



Appeal Decision

Site visit made on 26 July 2022

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/Q4245/W/21/3287401

Former MKM House, Warwick Road, Stretford, Manchester, M16 0QQ

- 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 Juman Holdings Limited against the decision of Trafford Metropolitan Borough Council.
 - The application Ref 101651/FUL/20, dated 14 August 2020, was refused by notice dated 21 May 2021.
 - The development proposed is the redevelopment of the site for residential development (use class C3) with associated infrastructure and landscaping.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 23 August 2022.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site is within the area of the Council's draft *Civic Quarter Area Action Plan* (the draft AAP) which has been examined by an Inspector but not yet adopted. In July 2022 the Council started the consultation process for main modifications following the examination, however the Inspector has not yet issued his report. Nonetheless, I have consulted the main parties on this development and given the advanced stage of the document, it has moderate weight in my Decision.
3. An extant permission¹ exists for the site, and the main parties agree that this has been implemented. This is hereafter referred to as the implemented scheme, and was approved by the Council in 2016. It is described as the erection of a 12-storey building with basement car parking (44 spaces), comprising a total of 89 residential apartments (Class C3) plus cycle parking facilities, associated landscaping, means of enclosure, with vehicular access from Warwick Road. Although I refer to this implemented scheme throughout this Decision, I will consider it in greater detail in the Planning Balance section after my consideration of the main issues.
4. Both main parties agree that the Council cannot demonstrate a five-year housing land supply. I will also consider the implications of this within the Planning Balance section.

¹ Council ref: 88279/FUL/16

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area, including whether it preserves the particular characteristics of nearby listed buildings;
- The effect of the proposed development on highway safety and the living conditions of surrounding residents, with reference to parking provision;
- Whether the proposed development would provide acceptable living conditions for future occupiers, with particular reference to the provision of outdoor space; and
- Whether the proposed level of affordable housing is appropriate, with reference to the scheme's financial viability.

Reasons

6. The proposed scheme (hereafter referred to as the appeal scheme) is a 13-storey building with 88 flats, comprising 26 one-bedroom and 62 two-bedroom units, 6 car, 3 motorcycle and 104 cycle parking spaces. Notable changes to the appeal scheme, compared with the implemented scheme, are the addition of an extra storey with reduction of two flats, an increased setback to Warwick Road, other changes to its design including siting, appearance and massing, and changes to the amount of parking spaces.

Character and appearance

7. The appeal site is a vacant plot of land on Warwick Road – a street between the area's two large stadiums and close to the borough's civic centre. Warwickgate House is an 11-storey building is on a neighbouring site, with a predominantly glass front façade set back from Warwick Road with car parking in the intermediate space. Other buildings of around 6 storeys are also on the road. Two-storey homes are directly opposite, with similar dwellings lining the streets leading away from the site.
8. Brick would comprise much of the front elevation of the appeal building, relieved by glazed opening and balcony balustrades, and metal highlights. There would a strong vertical emphasis in the arrangement of the materials. The building would sit forward of Warwickgate House, and consideration of the side elevations is also relevant: these would be predominantly brick with smaller window openings. Upper floors would be staggered inward from the front elevation.
9. Council policies informing design quality include *Trafford Local Plan: Core Strategy* (2012) Policy L7, and draft AAP Policies CQ1, CQ6 and CQ6.1. Amongst other considerations, these require development to make the best use of opportunities to improve the character and quality of an area, be appropriate in its context, complement and integrate with its surroundings, and that tall buildings achieve design excellence. Furthermore, all development within the AAP area should be architecturally innovative whilst raising design standards in the area. These are generally consistent with the advice given in para of the *National Planning Policy Framework* (2021) (the Framework), which states at paragraph 134 that development that is not well

designed should be refused especially where it fails to reflect local design policies, and the *National Design Guide* (2021) (NDG).

10. The policy position sets a very high benchmark for design quality with a requirement for a distinctive architecture relating to the area. The changes to the appeal scheme over the implemented scheme mean that a taller building filling a greater proportion of the site is proposed. Although forward of Warwickgate House, with a similar height, it would have a greater front setback than previously proposed but would have only small setbacks to the side and rear boundaries.
11. Nonetheless, the building's height and siting mean that it would be highly visible along both Warwick Road approaches and also visible from other nearby streets. Although the front of the building would have a reasonable amount of articulation, the side elevations and side returns of the front elevation would have large areas of dark brickwork, which would be visible in the aforementioned views. The solidity of these areas accentuates the building's significant massing, which would only be slightly relieved by the receding upper storeys, and the overall effect would result in a building that appears 'heavy'. Viewed in context, particularly alongside its close neighbour at Warwickgate House and that building's visually lighter façade, the building would appear obtrusive and inappropriately bulky.
12. The sizable area of hard landscaping to the front of the building and minimal areas for soft landscaping would add to the building's unsuitable appearance. I appreciate that the scheme has undergone design changes since its initial consideration by the Council, and these have improved its aspect, but do not consider that it represents an improvement in appearance compared with the implemented scheme, which has different proportions and treatment that do not result in a greater scale of harm to the street scene. For these reasons, the proposal is unacceptable.
13. The proposed building is within visibility of and the setting of several listed buildings and structures, being Trafford Town Hall and the former White City Greyhound Track's entrance and lodge. Their significance lies in the area's importance as a centre of civic activity and a place of gathering formerly important within the community. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, its significance, or any features of special architectural or historic interest.
14. Although the site's suitability for a tall building and impact on the listed buildings has been previously assessed as part of the draft AAP adoption process, any proposals must be sympathetic to these considerations. Given my findings on the design of the scheme, the appeal building would result a small amount of harm to the setting of the listed buildings, being distantly visible in background views of the assets. Paragraph 202 of the Framework requires the decision-maker to undertake a balancing exercise between any less than substantial harm to a heritage asset, and any public benefits resulting from development. There would be moderate public benefits of affordable housing provision and strengthening the local housing supply and in my view, this would outweigh the less than substantial harm.

15. However, the design issues that I have identified would have implications on the immediate area and for this reason I conclude that the proposed development would harm the character and appearance of the area, and would conflict with Core Strategy Policy L7, draft AAP Policies CQ1, CQ6 and CQ6.1, the Framework and the NDG, failing to achieve the required design standard set out within these documents. I also conclude that although there would be some less than substantial harm on the particular characteristics and setting of listed buildings, this harm would be outweighed by the public benefit of affordable housing provision.

Highway safety

16. Six off-street car parking spaces would be provided, compared with 44 in the implemented scheme that also includes provision for the use of an additional 30 on-street spaces. The parties recognise that the Council's maximum provision standard of 150 spaces is based on out-of-date policies, and draft AAP Policy CQ10 would require provision of 0.2 spaces per dwelling, resulting in an appeal scheme requirement of 18 spaces. Policy CQ2 also has a requirement to preserve the living conditions of existing occupiers of surrounding properties.
17. The appeal site is in an area of high public transport accessibility but within streets of highly restricted parking availability owing to the proximity of the stadia. The controlled parking zone limits on-street availability to residents with permits, however, evening and weekend parking in some surrounding streets is unrestricted. The proposed rate of provision assumes that only 7% of households within the appeal scheme would own a car, compared with census data indicating a local ownership rate of 25% for residents of flats.
18. Although these arrangements are likely to deter some prospective residents from car ownership, the existence of some on-street availability, no matter how light, may encourage others. The planning obligation's proposed measures (which include Traffic Regulation Orders) may reduce some of this demand, but if any TROs were to be undertaken to increase local on-street provisions then these would not come into force until partway through occupation of the development and would in any case need to take existing residents' views into consideration.
19. The 'direction of travel' indicated by the draft AAP's parking provision figure suggests that although the requirement for parking provision within the area has decreased in recent times, there remains a demand for on-site parking. This would be partly met by the proposed development, and other local schemes with low levels of on-site parking have been brought to my attention. However, this must be balanced against the requirement to preserve existing residents' living conditions. Taking all these conditions into account, I consider that the demand for parking from residents of the appeal scheme is likely to exceed supply of parking spaces, and that this is likely to lead to demand for the existing restricted on-street parking that could not be wholly mitigated through travel planning, cycle parking provision or public transport accessibility. This would lead to a reduction in living conditions for existing residents of the area. Moreover, additional on-street parking demand and competition for bays can lead to on-street parking congestion, leading to conditions harmful to highway safety.

20. Three of the proposed car parking spaces would be reserved for accessible use. The Council considers this figure to be inappropriately low but has not provided standards or guidance for what should be provided. The examples provided for nearby development indicate higher and lower provision on a proportion-per-resident basis, and accordingly I have insufficient evidence to suggest that the intended provision is unsuitable.
21. Nonetheless, for the reasons given above I conclude that the proposal would have a harmful effect on highway safety and the living conditions of surrounding residents, with reference to parking provision. This would conflict with Core Strategy Policies L4 and L7 to the extent that they are not out-of-date, and draft AAP Policies CQ2, CQ6 and CQ10, which together promote sustainable transport and highway safety, amongst other considerations. I have also had regard to the Council's adopted *SPD3: Parking Standards and Design* Supplementary Planning Document (2012), the Framework and the NPG.

Living conditions

22. The Council's approach to outdoor space provision is set out in its *Planning Guidelines: New Residential Development* Supplementary Planning Document (2004) (PG1) which was adopted by the Council although I am not aware of whether this document was subject to local consultation. As such, I give it moderate weight in my decision. This states that most new dwellings should provide private outdoor space and that for flats, 18sqm of screened communal area per flat would be acceptable (with balcony areas counting towards the overall provision). Furthermore, draft AAP Policies CQ2 and CQ6 which require usable private amenity space provided to all homes as gardens, balconies or terraces.
23. Proposed outdoor (or amenity) space provision comprises a 98 square metres (sqm) communal space on the ground between the building and the street and a 12th floor communal terrace of 42sqm, with a total communal area of 140sqm. Private outdoor space terraces would be provided for two ground-floor flats and balconies to six flats. No other flats would have private outdoor space, and the total amount of combined communal and private space would be 288sqm, as opposed to the 1,584sqm suggested through the application of the PG1 guideline.
24. The Council suggests that the building would accommodate around 145 residents and I agree that with this level of occupation, the space that would be provided would often be fully utilised. The appellant would contribute a sum through the planning obligation towards the improvement of local open space and children's play facilities. However, given that the proposal falls substantially short of the current on-site requirement, and the dearth of suitable identified nearby spaces for improvement, I conclude that the proposed development would not provide acceptable living conditions for future occupiers, with particular reference to the provision of outdoor space. This would conflict with Core Strategy Policy L7 draft AAP Policies CQ2 and CQ6, and PG1, requiring appropriate provision of open space, amongst other considerations. These are consistent with the Framework and the NDG.

Affordable housing provision

25. Core Strategy Policies L2 and L8 and *Revised Supplementary Planning Document 1 (SPD1) – Planning Obligations* (2014) seek contributions for all new development, splitting the borough into three zones for the purpose of affordable housing provision. As a 'cold' market location, developments within the area of the appeal scheme under current conditions would normally attract a 10% contribution, but a clause within Policy L2 states recognises that there would be sites that would outperform these generic expectations. In such cases, the Council would assess the viability of the site to provide an affordable housing contribution of up to 40%.
26. An example of a scheme on a non-generic site was recently decided by appeal² and is relevant as shares characteristics with and is close to the appeal scheme site. The Inspector found that the proposed density substantially exceeded that of the highest tested in the Core Strategy's evidence base, and furthermore that its distinct and internationally renowned location, public transport accessibility, and scale and nature, all contributed to his decision. All of these characteristics apply also to the appeal scheme before me. Additionally, the Council contends that the existence of an implemented scheme of similar scale with an alternative use value greater than the residual land use value justifies its approach.
27. The appellant has questioned the clarity of the analysis used to inform the density argument but since this was recently subject to cross-examination in the aforementioned appeal, I will not revisit this here. Regardless, the remaining characteristics as set out above strongly lead to a non-generic outcome. While it is the case that the Council would have been aware of the likely scale of development that would be built on the appeal site at the time of the Core Strategy's adoption, the draft AAP's advancement confirms the strategic nature of the site. All of this evidence convincingly suggests that a development on this site of the nature proposed would perform differently to a generic site and I therefore consider this site to be of the non-generic nature that triggers the 40% consideration.
28. Since the appeal was started, the appellant has revised the affordable housing provision from an initial zero to the current 10% offering, and viability assessments and rebuttals have been submitted by both main parties. The main areas of disagreement are build costs and sales values. The Council's build costs assessment found that the appellant's estimates were high when compared with similar development in this area, with any reasoning for a higher specification expected to be met by higher sales values. Other costs derive from design considerations and uncertainty within the supply chain. I acknowledge the appellant's position that the detailed design of the scheme allows for accurate costing and consider that relying on value engineering to reduce these carries risks that may affect other aspects of the development, such as design. Taking into account the 'city centre' characteristics of the proposal, I accept the costs presented within the appellant's viability information and am satisfied that the viability review mechanism within the planning obligation could allow for a suitable review in the future.
29. The fact remains that the 10% affordable housing provision falls short of the (up to) 40% provision set out in policy. The viability assessment has not been

² Appeal ref: App/Q4245/W/20/3258552; decision date 6 May 2022.

produced to include the 40% figure and I cannot be fully certain that it reflects the best possible outcome for affordable housing provision. I therefore conclude that the proposed level of affordable housing is not appropriate, with reference to the scheme's financial viability, and conflicts with Core Strategy Policy L2 for the reasons set out above.

Other Matters

30. A completed Section 106 Planning Obligation has been submitted. Given that an obligation may constitute a reason for granting planning permission only if it meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 57 of the Framework, it falls to me to reach a finding on its acceptability.
31. The 10% affordable housing provision (nine flats) would be wholly of shared ownership tenure, but would not comply with the Core Strategy Policy L2 preferred split of 50:50 intermediate and social rented affordable units. I acknowledge that partnership and management issues have informed the proposed tenure but consider that the lack of a viability assessment to confirm that this is the most effective provision to be a concern. Nonetheless the provision would assist in meeting the demand for housing within the borough and is accepted, and the suggested viability review conditions are appropriate.
32. The intended contributions for provision of off-site education, open space, outdoor sports, tree planting and processional route works address needs set out in SPD1 and are appropriate. The various sums sought by the Council are justified and I am satisfied that the Council could rely on the document to secure the contributions. Other obligations relating to traffic and parking and management are appropriate for the reasons set out above. I am content that the obligations meet the requirements of the statutory and acceptability tests.

Planning Balance

33. Both parties agree that the Council is not able to demonstrate a five-year housing land supply. Despite the Council's improving supply position and delivery, the development plan policies that are the most important for determination are out of date, and therefore paragraph 11(d) of the Framework is engaged.
34. Within the evidence, the appellant relies on the implemented scheme within each main issue on a comparison with the appeal scheme, highlighting the benefits of the latter over the former. The implemented scheme's permission is now several years old, with no visible works on what is presently a vacant site. The likelihood of the implemented scheme progressing decreases with time and for this reason I am not wholly convinced that its progression represents a realistic fallback position. While there are preferable aspects of the implemented scheme compared with the appeal scheme and vice-versa, I can at best allocate only moderate weight to the implemented scheme as a fallback position.
35. The appeal scheme would provide some other benefits. The provision of a small number of affordable housing units would be beneficial to the housing supply, as would the provision of a larger number of market homes. However, given that the latter would also be provided in the fallback scheme, the addition of the affordable homes means that these benefits have only

moderate weight. The reuse of a brownfield site is sustainable and whilst the improvement of the unsightly land would be beneficial towards the delivery of the draft AAP, these improvements would also be delivered with the fallback scheme, and thus the beneficial weight of these is also moderate. The various contributions set out in the planning obligation mostly mitigate the demand for infrastructure and other services expected to be generated by the appeal scheme, and as such I have attributed only minimal weight to these.

36. The harm that would be caused by the proposal in each of the main issues set out above would vary in scale and impact but in totality would result in substantial harm. Although there would be several benefits of the proposal, none of these would be substantial and are collectively moderate at best. This harm significantly and demonstratively outweighs the benefits when assessed against the policies in the Framework as a whole.

Conclusion

37. There are no considerations to indicate that this decision should be made otherwise than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR