



Appeal Decision

Site visit made on 16 January 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.02.2024

Appeal Ref: APP/V4305/W/23/3326516

Former Mineral Railway Land, Hale View Road, Huyton, Knowsley L36 6DD

- 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 Jason Barton against the decision of Knowsley Metropolitan Borough Council.
- The application Ref 22/00759/FUL, dated 7 December 2022, was refused by notice dated 8 March 2023.
- The development was originally described as *proposed new build commercial premises*.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address of the proposal on the application form is *Mineral Railway – Office 1, Hale View Road*. I consider this to be misleading as there are no buildings on the appeal site. The address on the appeal form is *21 Hale View Road*, but this is a dwelling opposite the appeal site. I have therefore used the address as it appears on the decision notice, which I consider to be clearer.
3. The appellant submitted a Sequential Test report with the appeal. The Council and interested parties have therefore had an opportunity to comment upon it. Having regard to the interest of fairness, and principles outlined in case law¹, I consider that the additional information does not result in a substantial or fundamental change to result in a different application, and no party would be unfairly prejudiced by my acceptance of it, and therefore I have considered it in my determination of the appeal.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the revised Framework. The response to that consultation has informed my consideration of the appeal.

Main Issues

5. The main issues are:
 - whether the proposal has satisfied the sequential test for new office space having regard to national and local planning policies.
 - the effect of the proposal upon the character and appearance of the area;

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]; Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin).

- the effect of the proposal upon the living conditions of nearby occupiers at Nos 21 and 22 Hale View Road, with particular regard to privacy and outlook; and
- the effect of the proposal upon trees.

Reasons

Sequential test

6. The main parties agree that the proposed development would form an office use in an out of centre location.
7. Taken together, Policies CS4 and CS6 of the Knowsley Local Plan: Core Strategy 2016 (CS) require new retail and other main town centre uses (including offices) to be located in accordance with a sequential approach, which conforms with the Framework. Policy CS4 sets out that office uses may be located in other employment areas, provided that town centre and edge of centre sites have been considered first in accordance with the sequential approach.
8. The appellant's sequential test report (STR) is undated, with brief details on the methodology employed. The search parameters are for small office space defined as 50-100sq.m with a 20% buffer, with off-street parking close to Huyton. In this regard, the search demonstrates some degree of flexibility in terms of scale. The reported results are considered to be too large or without off-street parking.
9. The summary sets out that web-based searches were undertaken, and states that *"prospective potential units have been reviewed by examination of Zoopla and Rightmove in this month. See the following links. (24.07.2023)"*, with reference to four hyperlinks. I note that the hard copies of the web-based search results² provided to the appeal are undated and do not appear to include the two properties referenced within the STR at Tiger Court, Kings Business Park and Muirhead Avenue East.
10. I acknowledge the appellant's position that the Council requested a sequential test during the determination phase. Nevertheless, the search appears to have been conducted as a snapshot in time or for a period of about a month. Having regard to paragraph 91 of the Framework, a longer period of search could result in suitable sites becoming available.
11. In any event, the search is confined to Huyton and therefore does not address other centres, notably the nearby centres of Prescot Town Centre and Page Moss District Centre, and any local centres. Consequently, I am not satisfied that the sequential test has addressed all sequentially preferable locations before out of centre locations have been considered.
12. I appreciate that the appellant owns the appeal site. However, land ownership does not provide a justification for siting the proposal outside of a centre or other sequentially preferable location. The appellant seeks to locate an office in proximity to their business which relates to property leasing, management and construction. However, the location of leased properties is undemonstrated. In

² On the Market, Rightmove, Zoopla

any event, such proximity to the appeal site would not be sufficient to justify the location of the proposal.

13. As an out of centre site, the appellant suggests that the appeal site is within easy walking distance of Huyton. During my visit, I found the appeal site was about one mile from Huyton Town Centre. There is no substantive evidence before me on access by public transport. During my visit, I saw that Hale View Road was not served by public transport, and the nearest bus stop I saw was at some distance on Hall Lane. Therefore, I do not consider the appeal site to be well connected to Huyton Town Centre.
14. Having regard to all of the above, I am not satisfied that the STR demonstrates that there are no sequentially preferable sites for the proposed use.
15. I therefore conclude that the proposal has not satisfied the sequential test for new office space having regard to national and local planning policies. It conflicts with Policies CS4 and CS6 of the CS.

Character and appearance

16. The appeal site comprises part of a long and narrow strip of land along the southerly side of Hale View Road, that was once part of a mineral railway serving a former colliery, now separated from Huyton Business Park by a generally high boundary treatment. The wider area is residential, predominantly characterised by two storey semi-detached dwellings with front and rear gardens.
17. The evidence before me demonstrates that the strip of land once included two single storey office buildings, subsequently converted to residential use with an upward extension to form two 1.5 storey detached dwellings³. The plots and dwelling footprints are wide and of limited depth, with amenity/parking space to the side. As such they are in sharp contrast to the prevailing character of more regular plots with front and rear gardens on the opposite side of Hale View Road.
18. The nearest of the two adjacent dwellings to the appeal site in the strip of land includes a front facing rear dormer, offset within the roof plane, which forms a discordant feature in the wider area. The full rendered elevations of the adjacent dwellings contrast with wider prevailing brick-built forms, although some degree of harmony is found with the first-floor render at Nos 21-24 (consecutive) on the opposite side of the road.
19. Due to its proposed scale and design, to include fully rendered elevations, a pitched roof form and centrally sited front dormer, the proposed building would appear as a similar building to the adjacent dwellings. Nevertheless, the front dormer would be an uncharacteristic feature of the wider area.
20. The appeal site is shallower and more tapered than the plots of the adjacent dwellings. The adjacent dwellings already appear cramped within their plots due to the limited depth. The siting of the proposed building would result in a comparatively much shallower and distinctly tapered character to its frontage than its adjacent neighbours.

³ Planning permission ref: 19/00623/FUL granted 3 March 2020

21. Despite the side spaces for amenity areas and parking, the building would appear cramped tightly within the front and rear boundaries of its plot, with its front elevation and front boundary very close to the highway, giving a cramped appearance to the street scene.
22. Overall, while the proposed building would be of a similar appearance to the adjacent dwellings, this would not offset the harm that would arise to the character and appearance of the area, due to its cramped siting.
23. I therefore conclude that the proposed development would harm the character and appearance of the area. It conflicts with Policy CS19 of the CS, which seeks to ensure that new development responds to the positive characteristics of its immediate surroundings.

Living conditions – nearby occupiers

24. Nos 21 and 22 are semi-detached dwellings with front gardens opposite the appeal site. Their front elevations include windows serving ground floor living areas and first floor bedrooms. The distance from these windows to the front elevation of the proposed office building would be about 16m. It is of note that this would be less than the 20m interface distance that would otherwise apply between residential properties within the Council's guidance⁴.
25. However, the appeal building would be in office use. The windows to the ground floor would serve office space, including a reception area. A window to the first floor is proposed to be obscurely glazed. Having regard to the relationship between the proposal and the windows at Nos 21 and 22, together with the intervening distance, it is likely that future occupiers of the ground floor of the office building would be able to see into the windows of Nos 21 and 22. The proposal would therefore be likely to have a harmful effect on the privacy of the occupiers of Nos 21 and 22.
26. The front facing windows of Nos 21 and 22 play an important role in the outlook of their occupants. Due to the scale, height and width of the proposed office building, together with its siting close to the kerb edge, its massing would appear as an imposing feature within the outlook of Nos 21 and 22.
27. I therefore conclude that the proposed development would harm the living conditions of nearby occupiers at Nos 21 and 22 Hale View Road, with particular regard to privacy and outlook. It conflicts with Policy CS19 of the CS and Saved Policy H5 of the Knowsley Replacement Unitary Development Plan 2006 (UDP). Taken together, these policies seek to ensure that the residential amenities of existing occupiers are protected.

Trees

28. The scope of the Tree and Vegetation Report submitted with the application is clearly confined to a survey of the status and condition of the trees and significant vegetation within the appeal site. The report identifies seven trees, but it does not assess the impact of the proposal upon the trees.
29. I note that some of the trees are characterised as young, with some suffering poor form that could be addressed by tree management. There is little information on their amenity value. Therefore, it is not clear whether any trees

⁴ New Residential Development: Supplementary Planning Document 2018

which make a positive contribution to amenity should or could be retained, nor whether any tree loss is unavoidable.

30. My attention is drawn to the proposed landscaping, which suggests all existing trees and vegetation would be removed; with a scheme to include four replacement trees and other planting. However, it has not been demonstrated that tree loss is unavoidable. Even if it were so demonstrated, Saved Policy DQ4 of the UDP seeks replacement tree planting 'normally' on a 2:1 basis, and the proposed tree replanting would be short of this.
31. I therefore conclude that the proposal does not provide sufficient information upon which to assess the impact upon trees. It conflicts with Saved Policy DQ4 of the UDP, which seeks to ensure that trees which make a positive contribution to amenity should be retained, and that proposals are accompanied by a detailed survey. Guidance on surveys is provided within the Council's Supplementary Planning Document: Trees and Development 2016.

Other Matters

32. Matters pertaining to the handling of the application by the Council do not affect my consideration of the planning merits of the scheme.
33. The appellant suggests that the appeal site is waste ground and therefore the proposal could support the government's objective to use land efficiently. This does not however outweigh the harm that I have found.

Conclusion

34. For the reasons given, I conclude that the proposal conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with the development plan. Furthermore, paragraph 95 of the Framework sets out that where an application fails the sequential test, it should be refused. Therefore, the appeal is dismissed.

J Moore

INSPECTOR