



Appeal Decision

Site visit made on 28 May 2025

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2025

Appeal Ref: APP/B4215/W/25/3361055

Land to the rear of 902 Wilmslow Road, Didsbury, Manchester, M20 5PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by AM7 Group Ltd and Ask Four Limited against the decision of Manchester City Council.
- The application Ref is 140059/OO/2024.
- The development proposed is outline planning permission (with matters of access, layout and scale for approval) for redevelopment of site for 4 dwellings (Use Class C3).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application subject of this appeal was submitted in outline form, with only landscaping details reserved for future consideration. I have determined the appeal having regard to the details found on the plans before me, save for landscaping details, which I have treated as illustrative purposes only.
3. The appellant submitted three revised plans with the appeal. The site location plan now includes ground levels and the levels of nearby properties. The proposed site plan (ref: 4606-101a A1) includes existing ground levels but without some of the proposed detail such as car parking, gardens, and the internal layout of each proposed dwelling. As such, the plan submitted with the appeal is new. Cross sections have also been added to the proposed elevations plan considered as part of the planning application. They were not previously considered.
4. Added to this, an updated Sequential Test, Flood Risk Assessment ("FRA") Addendum, and a Noise Impact Assessment ("NIA") were submitted with the appeal in response to the reasons for refusing planning permission. The updated Sequential Test and FRA Addendum add to the documents considered during the course of the planning application. As such, they nor the three plans fundamentally change the proposal to the extent that it would be a different application. Given this, the nature of the additional information included on the plans, and as residents have submitted comments on the substantive issues considered in this appeal, I do not consider procedural unfairness would arise if I determined the appeal having regard to the plans and documents submitted with the appeal alongside the plans submitted with the planning application.

Main Issues

5. The main issues are (a) whether the proposal would pass the flood risk sequential test set out in the National Planning Policy Framework (the Framework) and whether the proposed development would be safe from flooding; (b) whether the appeal site would be a suitable location for the proposed development, having

regard to the spatial strategy, the character and appearance of the area, and the living conditions of neighbouring occupiers; and (c) whether the proposal would deliver a Biodiversity Net Gain (“BNG”).

Reasons

Sequential test and safe from flooding

6. The appeal site is a triangular-shaped parcel of land that lies to the rear of detached and semi-detached dwellings that line Kingsway, a dual carriageway, Wilmslow Road, and Moor Park Road. Vegetation extends across the surface of the appeal site. Tall boundary treatments line the site’s boundaries with the residential properties that bound the site. Vegetation at times accompanies those.
7. The site lies within flood zone 2. It has a medium probability of flooding, and the proposal is classed as ‘more vulnerable’ according to annex 3 of the Framework.
8. The Manchester City, Salford City, and Trafford Council Level 1 Hybrid SFRA was published in March 2010. The Level 1 SFRA used mostly existing data to make an assessment of flood risk from all sources now and in the future, and it provides a spatial assessment of flood risk within key urban areas. A Level 2 SFRA for Manchester City, Salford City and Trafford Councils was published in March 2011. The Level 2 SFRA provides more detailed information on flood risk from rivers, canals, and surface water / sewers, and includes additional strategic modelling assessment of key development sites. The Level 1 Strategic Flood Risk Assessment for Greater Manchester, which was updated in 2019 and underpins the spatial framework for flood risk management across Greater Manchester.
9. Policy DM 1 of the Core Strategy Development Plan Document (“CS”) requires all development to have regard to flood risk and drainage. More specifically CS Policy EN 14 says that development should be directed away from sites at the greatest risk of flooding and towards sites with little or no risk of flooding; this should take account of all sources of flooding. This accords with the Framework’s objectives.
10. A sequential risk-based approach is to be taken in individual applications for areas known to be at risk now or in the future from any form of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
11. The Planning Practice Guidance (“PPG”) explains what ‘reasonably available sites’ means. This and the text found in Framework paragraph 174 do not include wording such as ‘developable’ or ‘deliverable’, which the appellant has applied in its Sequential Test, dated May 2024, and the update from February 2025. The appellant has also imported other criteria, which they say should influence the assessment of whether a site is reasonably available. On close inspection the wording is closely related to a development plan policy relating to another local planning authority. This wording is set out in the *Mead Realisations Ltd v SSLUHC & N Somerset C and Redrow Homes Ltd v SSLUHC & Hertsmere BC*.
12. The development plan in this case contains no such wording, and it is inconsistent with the PPG, which is explicit in saying that sites do not need to be owned by the applicant to be considered ‘reasonably available’. Furthermore, the PPG does not state that sites are excluded if they have a planning permission for a development that is likely to be implemented. Nor does it refer to market values or consider whether the proposed development could potentially be accommodated on a series of smaller sites and/or as part of a larger site. Therefore, the various criteria

applied by the appellant as part of its sequential test are not to be preferred given the PPG fleshes out what is meant by the test found in Framework paragraph 174. In effect, the appellant's sequential test applies more stringent criteria, which is highly likely to limit the extent of reasonably available sites, whether that is considered on a borough-wide basis or just within South Manchester. This is despite the sequential test considering the type of development proposed, whether there are reasonably available sites in a suitable location across the whole borough, and whether there is a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.

13. For example, multiple sites are discounted as being 'unavailable' without an explanation of why this may be the case. It seems to be based on the grant of planning permission with subsequent condition discharge applications and/or who is promoting the site, the lack of progress, or a lack of knowledge about a site's progress. It therefore seems that many sites have been discounted too readily despite several of them being identified as potentially being suitable based on the location and type of development proposed and when development could happen in light of the planning permissions granted.
14. In any event, it has not been adequately explained why, given the quantum of development granted by the planning permission at 94-102 St Marys Road for 6 three storey dwellings and 3 x 2 bedroom apartments and associated development, this site could not accommodate the appeal scheme. Although the planning permission lapsed on 24 April 2024, the development plan has not changed since this planning permission was granted, and it is highly likely this site was deemed to be suitably located. There is also no suggestion that changes to national policy would prohibit a further planning permission from favourably coming forward or that there would not be a reasonable prospect of the site being available for development given the prior history to develop the land for dwellings.
15. Hence, I disagree with the appellant in terms of there being reasonably available sites. As a result, the appellant has not shown that there are no reasonably available sites to develop the appeal site as proposed. This means that the proposal would use land for development, having not steered that development to a lower-risk area where the same development could be accommodated.
16. I note the FRA Addendum and the plans submitted with the appeal in relation to the site's estimated flood level, the proposed finished floor levels, and the use of suitable planning conditions to secure mitigation to ensure that the proposed dwellings would be flood resistant and resilient; however, these matters do not overcome the absence of a satisfactory sequential test to rule out that it is not possible to locate the proposal in an area with a lower risk of flooding.
17. I conclude that the proposal does not pass the flood risk sequential test set out in the Framework, and this outweighs my findings about whether the proposed development would be safe from flooding. As a result, the proposal would conflict with CS Policies DM 1 and EN 14, Policy JP-S4 of the Places for Everyone Joint Development Plan Document ("PfE") and Framework paragraph 174. Jointly these require development to have regard to and minimise the impact of current and future flood risk and follow the sequential approach to steer new development to areas with the lowest risk of flooding from any source.

Suitable location

18. The appeal site has not been identified for development, and it is not in one of the

areas of the city where new housing development should predominately be, according to CS Policy H 1. This does not, however, rule out such development elsewhere, and the CS anticipates south Manchester contributing around 3,240 homes between 2009 and 2027 with sites such as this prioritised for housing to meet identified shortfalls, including family housing and provision that meets the needs of elderly people, with schemes adding to the stock of affordable housing. But the number of homes in South Manchester must be viewed as a rough amount of housing delivery rather than a ceiling given the headline housing provision figure found in CS Policy H 1 and the Framework's aim to significantly boost the supply of homes, even if the Council currently has a five-year supply of deliverable sites.

19. Therefore, using the site for new housing would be an effective use of the land, especially for family housing, given its proximity to existing transport and a range of facilities and services, as it would enable future occupiers to use sustainable transport modes to access them. That said, the proposal would result in the development of a backland site, having regard to saved Policy DC6 of The Manchester Plan ("UDP"), given that existing housing surrounds the site on all three sides. Development on these sites is, however, subject to a series of criteria.
20. Two storey properties back onto the site. Some have extended into their roof space, but all have rear gardens between their rear elevations and the site. The proposal would replicate this arrangement insofar as the properties on Kingsway, but not for the properties on Wilmslow Road or Moor Park Road due to the site's shape. The proposed dwellings would be lower than existing properties and thus compatible with the surrounding area. The design of the dwellings would differ from the traditional design, form, and appearance of nearby properties, but they would be well-designed homes that take cues from the locality in terms of the use of materials. Given their location, the proposal would protect the built environment. The scheme's density would also reflect the area, and there would be no adverse effect caused on the openness or accessibility of the Mersey Valley Character Area given that this is a site bound by existing development on every side, which means that it does not contribute to the valley's characteristics. Hence, the proposal would not harm the character and appearance of the area.
21. Kingsway is a heavily trafficked road that links the City Centre to the north and Cheadle and Handforth to the south and the population in between. To the south west of the site is its junction with the M60 Motorway. Wilmslow Road extends from its junction with the A34 at Parrs Wood to the north to Cheadle. A variety of road users use this well-used route. Moor Park Road links Kingsway and Wilmslow Road and facilitates access to residential development to the south of the appeal site. Both Kingsway and Wilmslow Road are used throughout the day, and given the nearby entertainment premises at Parrs Wood, the area is characterised by regular comings and goings from vehicles, which means that existing residents currently experience noise and disturbance from those movements.
22. The proposal would result in vehicle movements to the side and rear of existing properties, but the proposed site layout would mean that the effect of these would be limited to a row of properties on Moor Park Road adjacent to the proposed access and the properties on either side of the proposed access onto Wilmslow Road. The number of additional movements, including refuse collection vehicles, would be typical for family homes, and while those would cause an increase in the noise and disturbance experienced by adjoining occupiers, the effect would not be significant given the use of nearby roads and the infrequent and limited time that

refuse collection vehicles would spend at the appeal site. My view reflects that of the Council's Environmental Health Team, who did not raise concern with the proposal's effect on residents from noise and disturbance.

23. A minimum separation distance of around 24.3 metres would be maintained between the proposed dwellings and the rear elevations of the properties on Kingsway. Given that they would broadly be on the same ground level and the intervening boundary treatment, despite the changed relationship, there would not be a loss of privacy to the occupiers of these dwellings or their rear gardens, given that mutual overlooking of rear gardens is a characteristic of the area.
24. Between the flank elevation of the proposed dwelling to the rear of properties on Moor Park Road, a separation distance of around 15 metres would be achieved. This, together with the lack of ground floor windows in this elevation and the position of the modest sized roof lights on the upper floor above head height, would ensure the neighbouring occupiers would not experience a loss of privacy.
25. A separation distance of between 15 and 17.5 metres would be achieved between the flank elevation of the dwelling to the rear of 892 and 896 Wilmslow Road, depending on the extent of the ground or first floors. As there would be no habitable room windows on the ground floor flank elevation of the dwelling closest to these properties, and the roof lights of this proposed dwelling would be positioned above head height, there would be no direct views from the proposed dwelling to the rear elevations of Nos 892 or 896. Hence, they would not experience a loss of their privacy.
26. Therefore, although the proposal would use a backland site, I conclude that the appeal site would be in a suitable location for the proposed development, having regard to, among other things, the spatial strategy, the character and appearance of the area, and the living conditions of neighbouring occupiers. As such, the proposal would accord with CS Policies SP 1, H 1, H 6, EN 1 and saved UDP Policies DC6 and DC26. Jointly these policies seek development to be well designed places that enhance or create character; make a positive contribution to the health, safety and wellbeing of residents; protect and enhance the built and natural environment. Furthermore, the proposal would accord with PfE Policies JP-P1 and JP-Strat9, which seek development to make effective use of land; respect and acknowledge the character and identity of the locality in terms of design, siting, size, scale, and materials; be well connected; and provide a high level of amenity. The proposal would also accord with Framework sections 5, 11, and 12.

BNG

27. The site has 5.16 units of area-based habitats with no hedgerow or watercourse units. The appellant anticipates the site having 0.50 units of area-based habitat post-development. This represents a 90.3% negative change, which means that the proposal would not achieve the minimum 10% BNG even with landscape matters to be determined. This is because of the site's size and shape limitations together with the proposal's layout.
28. As such, 5.176 units of area-based habitats are required, and in accordance with the trading rules, a minimum of 3.76 units of individual trees and 1.14 units of medium distinctiveness heathland and shrub or habitats of a higher distinctiveness are necessary either on the appeal site or off it. But as I explained, it will not be possible to provide all these habitats on the site.

29. The appellant has engaged with the Environment Bank with the view of purchasing credits to achieve the required level of habitat to ensure that the proposal delivers a minimum 10% BNG in accordance with the hierarchy. The precise quantum of credits required is unknown at this point given that there are no detailed landscape matters before me, and I share, to an extent, some of the Council's concerns about the placement of the illustrative trees shown within each dwelling's garden. However, numerous trees could be sited within the layout whilst reflecting the character of the area and without causing undue shading of the properties. But, in any event, most of the required units would be delivered off-site.
30. Therefore, a Biodiversity Gain Plan ("BGP") could ensure that the development delivers the 10% BNG required, and although the Council suggests a planning condition to that effect, it is not necessary to impose this as the Act sets this requirement out already. This, along with a condition to secure a habitat management and monitoring plan, would ensure the delivery of the 10% BNG.
31. I note the Council's points about the viability of the development taking into account the mandatory 10% BNG, but there is no substantive evidence to support the Council's assertion, and I consider that the BNG objective could be met through a BGP condition. The Planning Practice Guide also explains that "it would generally be inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met."
32. I conclude, therefore, on this issue, that the proposal would deliver a BNG in accordance with CS Policies DM1, SP1, and EN9 and PfE Policies JP-P1, JP-G7, and JP-G8, which collectively, among other things, seek development to protect and enhance the natural environment.
33. Core Strategy Policy EN 1 is not relevant to this issue as it is concerned with design and character not biodiversity.

Planning Balance and Conclusion

34. I have found that the proposal would accord with development plan policies insofar as the site's location and BNG, but I have identified conflict with the development plan in terms of the sequential test. That is not necessarily fatal to the outcome of the appeal, as other material considerations may outweigh that.
35. The delivery of four family homes would add to the mix and supply of housing in general, but it would help address the need for three- and four-bedroom family houses in the area by making use of a windfall site. Further, the proposal would help to broaden the Council's housing land supply even if it is currently above the minimum level required. The proposal would change the site's appearance, and with people living on the site, it would provide natural surveillance and address any fly tipping issues. The proposal would also include measures to help tackle climate change and include suitable access, parking, and waste storage facilities.
36. However, for the reasons set out, the sequential test is premised on factors that are more stringent than the PPG's explanation of what is a reasonably available site. Therefore, sites are highly likely to have been discounted for reasons that are inconsistent with the PPG and, in turn, the Framework. Hence, the sequential test is not an adequate assessment of whether there are reasonably available sites that could accommodate the proposed development. So, even if there is an unmet need for family housing in the area, there is not a clear baseline from which to

assess whether sites that are not sequentially preferable might be required to come forward to address that need.

37. While the proposed dwellings would not be at risk of flooding in the design flood event, and they would not increase flood risk on adjoining land, those matters do not alter my view that the proposal's failure of the sequential test carries substantial weight, especially in the context of the harm that can arise from development not being in areas that are least at risk of flooding.
38. This leads me to conclude that the proposed development would not accord with the development plan as a whole and there are no material considerations to indicate that a decision should be made other than in accordance with it, especially given that the Framework explains that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
39. For the reasons given above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR