



Appeal Decision

Site visit made on 29 April 2024

by D Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 7/5/2024

Appeal Ref: APP/Z4310/W/23/3326054

51 Sandhills Lane, Liverpool L5 9XJ

- 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 F Connolly of FSF Estates Ltd against the decision of Liverpool City Council.
 - The application Ref 21F/3536, dated 2 December 2021, was refused by notice dated 28 April 2023.
 - The development proposed is described as "new build hotel (134 No bedrooms) in a six-storey building with café/restaurant for non-residents".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant also submitted an appeal against the Council's failure to determine an application for a certificate of lawful use of development on the same site for uses falling within Class E "Commercial, Business and Service" of Schedule 2, Part A of the Town and Country Planning (Use Classes) Order 1987 as amended. This is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the area; and, whether the proposal would prejudice the long-term development of the area for industrial or employment uses.

Reasons

Character and Appearance

4. The site is a triangular-shaped parcel of land extending to about 1770 square metres. It is occupied by a vacant building that was used formerly as an office / warehouse. The building sits towards the south-eastern part of the site adjoining the footway and the neighbouring premises which operates as an international freight and logistics business. The remainder of the site comprises hardstanding.
5. The site is located on the northern side of Sandhills Lane, approximately 1.5 miles north of Liverpool City Centre within a predominantly industrial and commercial area. The former Liverpool Docks lie to the west, including the area where a new stadium for Everton Football Club is under construction. The Leeds to Liverpool canal runs to the east.

6. Sandhills station, which is situated opposite the site, is a relatively busy, refurbished transport interchange with rail connections to Liverpool, Southport and Ormskirk, and bus links to Kirkdale, Anfield and Everton. The station and railway bridge are elevated above street level on an embankment overlooking the site and the Sandhills Business Park.
7. The proposed development would be a hotel with 134 bedrooms that would extend to six-storeys and would incorporate a café / restaurant on the first floor. Access would be from Sandhills Lane (A5055) and seventeen car parking spaces would be provided in an undercroft. The internal accommodation would comprise a reception area, a staff room and office and seven bedrooms on the ground floor. The remaining bedrooms would be spread over the upper floors, accessed by stairs and a lift.
8. The proposed development would have an L-shaped footprint to make efficient use of the irregular-shaped site. It would sit in the south-east corner following the line of the site boundaries, with its frontage at the back of the footway. The building would be of a contemporary design, utilising red, brown and grey facing bricks with glazed sections to the entrance and café / restaurant.
9. The proposed building would be highly visible and prominent in the street scene due to its positioning within the site and because of its scale and massing. In views looking east along Sandhills Lane, the building would be seen in the context of the railway bridge over the road and the adjoining station complex. While the hotel would be of a comparable height, it would still be a prominent feature. The side elevation facing into the site would be staggered, which would reduce its visual impact, but it would still be evident above the railway bridge. The impact would be lessened in the summer due to foliage of nearby mature trees, but this screening would not be present during the winter months.
10. The proposed building would have the most impact in views looking west along Sandhills Lane and from the opposite junction with Dunes Way. The front elevation is relatively narrow, due to the L-shaped footprint, but the lack of screening to the east means that the front and east facing elevations would be seen together in views from the road. The appellant's 'Visualisation 05' provides an indication of how the building would appear in the street scene. It would have the form of a large rectangular block that would be visually dominant. The dominance would be accentuated by the building's siting on the site boundaries and its pavement frontage. The proposal would be an intrusive and overbearing building that would not respect the form and character of its surroundings. The backdrop of the station and railway bridge would not alleviate this adverse impact.
11. I appreciate that the development would represent inward investment and the redevelopment of the vacant site would be a positive outcome, both economically and socially. However, I do not consider that the proposal makes the most of this opportunity. The site is well-located in relation to the station and the A5055 and any building should take advantage of its prominent location. The site offers the opportunity for a distinctive development that would enhance the area and may well provide a catalyst for further investment. The design does not meet the necessary standard to achieve this, in my judgement.

12. I understand that the design ethos seeks to reflect the nearby industrial heritage, including the Tobacco Wharf. However, that building is within the former docks which is defined by very large warehouses. The hotel would be within a commercial area where the surrounding buildings are largely two or three-storey industrial units. I consider that the six-storey building would be a 'locally tall building' for the purposes of Policy UD6 of the Local Plan (2022), as it would be 1.5x the context height of its local surrounding area. The policy makes it clear that well-designed tall buildings can have a positive effect in the right location. The proposed hotel does not necessarily need to replicate the style of the surrounding architecture, which I accept is not of particular merit, but it should respect the scale of the buildings in the vicinity or be of an imaginative and creative design that justifies a building of the size and scale proposed.
13. The amended design seeks to accentuate the building's horizontal emphasis through the use of coloured bricks, and the window proportions and alignment. However, this does little to lessen the impact of the building which results from its scale and massing, particularly in views from the east.
14. I conclude on this issue that the development would have an adverse effect on the character and appearance of the area, contrary to Policy UD1 of the Liverpool Local Plan 2013-2033 (January 2022) which, among other things, seeks to ensure that development is of a high quality design that makes a positive contribution to the character and distinctiveness of its location, and Policy UD6 which supports the development of well-designed tall buildings that would bring positive benefits in terms of sustainability and regeneration. The development would not meet the aims of the National Planning Policy Framework insofar as it seeks to promote high quality design as a key aspect of sustainable development.

Loss of Business / Industrial Land

15. The proposal would result in the loss of 0.17 hectares of vacant land in an industrial / commercial area. The Council has identified a need for 145 hectares of land for industrial and business uses over the Local Plan period to meet the needs of the City and the sub-region. The requirement will be met through existing or available sites and allocated land. The Local Plan seeks to protect existing employment land due to an undersupply. Therefore, to justify the release of employment land for alternative uses, Policy EC2 requires the applicant to demonstrate that either the proposed use is complementary to the primary employment use of the area or there is no reasonable prospect of the site being used for industrial / business uses.
16. The policy and the explanation sets out that a complementary use would be a small-scale ancillary service to meet the day-to-day needs of local employees, such as a creche or café. The proposed development is a relatively large hotel with a café / restaurant that would serve the hotel patrons and would be open to the public. This cannot be considered a complementary use that provides a small-scale ancillary service due to its scale and proposed function. The hotel would need to attract patrons beyond the immediate area to be viable.
17. I accept the café could be used by people working in the vicinity and the hotel could provide accommodation for business visitors. However, this is unlikely to be significant and such activities would be minor in relation to the primary hotel use. The use of the hotel for functions or as a venue for meetings for

local businesses is unlikely given the proposed floorplan, which lacks a meeting room.

18. I understand that the Council recently resolved to grant planning permission for a drive-thru Starbucks in a Primarily Industrial area¹. This decision indicates that a complementary use may not be confined to the local employment catchment. However, that decision concerned a medium-sized coffee shop, which would be likely to appeal to local employees as a place to visit or hold an informal meeting. I accept that the hotel café / restaurant may offer the same opportunity, but the main function of the appeal building would be a hotel that would primarily meet the needs of visitors. It is not a small-scale complementary use as set out in Policy EC2(3.a). Given the above finding, I shall go on to consider whether there is no reasonable prospect of the site being used for industrial / business uses.
19. Policy EC2(3.b) requires evidence that the site has been appropriately marketed for uses falling within E(g), B2 and B8. The appellant has submitted a report which considered the viability and sustainability of the premises (the Viability Report)². This concluded that upgrading and/or redevelopment of the site for continued industrial use would not be viable. In addition, the report suggests that the site owners marketed the property for two years with a commercial estate agent, but this was unsuccessful in terms of securing a tenant. The Viability Report valued the property at between £385,000 and £400,000, and this informed the marketing strategy.
20. The evidence in respect of the site marketing includes an email from an agent on behalf of 'Property4U' sales and lettings, dated 14 December 2022. This explained that the property was marketed on their website from November 2020 to October 2021 at a price of £399,950. Then it was removed and relisted in November 2021 at a price of £699,950. The property also appeared on 'Zoopla'. There were enquiries but no offers.
21. Sales particulars from Adam Sutton Estates dated December 2019, along with an undated letter stating the property went live on the internet in January 2020 at a price of £300,000 have been provided. Although there were viewings, there were no formal offers. I understand that the property was also marketed with Hunters for a period exceeding two years although the supporting evidence of this is limited.
22. The evidence supplied shows that the site has been marketed for warehouse / office purposes, but it is unclear why the price was substantially increased in November 2021. It is indicated that this was to reflect market values but there is no revised valuation. I cannot be certain, therefore, that the property was offered for sale at a realistic price throughout the relevant period. The policy requires the applicant to provide evidence that the site has been appropriately marketed for E(g), B2 and B8 uses, across a range of media for at least 24 months. This should be at a price and associated terms that are commensurate with current market values, based on evidence from recent and similar transactions and deals. The lack of information about the price increase significantly undermines the evidence and I am not satisfied that the market has been genuinely tested.

¹ Ref 22F/0973 committee report dated 31 January 2023.

² Hardie Brack Chartered Surveyors.

23. Furthermore, details of a comprehensive marketing exercise have not been provided. The evidence is disjointed, and I am unclear whether the particulars were consistent between agents and over what periods the marketing took place. There appears to be a discrepancy between the list price in November 2021 between the Property4U website and the price listed on Zoopla. The information should be drawn together to demonstrate a coordinated marketing strategy across a range of media, with a clear record of activity and details of any potential interest with adaptations to the strategy to reflect the feedback.
24. I accept that the site is an irregular shape, and the existing building may not be fit for purpose. I also note the findings of the Employment Use Viability Appraisal³, which concludes the site is no longer viable for employment use. However, whether or not the site is unsuitable for employment purposes has not been shown through a comprehensive marketing exercise as required by the development plan policy.
25. It is argued that there will be no harm because the site provides only a small proportion of the overall employment land requirement and the development proposed would not prevent the site returning to a traditional employment use in the future. However, it is necessary to apply the policy consistently to ensure the Council's overall strategy for sustainable economic growth is not undermined. The use of the site for traditional employment purposes in the future would be unlikely given the redevelopment costs associated with the proposal.
26. In addition, the appellant maintains there is a need for the proposed development in Liverpool. A Sequential Assessment has been carried out to show there are no suitable sites within the city centre. The sequential assessment has not been disputed but, in any event, the lack of sites within the city centre would not justify the release of employment land unless it has been shown there is no reasonable prospect of the site being used for industrial / business uses in the first instance.
27. I note the reference to planning permission at No 1 Sandhills Lane, which appears to be for a six-storey hotel with 50 bedrooms⁴. The full balance of considerations that informed that decision is not before me, but it seems the site-specific circumstances were different in that there was already a small hotel on the site.
28. Overall, I am not satisfied that the evidence of the marketing exercise is sufficiently robust to show that the site has been appropriately marketed as required by Policy EC2(3.b). Therefore, it is not necessary to consider parts (i) and (ii) of that policy.
29. I conclude on this issue, that it has not been shown that either the proposed use is complementary to the primary employment use of the area or there is no reasonable prospect of the site being used for industrial / business uses. In my judgement, the unjustified loss of employment land would prejudice the long-term development of the area for industrial or employment uses and would not accord with Policies EC1 and EC2 of the Local Plan.

³ Grasscroft June 2021.

⁴ Ref 180/2485.

Planning Balance

30. The redevelopment of the site is an opportunity for inward investment that would bring positive economic benefits during the construction phase. In the longer term it is stated that 35 new jobs would be provided, which I consider realistic, and there would be additional benefits to the hospitality sector supply chain.
31. Moreover, the hotel would be well-located next to a station. It would attract visitors and lead to an increase in activity in the area during the evenings and at weekends. This would have additional social benefits, as would the café / restaurant that would be open to the public. In addition, redevelopment provides the opportunity for the environmental enhancement of the site.
32. Overall, I consider the totality of the benefits of redevelopment carry moderate weight. However, the proposal would not accord with the development plan as a whole and the other considerations advanced would not outweigh the conflict with policy to which I attach significant weight.

Conclusion

33. For the reasons given above, I conclude that the appeal should be dismissed.

Debbie Moore

Inspector