



Appeal Decision

Site visit made on 4 April 2023

by Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/U4230/W/22/3309801

Land Formerly, 85 Broughton Lane, Salford, M8 9UE

- 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 Joint Investment Power Ltd against the decision of Salford City Council.
 - The application Ref 21/78656/FUL, dated 8 October 2021, was refused by notice dated 27 April 2022.
 - The development proposed is Redevelopment of a derelict former B8 warehouse to accommodate a new single storey building comprising 12 trade counter retail warehouse club units (Sui Generis) with associated access and car parking provision.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on (a) flood risk; and, (b) highway safety.

Reasons

Flood Risk

3. The appeal site is located at the junction between Broughton Lane and Milton Street. The site contains the remains of a largely demolished building and is otherwise largely covered in a non-permeable surface. The appeal site is within flood zone 3 and an area that benefits from flood defences. The proposal before me is for the change of use from a storage warehouse to retail, and the erection of a new building to accommodate this.
4. It is clear from the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG) that both the existing and proposed uses would be less vulnerable. I also note that under footnote 56 of the Framework changes of use are usually exempt from undertaking the sequential and exception tests. However, as the proposal includes the erection of a new building it would consequently still be necessary to undertake both of these tests.
5. I recognise that the appellant has submitted a flood risk assessment (FRA) and that within this they have suggested a number of mitigation measures. Whilst these measures may go some way to reducing flood risk impacts on site, there is no allowance within local or national policy for an FRA to replace the requirement for a sequential or exception test being carried out.

6. Likewise, I note that PPG Table 2: Flood Risk Vulnerability and Flood Zone 'Incompatibility' states that less vulnerable uses do not require an exception test within flood zone 3a. However, the associated notes state that the sequential test should be applied prior to the use of the table and as such this table does not preclude the need for a sequential test.
7. The proposal would result in development that would be at risk from flooding in flood zone 3. It has not been demonstrated that this development could not be carried out elsewhere through a sequential test and as such the development would be unacceptable.
8. In conclusion, the proposal has not demonstrated that it has passed the sequential test and would therefore result in an unacceptable flood risk as a result of the development of the site. This would conflict with Policy WA4 of the Salford Local Plan: Development Management Policies and Designations (the SLP, January 2023) which seeks to resist development that would be subject to an unacceptable risk of flooding. The proposal would also conflict with the Framework with regard to the limiting flood risk and the requirement to carry out the sequential test as outlined under Paragraphs 159 to 169. The proposal would also conflict with the guidance contained within the Flood Risk and Development Supplementary Planning Guidance and the PPG.

Highway Safety

9. The appeal site and proposed car park would primarily be accessed from Broughton Lane for both pedestrians and motorists, although pedestrian access to unit 8 would be provided from Milton Street. Broughton Lane was, at the time of my visit, a busy road with a regular flow of traffic. I noted that this portion of the road, and the surrounding area, provided a number of commercial, and similarly associated, units. Milton Street leads away from this towards a more residential area although I still noted some larger vehicles, including an HGV making use of the road.
10. Given the mixed commercial nature of the area, there would be a significant number of vehicular movements resulting from customers, staff and deliveries associated with the businesses. Although the site is currently unused, I have no reason to believe that it could not be brought back in to use for the purposes of storage. Consequently, the site has the potential to result in vehicular movements already. Whilst the proposal would intensify the use on site, given its scale, it is unlikely that there would be a significant increase in vehicular movements relative to the area. I find that the road network in the surrounding area, and particularly Broughton Lane and Milton Street, would be able to accommodate this increase.
11. I noted during my observations on site that there were no on-street parking restrictions on a number of the surrounding roads, including Milton Street. Only one unit would face on to, and be accessed from, Milton Street. As the proposal includes on-site parking in close proximity to the other units, it is likely that only visitors to unit 8 would park along Milton Street. I find that Milton Street has the capacity to accommodate vehicles associated with one commercial unit of this scale, especially given the unrestricted on-street parking nearby. I am mindful of the concerns regarding HGVs using this road and the impact on-street parking may have on their safe navigation through the area. However, I consider this to be an existing issue that would not be unacceptably increased as a result of the proposal.

12. Whilst the appellant's submissions do not clearly show the pedestrian accesses to the north of the site, I note from the submissions, including the highway safety report, that pedestrian routes are proposed along Broughton Lane. I find that, in the event the appeal were to be allowed, a condition could be used to secure these accesses. In this way pedestrian and vehicular movements would be separated. Likewise, a condition could also be used to ensure that the doors opening outwards on to Milton Street were used solely as fire escapes. Subject to them not being used for any other purpose, I find that there would be no unacceptable intrusion over the pavement or conflict with pedestrians. The layout of the site and provision of pavements through the car park would also minimise conflict between pedestrians and vehicles. Overall, I find that there would be no unacceptable impact on pedestrian safety on, or around, the site as a result of the proposal.
13. I note that the proposed plans include bicycle storage but, as above, in the event the appeal were to be allowed conditions could be used to ensure that the bicycle storage and electric vehicle charging provisions were suitable. Likewise, A condition could be used to control delivery or other service vehicles to minimise any conflict with other users of the car park or Milton Street.
14. Whilst the proposed waste and recycling storage area would be some distance away from unit 8, I do not find it to be so significant as to be unacceptable. This is especially so as a route avoiding public pavements would be available to future occupiers.
15. In light of the above, the proposal would not result in an unacceptable impact on highway safety on or around the site, including for pedestrians. The proposal would therefore comply with Policies A1, A2, D1 and D3 of the SLP. These policies collectively, and amongst other matters, require developments to minimise any adverse impacts on transport networks whilst also protecting and promoting other more sustainable modes of transport. Developments are also required to provide appropriate drop-off, loading and parking areas and, safe and easy access to, and movement through, the site. The proposal would also comply with the highway safety aims of the Framework as set out under Chapter 9.

Other Matters

16. I note the appellant's reference to planning permission 18/71528/FUL. However, that scheme appears to have had a significantly different context to the one before me. In particular, it was rebuilt fairly soon after demolition and had a similar footprint to that which it replaced. In contrast, I must consider the site as it is before me, which has been cleared for around ten years.

Conclusion

17. The proposal would result in flood risk harm and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR