



Appeal Decision

Site visit made on 20 March 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal Ref: APP/U4230/W/22/3308181

Brindley Arms, Whittle Street, Worsley M28 3WY

- 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 Mr Shimon Rudich of Viking Luxury Properties Ltd against the decision of Salford City Council.
 - The application Ref 21/78050/FUL, dated 11 June 2021, was refused by notice dated 16 June 2022.
 - The development proposed is conversion of former public house to create 9 apartments, with extension and to include alterations to elevations at ground floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were agreed during the application's determination, reducing the proposed number of apartments from 10 to 9. The Council's decision was made on this basis, and so I have reflected this in the development description above.
3. The appellant submitted alternative layout options plans during the appeal process, in order to demonstrate the adaptability of some of these apartments in terms of the layout of their furniture. I have accepted these plans as illustrative. For the avoidance of doubt, I also consider as only illustrative the additional rooflights and a number of alterations to the position of internal walls and to one external door and window. This is because such structural changes were not the basis of the Council's decision, have not been consulted upon, and would change the mix of dwelling sizes. They would therefore not align with the principles of providing natural justice for the Council and for interested parties.
4. The Salford Local Plan: Development Management Policies and Designations (DMPD) was adopted in January 2023 and forms part of the statutory development plan for Salford. It replaces the saved policies of the City of Salford Unitary Development Plan (2006), including policy DES7 cited in the decision notice. The decision notice also cited policies D5 and H2 of the Publication Draft DMPD¹. For the avoidance of doubt, I have determined the appeal on the basis of the current development plan.

¹ Published January 2020, Addendum in February 2021, examination hearings in December 2021.

Main Issues

5. The main issues are the effect of the proposed development on the living conditions of potential future occupiers, with particular regard to:
- internal space and layout; and
 - light and outlook.

Reasons

Internal Space and Layout

6. The appeal site is a vacant public house with residential accommodation on upper floors, on a corner plot within a predominantly residential area. The proposal is to convert the existing building plus a small extension, to create 9 apartments. A previous application for a similar scheme was refused in March 2020 and dismissed at appeal in February 2021².
7. The principle of the conversion into dwellings has been accepted by the Council as being compliant with the development plan, including aspects such as the loss of a community facility, the housing mix, external design, and landscaping. The Council also considers that conditions could address several new requirements in the DMPD which were not identified at the original application stage. On the evidence before me I see no reason to conclude otherwise.
8. The DMPD Policy D5 requires development to ensure that it provides all potential users with an acceptable level of amenity. The DMPD Policy H2 states that where practicable, having regard to the physical constraints of the existing building, the gross internal floor area of new dwellings in changes of use and conversions shall as a minimum meet the Nationally Described Space Standard (the NDSS). I do not find any physical constraints of the existing building to be so restrictive as to exclude this requirement for NDSS compliance.
9. The appellant does not dispute that many of the proposed apartments would not comply with the NDSS. I acknowledge that apartments H and J have very similar layouts to those considered under the previous appeal, which were found to be acceptable. However, while that Inspector had regard to the NDSS, they specifically identified it only as a benchmark. Furthermore, they also gave weight to a minimum size threshold of 57sqm for a 2- or 3-bedroom apartment as identified in the Salford Housing Planning Guidance document (HPG) (2006). The recent adoption of the development plan and space standards as linked to the NDSS both now indicate what is a minimum standard of accommodation to meet basic requirements, and greatly reduces the weight to which I give to the HPG. Therefore in combination, the previous appeal decision is not determinative to the extent that I am compelled to make the same findings on such matters as the previous Inspector.
10. The scheme's intended occupancy levels are not identified, although the plans determined by the Council indicate all of the bedrooms containing double beds, thus allowing for 2 or 4 person occupancy per apartment. On this basis, every apartment would be significantly lower than the NDSS standards of a minimum gross internal floor area of 50sqm for a 1-bedroom 2 person apartment, and

² Reference APP/U4230/W/20/3258891.

70sqm for a 2-bedroom 4 person apartment. The scheme would provide poor living conditions as a result.

11. However, even if the scheme is assessed against lower occupancy levels, the NDSS requires a minimum floorspace of 37sqm for a 1 person 1-bedroom apartment, and a minimum of 61sqm for a 3 person 2-bedroom apartment. While the 1-bedroom apartments would just meet this standard, all 6 of the 2-bed apartments would be smaller. They would have an under-provision of floorspace varying from 11 sqm for apartment H, 5sqm for G, and 4sqm to 2sqm for the remainder. I find this to be a significant under-provision.
12. The NDSS also requires a single bedroom to have a floor area of at least 7.5sqm, and a double bedroom to have a floor area of at least 11.5sqm. Only apartment J would include a bedroom greater than 11.5sqm, with all the others falling between these sizes. Furthermore, the curved walls to some of the bedrooms would create additional circulation constraints.
13. I note that illustrative layout plans were submitted to demonstrate the layout's adaptability. These indicate many of the double beds reduced to single beds. As single bedrooms, they would thus comply with the NDDS. While I accept this illustrative possibility, double beds are still shown for the other bedrooms, which would still be below the NDSS requirements. I have seen no evidence that the provision of all bedrooms as single occupancy would be acceptable to the main parties. As outlined above I also do not take into account the associated structural changes which would be required in order to increase the sizes of a number of the remaining double bedrooms in order to meet the standards, or to convert one of the bedrooms into a home office.
14. I therefore find that even taking into account the illustrative plans, where material, overall there would be a significant under-provision of total floorspace and of bedroom sizes against the NDDS for the 2-bedroom apartments. This would be both individually and cumulatively for the scheme as a whole. I also note that the NDSS is a minimum level of space deemed to provide acceptable living conditions for future occupants, rather than being a maximum to aim for or an inherently generous provision of space.
15. In returning to a consideration of Policy H2, it also states that the NDDS will not be applied to several types of development. This exclusion incorporates dwellings with furnished layouts. An associated footnote identifies that this is in accordance with Note 4 of the NDDS. For clarity, I identify that Note 4 states that "4. Furnished layouts are not required to demonstrate compliance."
16. My reading of the NDDS Note 4 is that it means that in order to demonstrate compliance with the required standards, furnished layouts are not required as evidence. I find this to be logical, because if a proposal were to demonstrate on a layout plan that it meets the size standards for instance for a double bedroom, then it is inherent within the standards that a double bed would fit within it. Thus a furnished layout to identify a double bed would be superfluous.
17. However, Policy H2 differently interprets Note 4, in that it means that a development which includes the provision of a furnished layout is then exempt from complying with the standards overall. The policy clarifies further that developments that do not meet the NDDS because they incorporate furnished layouts will be permitted subject to a condition or planning obligation requiring them to be first occupied and retained in perpetuity as furnished

accommodation, and that a dwelling will only be considered to have a furnished layout if it incorporates all furniture that is likely to be required by a typical household occupying it.

18. Notwithstanding this semantic difference, I accept that the appellant intends to supply the flats as fully furnished, in order to comply with this element of Policy H2. Both parties have thus agreed to the imposition of a condition which requires furnished layouts with specified furnishings to be retained in perpetuity, with maintenance and replacement as needed. However, in reflecting the tests set out for conditions in paragraph 56 of the National Planning Policy Framework (2021) and the Planning Practice Guidance, I do not find that I could impose a suitable condition which could achieve the stated requirements under this aspect of Policy H2.
19. It therefore follows that as I cannot require furnished layouts as part of the scheme, I do not need to consider in any further detail the parties' arguments as to whether the proposed furnished layouts are acceptable and sufficiently adaptable. I have already identified above that the proposal would conflict with the Policy H2 aspects regarding the size of proposed dwellings and space standards, as well as the NDDS itself, and in these circumstances I take this as the most fundamental aspect of the policy.
20. In conclusion, the proposed development would cause harm to the living conditions of its future occupiers, with particular regard to internal space and layout. It would therefore conflict with policies D5, H2, and H7 of the Salford DMPD, and guidance in policy HOU2 of the Salford HPG. It would also conflict with the Framework, and specifically paragraph 130 regarding the need to ensure that developments function well, and to create places which have a high standard of amenity for existing and future users.

Light and Outlook

21. The appellant has submitted a Daylight and Sunlight Assessment (September 2022), which aligns with BRE Sunlight and Daylight guidance for a conversion scheme which falls under the category of 'hard to light' dwellings. The Assessment conclusion is that all assessed windows exceed the BRE targets for sunlight, and all assessed habitable rooms exceed the BRE targets for daylight.
22. However, I find that the outlook from 1 bedroom each within apartments B and C would be of poor quality because it would be directly facing at close range the high bin store wall. While this layout and window placement is very similar to that considered as acceptable in the previous appeal, separation distances were not specified under that development plan context. DMPD policy D5 now requires development to ensure that it shall maintain suitable separation distances, setting a minimum distance of 9m from the principal windows of habitable rooms in dwellings to other walls of a similar height. Windows in Apartments B and C would not meet this distance.
23. While the appellant suggests that policy D5 also allows for habitable room windows to be located closer than 9m in some cases, I do not find these to apply in this case, as it is not a historic building, or in a high density character area, and should still achieve an appropriate level of amenity for occupiers. DMPD policy D7 also requires all residential developments to ensure that all their occupiers enjoy a high level of amenity in accordance with Policy D5, including by providing all habitable rooms with a good level of natural light.

24. I accept that I could impose a condition requiring further details to be agreed for this area's boundary treatment and landscaping, which could add visual interest. However, this would still be a high and close boundary treatment and form a clear sense of enclosure, creating an unduly oppressive effect.
25. I note that the Council's officer report states that apartment C had an acceptable quality of accommodation overall, as it would have the largest floor space, a configuration with sufficient room for compartmentalisation, and would allow outlook onto the front courtyard. However, I take a different view. Alongside 1 bedroom facing the bin store, the other bedroom would only have a roof light and so no direct outlook. The kitchen/dining area would also only have one rooflight, with its outlook only being through windows across the separated lounge area. The outlook for future occupiers of apartment C would be unsatisfactory.
26. I also identify that the kitchen to apartment D would have no windows or rooflight, with a resulting harmful impact on living conditions due to a lack of outlook and natural light. While the illustrative plans show that the kitchen could be switched with the bedroom location, in order to achieve natural light to the relocated bedroom a rooflight would still be required. As a structural change, I do not take this into account as outlined above.
27. In conclusion therefore, the proposed development would cause harm to the living conditions of its future occupiers, with particular regard to light and outlook. It would conflict with policies D5, H2, and H7 of the Salford DMPD, and guidance in policy HOU2 of the Salford HPG. It would also conflict with the Framework, and specifically paragraph 130.

Other Matters

28. The proposed development would create new dwellings and bring back a vacant building into use, on previously developed land in an accessible location. These are benefits supported by several paragraphs within the Framework as suggested by the appellant, to which I give moderate weight. However, the Framework must be read in totality, and I have found conflict with other aspects of the Framework as identified above.
29. While the proposal would create a flatted accommodation scheme of benefit to the context of the future housing trajectory for the city, including the mix and balance of households in this part of Salford, I find this to be a neutral matter. This is because the housing mix for the proposal does not represent any specific benefit which goes beyond the requirements of the DMPD policies, which have already been set in order to address the city's housing needs.

Conclusion

30. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L Hughes

INSPECTOR