



Appeal Decision

Site visit made on 28 February 2023

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2023

Appeal Ref: APP/B4215/W/22/3309284

Kingsway Business Centre, 140 Kingsway, Manchester M19 1BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Superstan Property Limited against the decision of Manchester City Council.
 - The application Ref 130098/OO/2021, dated 16 April 2021, was refused by notice dated 30 August 2022.
 - The development proposal is described as: outline application (access, layout and scale) for the erection of a 3, 4 and 6-storey building to form 90 apartments with associated parking, landscaping and vehicle access/egress from Kingsway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of proposed development provided in the header above differs to that provided on the planning application form; it is the description given on the Council's decision notice and repeated by the appellant on the appeal form, where the appellant confirms that they accept the change. I have therefore made my Decision based on this description.
3. The appeal submissions included the plans the Council made its decision on and an amended drawing, Ref L628 / 91 Rev H Lower Ground and Ground Floor Plans. The Council noted the submission of the amended plan in its statement and requested the appeal Decision be based on the plans it made its decision on¹, referencing the fact that the Inspector in a previous appeal on the site, Ref APP/B4215/W/19/3241898, declined to accept revised plans at the appeal stage.
4. As 2 schemes were, in effect, before me, the appellant was asked to clarify which scheme/plans they wished the appeal to be based on should I accept the revised plan. The appellant requested the appeal be based on the following drawings:

L628 01 - Location Plan

L628 / 90 Rev A - Block Plan

L628 / 91 Rev H - Lower Ground and Ground Floor Plans

L628 / 92 Rev C - 1st, 2nd, 3rd and 4th Floor Plans

L628 / 93 Rev B - South and East Elevations

¹ Paragraph 7.23 of the Council's Statement.

L628 / 94 Rev B - North and West Elevations

5. The key difference between amended drawing Ref L628 / 91 Rev H and the version the Council made its decision on, ie drawing Ref L628 / 91 Rev F, is that the number of proposed on-site car parking spaces has been increased from 84 (93%) to 90 (100%). I have given due consideration to guidance in the 'Procedural Guide: Planning Appeals - England' (2023), the 'Wheatcroft Principles' referred to in the guidance², which addressed the matter of amended plans being submitted with and appeal, and other case law³ in deciding whether to accept the revised plan.
6. The Council briefly commented in its statement on the revised plan and were given a further opportunity to comment on its implications for the appeal following the appellant's decision regarding which plans they wished the appeal to be determined on. No further comments were received from the Council regarding the matter. I consider the proposal before me should revised plan Ref L628 / 91 Rev H be included, is essentially the same as the scheme that was considered by the Local Planning Authority (LPA) and therefore that the appeal process is not being used to evolve a scheme.
7. I am satisfied that the revision does not alter the proposed development to an extent that anyone involved in the appeal would be prejudiced or impacted should I accept the amended plan. I am also satisfied that matters associated with the aspect that has been changed have been properly assessed. My Decision is therefore based on the drawings listed in paragraph 4 above.
8. In light of the above, the appellant therefore seeks outline planning permission for the development proposed with access, layout, and scale being matters for determination at this stage; and appearance and landscaping matters reserved for future determination.
9. The Council Officer's Report identified that 20% of the proposed dwellings were required to be affordable. Although not a reason for refusal, no mechanism had been provided to secure this prior to the Council determining the application. However, a certified copy of an executed section 106 agreement (s106) has been submitted with the appeal. I shall return to this matter below.

Main Issues

10. The main issues are:

- the effect of the proposal on the character and appearance of the area,
- whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to on-site outdoor amenity space, and
- whether the proposal would have an unacceptable impact on highway safety.

² *Bernard Wheatcroft Ltd v SSE and Another* (1982) 43 P. & C.R. 233.

³ For example, *R (Holborn Studios Ltd) v London Borough of Hackney and GHL (Eagle Wharf Road) Ltd*; Date: 10 November 2017; Ref: [2017] EWHC 2823 (Admin). I consider the issues raised in this case are not directly comparable to those raised in the Wheatcroft case.

Reasons

Character and appearance

11. At the time of my visit the site comprised of a series of disused industrial and commercial buildings and associated car parking areas, and several shipping containers. The buildings are one and two storeys high designed with either flat roofs or shallow dual-pitched roofs. The largest of the buildings are located towards the centre of the site. One of the single-storey buildings extends from around the centre of the site to its western boundary, and one of the 2-storey buildings extends from around the centre of the site towards the pavement edge on Kingsway, stopping around 6 m short of it.
12. The site is located between a dual carriageway to the east, an arterial route into/out of Manchester, and a railway line to the west, which also goes into and out of Manchester. Sections of its eastern boundary are close to the pavement edge on Kingsway and the western boundary is close to the carriageway edge of the train station access road. I concur with the view of the previous Inspector that the site is in a relatively prominent position. There is a low-level, flat roofed substation building located between the 2 sections of the site's eastern boundary off Kingsway. There are areas of vacant land and industrial and commercial premises beyond the site's northern boundaries. There is a 2-storey, flat roofed mosque and other 2-storey commercial premises located to the south of the site.
13. Beyond the immediate surroundings of the site, there is a mix of commercial and residential premises sited around the junctions of Kingsway, Mauldeth Road and Broadhill Road; most of which are 2-storey. The wider surrounding area comprises of mainly residential properties, with a mix of local shopping, commercial and community uses.
14. The above characterisation accords with the observations of the Inspector in the previous appeal, who summarised the area as being characterised by low rise development consisting mostly of 2-storey properties. That said, I note that there are a small number of buildings within the vicinity of the site that are 3 and 4-storeys high, eg a low-level, flat-roofed 3-storey building of contemporary design on the eastern side of Kingsway, a flat-roofed, 4-storey block of flats of contemporary design on the western side of the railway line, adjacent to which is a 3-storey property of traditional design.
15. The proposal would introduce 2 relatively large buildings into the location, one up to 6-storeys high and the other up to 5-storeys high. I appreciate that at the southern end of the tallest building, close to the mosque, the height of the proposed building would be stepped down to 5 then 4-storeys. Additionally, the eastern half of the lower building would be 3-storeys high where it would be adjacent to the low-level substation building and opposite 2-storey dwellings on the other side of the road. Although these variations in heights would soften how the height differences between the proposed buildings and the closest immediate neighbouring buildings would be perceived, such design features would ultimately not hide the considerable height differences between the existing and proposed buildings.
16. Along with its height, the size of the footprint, length, and block form of the largest of the 2 buildings proposed, would result in a building of considerable mass being introduced to the location. As well as being considerably higher

than surrounding buildings, it would be considerably larger in respect of footprint size and mass; the increase in size being emphasised by the block design. Due to the height of the smaller building proposed, it would also have a significant mass.

17. I appreciate that the proposal has been significantly reduced from the scheme dismissed at appeal. I also agree with the previous Inspector's view that a higher density apartment development would be appropriate on the site. However, due to the significant differences between the heights of the proposed buildings, the footprint and form of the largest of the 2 buildings and the combined mass, the proposal would contrast with and dominate all other development within the surrounding area.
18. For the reasons outlined, I conclude that the proposed development would not be in keeping with the prevailing pattern of development in the surrounding area. Consequently, it would have a substantial detrimental impact on the area's character and appearance.
19. The Council has expressed concerns regarding the siting of the smallest of the 2 proposed buildings relative to Kingsway, contending that the proposal breaches the established building line. To my mind there is no consistent building line formed by the buildings along the section of Kingsway stretching from the Mauldeth Road junction to the petrol station north of the site. I accept that the proposed building would be sited closer to the pavement than the existing building on site and the immediate neighbouring substation. However, the building would still be set-back behind the grass verge that exists along this section of the street. I therefore consider it would not harm the frontage line of the buildings along this section of Kingsway.
20. In reason for refusal one, the Council has also expressed design concerns regarding what is referred to as a "*lack of private amenity space*". I address this matter further below. However, from a design perspective I consider the arrangement of the proposed outdoor amenity space in general would be acceptable in design terms.
21. The appellant has drawn my attention to apartment development at East Didsbury, adjacent to East Didsbury train station (which is part of the same railway line adjacent to the site) and not far from Kingsway. The appellant considers the scale and height of the development supports the proposal.
22. I acknowledge that there are some similarities between the development referred to and the proposal before me, such as proximity to the train station and Kingsway, the heights/numbers of storeys of the apartment blocks, and the presence of mainly 2-storey residential development within the surrounding area.
23. However, although I do not have the full details of the development, there are also distinct differences. For example, there is a band of trees between the rear of the apartment blocks and the nearest residential properties on Kingsway; and there is a band of trees beyond the railway line between it and the nearest residential properties west of the development. In both instances the trees separate and substantially screen the apartment development from the surrounding residential properties. Additionally, the development around the main road junctions with Kingsway, close to the apartment blocks, comprises of buildings, including a residential block, considerably higher than the buildings

located around the road junctions with Kingsway close to the site. Consequently, I do not consider the existing apartment development referred to is directly comparable with the scheme before me.

24. For the reasons outlined, the proposal does not wholly accord with Policies SP1 and DM1 of Manchester's Local Development Framework, Core Strategy Development Plan Document, 2012, (CS); paragraphs 112 and 130 of the National Planning Policy Framework (the Framework) or guidance in the National Design Guide (NDG). Collectively, and among other things, these policies and guidance require new development to be of high-quality design, to have regard to, be sympathetic to, respond to and enhance local character, taking account of factors such as scale, mass, form siting and layout.

Living conditions – future occupiers

25. As noted, reason for refusal one refers to a range of factors the Council considered resulted in the proposal having an inappropriate form of design; one of which is "*lack of private amenity space*". To my mind, the extent of private amenity space within the proposal is a matter related to the living conditions of future occupiers, as well as potentially being a design related matter.
26. I note that in the previous appeal, which was for a substantially higher number of flats (147) within the same site area, no concerns were raised regarding the extent of proposed on-site outdoor amenity space. I therefore consider that there is no justified reason to suggest that the extent of proposed outdoor amenity space for 90 flats within the same site area would not now be satisfactory.
27. Bearing these factors in mind, along with the context of the location of the site, the nature of the proposed residential development, and the fact that details of landscaping could have been secured by planning condition(s) should I have been allowing the appeal, I conclude that the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to the extent of outdoor amenity space.

Highway safety

28. Reason for refusal 2 on the Council's decision notice contends that the proposed development would not provide enough on-site car parking spaces. Consequently, it is argued, this would increase on-street parking in an area where demand for on-street parking is high. Furthermore, it is contended that an increased demand for on-street parking in such circumstances would have a detrimental effect on pedestrian and highway safety.
29. The site is in a built-up area, close to a range of services and facilities that would be required to meet the day-to-day needs of future occupiers of the proposed development. The site is adjacent to a train station and close to several bus stops. The evidence suggests, along with observations made during my site visit, that future occupiers would be able to readily access regular train and bus services to surrounding villages, towns, and the City of Manchester. The site location, topography of the area and existence of suitable footpaths and street lighting in the area, would ensure opportunities would be provided for future occupiers to be able to meet day-to-day needs without relying on a private motor vehicle as their primary mode of transport.

30. The amended plan Ref L628 / 91 Rev H provides for one car parking space per flat (90), along with a total of 70 cycle parking racks and 6 motorcycle parking spaces. The evidence submitted by the Council suggests that it considers one car parking space per flat to be appropriate to the location. Should I have been allowing the appeal, details of cycle parking could have been secured by planning condition(s).
31. Bearing in mind the various modes of transport that would be available to future occupiers, the traffic regulations already in place within the vicinity of the site, whilst also acknowledging the limited availability of on-street parking within the area, I consider the provision of 90 on-site car parking spaces, 70 on-site cycle parking racks and 6 on-site motorcycle parking spaces would be sufficient to meet the parking requirements of future occupiers. As such, the proposal would not have a detrimental impact on the surrounding highway network or create any unacceptable highway safety issues.
32. The proposal therefore accords with Policy DM1 of the CS, in respect of access and parking, and paragraph 111 of the Framework, which advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Considerations & Planning Balance

33. The appellant has outlined other considerations which it is suggested weigh in favour of the proposal and justify the appeal being allowed.

Social benefits

34. Bearing in mind the Government's objectives to significantly boost the supply of homes and address the needs of groups with specific housing requirements, the proposal would contribute 90 residential units to the housing needs of the area, on a windfall site, providing for a range of future occupiers, including elderly people and families. I attach considerable weight to this aspect. Additionally, of the 90 units proposed, 20% would be affordable housing, a matter to which I also attach significant weight.
35. The proposal would introduce natural surveillance over the train station access road, where there is currently none. I attach moderate weight to this aspect. It would include the removal of unsightly buildings from the site and considerably tidy it up. As any redevelopment of the site would achieve this, I attach limited weight to this factor. The proposal would introduce soft landscaping into the site and improve biodiversity. I attach moderate weight to these aspects.

Economic benefits

36. The proposal would provide economic benefits during the construction phase, including providing job opportunities, supporting associated industries, and spending in local area. It would also provide economic benefits post construction, including future occupiers contributing to the local economy and increased public funds from Council tax and New Homes Bonus.

Environmental benefits

37. The proposal would result in certain environmental benefits, such as use of a brownfield site and the efficient use of land. As well as being social benefits,

improving the site's appearance, introducing soft landscaping, and providing net gains in biodiversity would also be environmental benefits. I attach moderate to these benefits combined.

38. I accept the site's proximity to public transport options and services and facilities. However, these matters are requirements of local and national policies. I therefore consider them to be neutral in the planning balance.
39. Notwithstanding my conclusions regarding living conditions of future occupiers and highway safety, I have found that the proposal would have a substantial detrimental impact on the character and appearance of the area. As such, the proposal does not accord, on the whole, with Policies SP1 and DM1 of the CS. I consider the social, economic, and environmental benefits outlined, neither individually nor collectively, outweigh the substantial harm I have found.

Other Matters

40. As noted above, a s106 has been submitted with the appeal. However, it is not necessary for me to consider whether this obligation meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations, as I am dismissing the appeal for other substantive reasons.

Conclusion

41. For the reasons outlined, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR