



Appeal Decision

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal Ref: APP/R0660/W/24/3353998

Manor Point Business Park, Manor Lane, Holmes Chapel CW4 8AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Aus-Bore Estates Ltd against the decision of Cheshire East Council.
 - The application Ref 21/6391C sought approval of details pursuant to condition No 2 of planning permission Ref 18/4283C, granted on 7 February 2019.
 - The application was refused by notice dated 18 April 2024.
 - The development proposed is Hybrid Planning Application for redevelopment of former Manor Lane Business Park site for mixed uses, comprising: (1) Full planning permission for site access and erection of Block A creating 2238 sqm for flexible use purposes within Use Classes B1, B2 and B8, and trade counter uses; together with associated car parking, servicing and external works including creation of flood defence/ecological wetland area and associated landscaping. (2) Outline planning consent for erection Blocks B and C creating a combined 3792 sqm for flexible use purposes within Use Classes B1, B2, B8, & trade counter uses; and erection of Blocks D, E, F and G for flexible uses within Use Classes B1, B2, B8, D1, D2, & trade counter uses (2251 sqm), together with associated car parking, servicing, and landscaping and external works (appearance and landscaping to be reserved for later approval). (All uses to be permitted within the terms of Class V, Part 3, Schedule 2 of the General Permitted Development Order 2015).
 - The details for which approval is sought are: access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Aus-Bore Estates Ltd against Cheshire East Council and by Cheshire East Council against Aus-Bore Estates Ltd. These applications are the subject of separate Decisions.

Preliminary Matters

3. The planning application form states that the reserved matters application was made against outline permission 18/4283C and therefore I have referred to that permission in the banner header above. Whilst the decision notice refers to a later permission, ultimately this is not a matter which has a material bearing on my assessment of the main issue in this appeal.
4. It was not necessary to undertake a site visit prior to my determination of this appeal.

Main Issue

5. The reserved matters application was refused solely on procedural grounds and the planning merits of the case were not considered. For reasons that will become apparent, I have also confined my consideration to procedural matters, namely

whether the reserved matters submission made accorded with the terms of the outline planning permission that had already been approved.

Reasons

6. A hybrid planning permission was granted in 2019¹ for the redevelopment of the former Manor Lane Business Park. An application was subsequently submitted² under Section 73 of The Town and Country Planning Act 1990 (as amended) (the Act) to make amendments to the approved scheme and this was approved in 2020. On both of those applications, condition 2 sets out that approval of the details of the appearance and landscaping (the reserved matters) shall be obtained from the Local Planning Authority in writing before any development relating to the blocks D, E, F and G is commenced. Access, layout and scale were not matters that were reserved for the Local Planning Authority's subsequent approval.
7. Section 92(1) of the Act states that *"outline planning permission" means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Secretary of State of matters not particularised in the application ("reserved matters")*. The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (DMPO) states at 2(1) that *"reserved matters" in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application*. The DMPO further sets out at 5(1) that *where an application is made to the local planning authority for outline planning permission, the authority may grant permission subject to a condition specifying reserved matters for the authority's subsequent approval*.
8. The matters of access, layout and scale were approved at the point that the outline planning permission was granted. There was, therefore, no mechanism available to then submit details of access, layout and scale as reserved matters and for them to be approved at that stage. In straightforward terms, they did not fall within the definition of reserved matters in this instance because their approval had been sought at outline stage, and they had not been specified as reserved matters in the relevant condition on either of the two planning permissions that were granted.
9. In addition, to approve the reserved matters on the basis of the amended plans submitted would create a conflict with conditions 4 on the outline and s73 permissions, which set out the approved plans. Approving the amended plan as the appellant seeks would leave a planning permission with approved plans that showed the buildings in different positions. It would thus provide no certainty as what could be built out. Furthermore, the reserved matters plan presented would not fall within the ambit of what was initially approved at outline stage, given that the layout would be different, and access, layout and scale had already been approved.
10. My attention has been drawn by the appellant to a number of legal judgements presented in support of their case. However, none of the caselaw submitted, to my reading, provides an authority that in a scenario where access, layout and scale

¹ 18/4283C

² 20/0035C

have been approved at outline stage, and thus are not reserved matters, it is possible to then submit access, layout and scale for approval as reserved matters.

11. I acknowledge that the appellant has proposed to reduce the floorspace of the four proposed units from that which was before the Council when they determined the appeal application to a level which is consistent with the total floorspace approved at outline stage. An amended proposed site plan (revision P10) was provided with the appeal in that regard. However, even if I were to accept that plan into the appeal process, it does not address or overcome the matter relating to the approval of matters that were not reserved or the conflict with condition 4 that would result.
12. The appellant questions to what extent the matter of scale and layout were approved under the two applications that were permitted and they refer to conflicting plans in that respect. However, it remains in the case of both permissions that condition 2 is clear that access, layout and scale were not reserved matters and were therefore not left to subsequent approval. They were also two standalone permissions, as the effect of a s73 approval is to create a new permission. Any discrepancies in the details that were approved by the Council and with the respect of the description of the s73 application are matters for the parties to resolve between themselves. The substantive matters considered above are unaffected by this.

Conclusion

13. For the above reasons, I conclude that it is not procedurally possible to consider access, scale and layout as reserved matters. The matters of appearance and landscape provided are tied to the reserved matters submission and to the amended layout. Therefore, the only course of action open to me is to dismiss the appeal.

Graham Wraight

INSPECTOR