relevant policies in the eLP to the policies in the National Planning Policy Framework (the Framework).
4. I am aware that the examining Inspector has issued their report on the examination of the eLP and that it is intended to be adopted in January 2023, thus it is at an advanced stage. Policies TC1, TC2, D2 and D5 are broadly consistent with the policies in the Framework and I am also unaware of any unresolved objections to these policies so far as they relate to this appeal. Therefore, I attribute significant weight to the relevant policies of the eLP.

Main Issues

5. The main issues are the effect of the proposal on a) the character and appearance of the area; b) the living conditions of neighbouring occupiers, with particular regard to privacy and outlook; and c) the vitality of the Swinton town centre and Clovelly Road neighbourhood centre.

Reasons

Character and appearance

6. The appeal site is located within a predominantly residential area in which there is variety in the style, scale and materials of properties in the locality. The buildings along the immediate stretch of Worsley Road tend to be large, yet commensurate with their plots, giving the area a leafy and spacious character. Permission is sought for the erection of a building to be used as a funeral home/director.
7. From the evidence, I note that the former outbuilding abutted the rear boundary and was sited closer to the side boundary along Dales Park Drive than the appeal proposal. However, its side elevation was limited in length and there were gaps between the former property and its outbuilding which allowed for views through the site. There was also generous space around much of the dwelling, thus contributing towards the sense of spaciousness in the locality. Overall, the previous built form at the appeal site was limited, with the previous development appearing to sit comfortably within its plot. It was not therefore an obtrusive feature in the locality.
8. To the contrary, the proposed building would have a large footprint, filling a substantial proportion of the appeal site. Much of it would be two storey in height. It would therefore be of a considerable scale and mass. There would be very narrow areas available for soft landscaping around the proposed building. The front of the site would also be dominated by a high boundary wall and hardstanding, which would be visible through the access points. The street trees would fail to offset the loss of space.
9. The proposal would have a marginal set back from the side boundary when compared to the siting of the previous built form. However, this would fail to offset its overly obtrusive and dominant effect, which would be created by the substantial length of the two storey side elevation. It would therefore create a very enclosed feel to the street. The extent and uniformity of windows would appear intrusive and would fail to reduce the bulk of the property and the dominance of this side elevation within the street scene. By virtue of all of the above factors, the proposal would result in a bulky mass of built form which would not be commensurate with the plot and thus would cause the development to appear cramped.
10. The proposed fence to the side along the pavement edge would further exacerbate the enclosed and dominant feel of the proposal on the Dales Park Drive street scene. I do however note the discrepancies in the submitted plans regarding the positioning of the proposed fence. Within their evidence the appellant has sought to address this matter and advises that the positioning of the fence shown on the plans is an error. Had this appeal been otherwise acceptable this could have been dealt with by way of a suitably worded condition, thus this matter has not been determinative.
11. Taking all the above into consideration, the proposal would harm the character and appearance of the area, thus conflicting with saved Policy DES 1 of the City of Salford Unitary Development Plan 2004-2016 (June 2006) (the UDP). It would also conflict with Policy D2 of the eLP. Together, these policies require developments to protect, respond, reflect and contribute towards local context and identity and integrate well with the locality. The proposal would also conflict with the advice on well-designed places as set out in the Salford City Council Supplementary Planning Document: Design, Shaping Salford (March 2008), the Framework and the National Design Guide (January 2021).

Living conditions

12. As the proposed building would fill much of the appeal site, it would therefore be within close proximity to 2 Dales Park Drive. I acknowledge that the proposal may be slightly further from the side boundary than the previous built form. However, as noted, the proposal would result in an elevation of considerably greater depth and height, compared to the single storey section of the former property. Additionally, the former detached outbuilding did not appear to significantly affect the outlook from No 2 as it was offset from its front windows. The greater mass and bulky design of the proposed building, along with the presence of numerous windows on the side elevation, would cause the proposal to be dominant and overbearing when viewed from No 2.
13. The first floor windows on the east elevation of the proposal would serve ancillary staff rooms. Whilst these windows may not be classed as principal windows, or the rooms classed as habitable, given the nature of the use, which could be used by staff throughout the day and overnight, and the close proximity between the site and No 2, there could be several occasions throughout the day when occupiers of No 2 would be overlooked.
14. The proposal also includes windows on the west elevation, one of which would serve a bedroom and would be opposite habitable room windows on the eastern elevation of Ivy House. However, given the use of the room in the proposal, the distance between both properties and the dual aspect nature of the concerned rooms in Ivy House, the proposal would not significantly affect the privacy of existing occupiers in this regard.
15. The trees proposed for retention would do little to reduce the effect of the development due to their positioning within the site relative to the development and neighbouring occupiers. Additionally, although the current outlook from neighbouring properties is of a vacant site, it is not particularly unpleasant and, moreover, this matter would not justify development that is harmful in itself.
16. The proposal would harm the living conditions of neighbouring occupiers, thus failing to comply with saved Policy DES 7 of the UDP and policy D5 of the eLP which collectively seek to ensure that developments do not have an unacceptable impact on the amenity of adjacent occupiers. It would also fail to accord with the guidance set out at paragraph 130 of the Framework.

Vitality

17. The Council has raised concerns regarding the appellant's submission of a sequential test with their appeal statement. Whilst it should have formed part of the planning application, the sequential test does not seek to evolve the proposed development. Furthermore, during the appeal the Council would have had an opportunity to take it into consideration and seek interested people's views. Although the Council has chosen to not provide comments on it, for these reasons, I have considered it as part of this appeal.
18. The proposed development would be a main town centre use in an out of centre location. The Framework makes it clear that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Where an

application fails to satisfy the sequential test or is likely to have a significant adverse impact on town centre vitality and viability, it should be refused.

19. The appellant's sequential test indicates that there are no available properties within the Clovelly Road neighbourhood centre. I note that this neighbourhood centre is of a small size and thus consider it unlikely that any suitable sites or properties would become available within a reasonable period.
20. The sequential test does however indicate that there are a number of vacant premises within Swinton town centre. Each available premise has been thoroughly considered for its suitability for the proposed use, taking into consideration the specific operational needs of the proposal, such as vehicular access and rooms for staff to stay overnight. There is clear and acceptable reasoning as to why many of the available premises have been rejected, namely that they are too small.
21. Only one readily available unit has been identified to be of sufficient size and relative suitability. It is only available for rent and the appellant states that it would require various alterations in order to provide the necessary space to accommodate the use. Whilst this may prove difficult or indeed unfeasible in a rented property, it is not inconceivable.
22. Nevertheless, it is noted that this premise is within the heart of the town centre. It is a large unit adjacent to existing retail units. Given the nature of the proposed use, visits to the proposal are unlikely to be part of a linked trip to the town centre. Furthermore, its location out of centre is unlikely to draw trade away from these areas. Indeed, this is acknowledged by the Council within its Officer Report. The appeal site is also located close to the town and neighbourhood centres and it seems to me that there is good accessibility between both centres and the appeal site.
23. Accordingly, I am satisfied that the sequential test is proportionate and appropriate for the appeal proposal and has flexibly demonstrated that there are no suitable sequentially preferable locations, whether available now or which could be altered. Therefore, the proposal would not undermine the vitality of the Swinton town centre or Clovelly Road neighbourhood centre and thus it would accord with Policy S1 of the UDP and Policies TC1 and TC2 of the eLP which together seek to ensure that the town centres and neighbourhood centres provide the services and facilities for everyday needs and their vitality is protected and enhanced. The proposal would also be in accordance with the approach set out in paragraphs 86 and 87 of the Framework.

Conclusion

24. The proposal would result in economic benefits through the creation of jobs during construction and on implementation of the use. However, given the small scale of the proposal these benefits would be limited.
25. The proposal conflicts with the development plan when read as a whole and there are no other considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR