



Appeal Decision

Site visit made on 15 November 2022

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/P4225/W/22/3302859

Land between Broad Street, Yates Street and Chapel Street, Middleton M24 4PQ

- 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 Rochdale Boroughwide Housing Limited against the decision of Rochdale Borough Council.
 - The application Ref 21/01540/FUL, dated 15 September 2021, was refused by notice dated 4 March 2022.
 - The development proposed is construction of 8 No apartments in two blocks of two storeys, along with associated vehicular access, parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 8 No apartments in two blocks of two storeys, along with associated vehicular access, parking and amenity space at land between Broad Street, Yates Street and Chapel Street, Middleton M24 4PQ, in accordance with the terms of the application, Ref 21/01540/FUL, dated 15 September 2021, subject to the conditions set out in the schedule below.

Preliminary Matters

2. A revised plan has been submitted with the appeal making small revisions to the turning head, location of cycle store and bin store details to ensure that the proposed highway meets adoptable standards. The changes are small and were submitted at the time of the appeal. Interested parties have therefore had the opportunity to review the plan and due to this, and the nature of the amendments no injustice would arise if I were to determine the appeal in accordance with it.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, including its effect on trees.

Reasons

4. The appeal site is an area of undeveloped land bounded by the rear gardens of dwellings on Yates Street and Broad Street, the rear of a row of garages and the rear of commercial properties that front Manchester Old Road. The site is grassed and includes a number of trees which contribute positively to the character and appearance of the area. There are limited public views of the site from surrounding streets, and owing to its backland location, the site is not prominent in the townscape.

5. There is a strong building line along Broad Street, Foxhall Street and Manchester Old Road. A strong building line can also be seen along Yates Street. Nevertheless, the site is defined by the rear gardens not the frontages of these streets. As such, the proposal does not neglect the orientation and spacing of surrounding buildings and building lines, and the semi-detached appearance of the proposal and the larger footplate integrates satisfactorily with the surrounding area. Moreover, the pitched roof design of the two storey buildings reduces the massing of the built form of the proposal and reflects the existing building heights in the area.
6. On street parking is a feature in the area, including along Broad Street. As such, the proposed siting of car parking at the entrance to the site would not detract from the character and appearance of Broad Street in this regard. Moreover, I note that the parking provision has been designed to be split across the site so that it does not form a dominant feature. The proposal would therefore have an appropriate sense of arrival and legibility, and through the use of well-integrated landscaping, the visual impact of the car parking areas would be reduced.
7. A number of trees lie within the site boundary which would be lost through the proposal, including a group of four mature trees in the middle of the site (T1, T2, T3 and T4). The Arboricultural Implications Assessment identifies three of these trees as moderate quality and value and one being of low quality and value. The Council's Tree Officer commented that while of reasonable condition and form, the trees do not possess any outstanding features, are of common species, lack biodiversity importance and are not prominent beyond the immediate locality.
8. While the Tree Officer commented that the trees form an attractive focal point and contribute positively to the area generally, I also note that they did not consider the trees worthy of special protection such that the proposal should be refused on arboriculture grounds. Rather it was suggested that compensation should be sought for losses through new tree planting. In seeking to replace the felled trees at a ratio of 3:1, the proposal exceeds the 2:1 ratio required by Policy G6 of the Rochdale Adopted Core Strategy (2016).
9. Given the location of the site, the trees' positive contribution is limited to the immediate area with short range views from the houses which back onto the site. While the open space provides an element of relief from the urban character of the area, and is clearly valued by local residents, there are limited wider public views, so the overall contribution of the trees and open space to the townscape is small. I note that the Council have resolved to make a Tree Preservation Order for the group of four trees in the middle of the site. However, the removal of the trees would not, as the Council alleges, have a significant urbanising impact on the area given the limited wider views of the trees and owing to the fact the site is not prominent in the townscape.
10. In time, the replacement tree planting and landscaping on the site would ensure that the site continues to contribute positively to the character and appearance of the immediate urban environment in this location. As such, the proposal would create a high-quality green setting for the new homes, contributing to the character of the area, and delivering environmental and quality of life benefits for the local community. It would therefore comply with the general thrust of the National Design Guide (2021).

11. Overall, the proposal would not harm the character and appearance of the area, including its effect on trees, and accords with policies P3 and DM1 of the Rochdale Adopted Core Strategy (2016). These policies, amongst other things, seek new developments that adhere to high standards of design and take the opportunity to enhance the quality of the area, having regard to the scale, density, massing, height, layout, landscape, materials and access of surrounding buildings and areas in general.
12. The proposal is also in accordance with the provisions of the National Planning Policy Framework (2021) in relation to design at Paragraph 130, which seeks developments that are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. It also accords with the provisions at Paragraph 131, which sets out that opportunities should be taken to incorporate trees in developments, and, with appropriate conditions, that appropriate measures are in place to secure the long-term maintenance of newly planted trees.

Other Matters

13. A large number of objections have been raised from interested parties. The Council in their report has given detailed reasons to demonstrate why harm would not arise on the main issues raised. I have no reason to come to a different conclusion.
14. In particular, I note the concerns regarding the loss of amenity space, including the effect on health and well-being of residents and the availability of space for children to play. However as set out in the detailed open space assessment submitted by the appellant there are a number of alternative open spaces of different types in close proximity to the site. As such, the loss of the site as amenity space would not significantly reduce local residents' accessibility to open space. Moreover, there is no clear evidence that the site is designated as an area of open space in the Core Strategy or afforded any additional protection from development.
15. The proposal meets the requirement of the parking standards set out in Appendix 5 of the Core Strategy and as such, there is no substantive evidence to suggest that the proposal would result in an increase in on-street parking in the area which would be of such a scale it would be harmful to highway safety. Moreover, the proposal includes parking provision for the occupiers of No 5 and 7 Broad Street which can be secured through the imposition of a planning condition. This would provide an alternative to on-street parking for these residents.
16. The Council officer report sets out that the proposal would not give rise to unacceptable levels of noise and disturbance, with regard to the additional residents and additional traffic movements. There is no clear evidence before me that the traffic movements associated with the proposal would result in a significant increase in pollution levels. The proposal meets the Council's required design standards for residential development, as such it has been demonstrated that the proposal would not give rise to any issues regarding privacy.

Conditions

17. The conditions requested by the Council have been considered and amended as necessary to ensure compliance with the National Planning Practice Guidance. In addition to the standard condition that limits the lifespan of the planning permission it is necessary to impose a condition identifying the approved plans for clarity.
18. In the interests of the character and appearance of the area a condition is imposed to ensure provision for retained tree protection during construction of the proposed development. This is required before the commencement of development to ensure damage is not caused to the trees. It is also necessary to ensure that the development is carried out in accordance with the Arboricultural Implications Assessment. In the interest of the biodiversity of the site I also impose a condition to prevent any habitat disturbance to nesting birds during the clearance of the site.
19. The submission and approval of a Construction Management Plan is required in the interest of highway safety and protecting the living conditions of neighbouring occupiers, and before the commencement of development as the details relate to the construction phase. A condition is necessary to secure proper drainage and to manage the risk of flooding. It is required before the commencement of development to ensure a suitable scheme can be achieved. I have also imposed a condition relating to Japanese Knotweed which is necessary before the commencement of development in the interest of preventing the spread of invasive species.
20. In the interest of visual appearance and ensuring the proposal contributes positively to the character and appearance of the area it is necessary to impose a materials condition to secure details on this matter. Remediation and contamination conditions are necessary in the interest of protecting the living conditions of neighbouring occupiers. In the interest of visual amenity a landscaping condition is imposed which includes measures to secure the long-term maintenance of newly-planted trees. This condition also covers means of enclosure and so a separate condition relating to that is not necessary. In the interests of the biodiversity of the site, a condition is imposed to secure the implementation of biodiversity enhancement measures.
21. To ensure proper arrangements are in place a condition is imposed in relation to bin storage. Conditions are also imposed in relation to cycle storage and car parking in the interest of highway safety and to ensure the residents of 5 and 7 Broad Street have access to convenient car parking.

Conclusion

22. For the reasons given above I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

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; 1908 01A – Location Plan, 1908 07 – Site Plan - Existing, 1908 113 Rev N – Proposed Site Plan, 1908 05 Rev F – Plans and Elevations, 1908 115 – Refuse/Recycling Store.
- 3) No site clearance works or development shall commence until the trees to be retained adjacent to the site have been enclosed with temporary protective fencing in accordance with the submitted Arboricultural Method Statement TRE/YS/Rev.C dated 31 October 2021 by Mulberry Tree Management and in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction. Recommendations' (or equivalent if replaced), and shall be retained for the duration of the development process. Development shall be carried out in strict accordance with the Arboricultural Implications Assessment TRE/YS/Rev C dated 31 October 2021 by Mulberry Tree Management and the tree protection plans contained within it.
- 4) Trees and shrubs shall only be cleared outside of the bird nesting season (March to August inclusive) unless, before the clearance commences, a report has been submitted to and approved in writing by the local planning authority to establish whether the site is utilised for bird nesting. Should the report reveal the presence of any nesting species, then no development shall take place during the period specified above unless a mitigation strategy has first been submitted to and approved in writing by the local planning authority which provides for the protection of nesting birds during the period of works on site.
- 5) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of:
 - hours for construction activities, including deliveries;
 - the route of access and parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding;
 - wheel washing facilities; and
 - any external lighting of the site.

The approved CMP shall be adhered to throughout the construction period.

- 6) No development shall commence until a drainage scheme for the discharge of foul and surface water has been submitted to and approved in writing by the local planning authority. The scheme shall show foul and surface water drained on separate systems and include a drainage management and maintenance plan. The development shall be completed in accordance with the approved details and maintained and managed in accordance with the approved details thereafter.

- 7) No development, including site clearance, shall commence until a scheme detailing the method and timescales for the removal and disposal of Japanese Knotweed within the site has been submitted to and approved in writing by the local planning authority. The removal and disposal of Japanese Knotweed shall be undertaken in accordance with the approved scheme and timescales.
- 8) Prior to the installation of above ground construction no works shall take place until samples and/or full specification of materials to be used externally on the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter maintained as such.
- 9) No development hereby permitted shall be carried out except in accordance with the recommendations of the Phase 2 Geo-Environmental Investigation, Risk Assessment and Remediation Strategy LKC 20 1458 dated November 2020 by LK Group. Following completion of the measures identified in the approved remediation scheme and prior to the first occupation of the approved dwellings, a report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how this contamination shall be dealt with. The remediation strategy shall be carried out as approved before the development is resumed or continued. Following completion of any remediation measure a validation report must be submitted to and approved in writing by the local planning authority.
- 11) Prior to the occupation of the development hereby permitted, full details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. The details shall include:
 - the formation of any banks, terraces or other earthworks;
 - hard surfaced areas and materials;
 - boundary treatments;
 - planting plans, specifications and schedules (including planting size, species and numbers / densities);
 - existing plants / trees to be retained; and
 - a scheme for the timing / phasing of implementation works.

The landscaping works shall be carried out in accordance with the approved scheme for timing / phasing of implementation or within the next planting season following final occupation of the development hereby permitted, whichever is the sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

- 12) Prior to the occupation of the development hereby permitted, the biodiversity enhancement measures shall be implemented, as set out within Section 4

(Evaluation and Recommendations) of the submitted Ecological Assessment Report dated 5 April 2021 by Kingdom Ecology and shown on approved plan 1908 113 Rev N – Proposed Site Plan. The necessary measures shall be maintained and retained as such thereafter.

- 13) Prior to the occupation of the development hereby permitted, the bin store shown on approved plan 1908 115 – Refuse/Recycling Store and 1908 113 Rev N – Proposed Site Plan shall be constructed and made available for use. The bin store shall be maintained and retained as such thereafter.
- 14) Prior to the occupation of the development hereby permitted, details of the cycle stores as shown on approved plan 1908 113 Rev N – Proposed Site Plan shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and retained as such thereafter.
- 15) Prior to the occupation of the development hereby permitted, the car parking, servicing and other vehicular access arrangements shown on approved plan 1908 113 Rev N – Proposed Site Plan to serve the development hereby permitted and the car parking for the occupiers of 5 and 7 Broad Street shall be implemented and made fully available for use. The arrangements shall be retained as such thereafter.

*****End of Conditions*****