



Appeal Decision

Site visit made on 6 March 2026

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2026

Appeal Ref: APP/G4240/W/25/3375786

Unit 2, Harrop Street, Stalybridge, Tameside SK15 2AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr Steven Bardsley against Tameside Metropolitan Borough Council.
 - The application Ref is 25/00483/OUT.
 - The development proposed is described as: Demolition of existing 1,050 sq/m of commercial space and addition of new accommodation of a flexible use within Class B or Class E up to a maximum of 1,600 sq/m, to allow for an operational change of use allowed under Class V of The Town and Country Planning (General Permitted Development) (England) Order 2015.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing 1,050 sq/m of commercial space and addition of new accommodation of a flexible use within Class B or Class E up to a maximum of 1,600 sq/m, to allow for an operational change of use allowed under Class V of The Town and Country Planning (General Permitted Development) (England) Order 2015 is refused.

Applications for costs

2. An application for costs was made by Steven Bardsley against Tameside Metropolitan Borough Council. This application is subject of a separate decision.

Preliminary Matters

3. The Council failed to determine the application to which this appeal relates. The Council has, however, since provided a decision notice and officer report with a setting out reasons for refusal of planning permission, had it retained jurisdiction to do so. The appellant has had the opportunity to respond to this in their evidence therefore they would not be prejudiced by my taking these into account.
4. The proposal has been made in outline form with access and scale being considered as part of this appeal. The matters of layout, appearance and landscaping are reserved matters and do not form part of this proposal.
5. After final comments were received on the appeal, the Council provided information relating to a scheme which received approval from the Council's planning panel, however, has not been determined, adjacent to the appeal site. Both parties have had an opportunity to comment on this and I have taken comments into account in my decision.

Main Issues

6. The Council did not determine the application. However, from all I have read and seen, I consider the main issues to be:
- Whether or not the proposed development would be in a suitable location, having regard to the requirements of local planning policy;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on highway safety with particular regard to access arrangements and circulation space;
 - the effect of the proposed development on protected species with particular regard to bats; and
 - whether the proposed scheme would meet the requirements for the provision of biodiversity net gain.

Reasons

Location

7. The appeal site is an industrial unit off a side road within Stalybridge town centre. The site has a narrow street running past it to the front, Chapel Street, with a mixture of uses along it. To the rear of the building, is Harrop Street, which terminates behind the appeal site and serves various units and an out of use car park. The application form states that the current use of the building is partial class B8 storage and partial class E.
8. The appeal scheme is in outline form and proposes the demolition of the existing building and its replacement with new accommodation of a flexible use within Class B or Class E. With a floor area of 1600sq.m which would be an increase over the existing floor area by 550sq.m. The matters of access and scale would be determined with appearance, landscaping and layout as reserved matters.
9. The Council has stated in its officer report that the proposal would not comply with the emerging and established regeneration framework which is weighted towards residential development and regeneration of the area, and cites Policy E2 of the Tameside Unitary Development Plan – Part 2 (UDP). This policy states that in the Development Opportunity Areas (of which the appeal site forms part of No. 9) the Council will permit redevelopment or refurbishment schemes which include uses likely to create higher levels of employment, leisure, retail or residential provision and bring about significant improvements in overall appearance. Further it states that mixed use schemes will be particularly encouraged in these areas and that site No. 9 (Harrop Street/Shapley Street, Stalybridge) states that the area has a poor overall environment and that a range of uses could be acceptable upon redevelopment.
10. The Stalybridge Town Centre Delivery Framework (TCDF) sets out what Site 9 – Land South of Harrop Street could be potentially used for, which the appeal site is contained within. The detail shows that the potential use for the site could include residential, supported living, community and commercial.

11. The Council in its officer report says that the proposal does not meet the aspirations of the TCDF which is weighted towards positive investment and regeneration in the town centre. However, due to the proposed redevelopment of the site, with a new building to include B8 and uses within Class E, which would equal those uses of the existing building, I am satisfied that the slight increase in floor area would not conflict with the aspirations for Site 9 as set out in Policy E2 of the UDP and in the TCDF. I have insufficient substantive evidence before me to demonstrate that the proposed development would harm those aspirations.
12. The Council in its officer report has referred to Policy JP-J1 of the Places for Everyone Joint Development Plan (JDP) which relates to supporting long-term economic growth. Due to the type of development proposed, the Council states that the proposed development would utilise existing brownfield land and that in the broadest sense the proposed use could be considered acceptable. Based on the information before me, I am satisfied that the proposal does not directly conflict with this policy in relation to this main issue.
13. Having regard to the scheme¹ which has been recommended to be approved by the Council's planning panel subject to a Section 106 agreement and conditions, that surrounds the site. The scheme cannot be afforded weight due to its status, as it has not been determined nor built out, therefore is subject to change, and therefore the locational relationship between the appeal proposal and the proposed surrounding development is not determinative in this case.
14. In conclusion and for the reasons set out above, I consider that the proposed development would be in a suitable location with regard to local planning policy. I am therefore satisfied that the proposal would not conflict with Policy E2 of the UDP which states that a range of uses could be acceptable upon redevelopment. Furthermore, the proposal would not conflict with the guidance for Site 9 of the TCDF which sets out potential new uses within the wider site including community and commercial uses. The proposal would also not conflict with Policy JP-P1 of the JDP which supports sustainable places.
15. UDP policies E3 (Established Employment Areas), E5 (Local Employment Opportunities and Mixed Uses), S1 (Town Centre Improvements), S2 (New Retail Developments in Town Centres), S3 (New Retail Developments outside Town Centres) and S4 (Retail Dominance and Shopping Frontages) cited in the suggested reason for refusal do not directly link to the harm identified in this main issue and therefore I find no specific conflict with these policies when reaching my conclusion on this main issue.

Character and appearance

16. The scale of the building is higher than surrounding existing development, particularly when viewed from Chapel Street, however three storey development exists within relatively close proximity to the appeal site. Based on the information before me, the height of the building as shown on Harrop Street would be only slightly higher than the highest neighbouring building. The building would be set back from the edge of both highways to provide car parking on the site frontages.

¹ 25/00972/FUL Full planning application for demolition of existing buildings and erection of a residential development (Use Class C3) and ground-floor commercial floorspace (Use Class E) with associated access, parking, amenity spaces and landscaping. Not Determined. Resolved to be approved subject to Section 106 agreement and conditions.

17. I consider that the height of the building, although higher than immediate neighbouring buildings would not be harmful in an urban setting such as this, where the height of surrounding development varies significantly and includes three storey buildings near to the appeal site. Therefore, due to the site's varied context the proposed development would not be harmful to the street scene, when viewed from both Chapel Street and Harrop Street, and for this reason the scale of the proposal would integrate well with surrounding development, and would not appear as an overdevelopment of the site. Furthermore, the National Planning Policy Framework (the Framework) at paragraph 129, sets out that planning decisions should support development that makes efficient use of land taking into account regeneration.
18. Regarding the proposed scheme which surrounds the site, whilst this cannot be afforded weight in the determination of this case for the aforementioned reasons. The Council's officer report for that development confirms that the Council considers the height of a 3-storey building to be in-keeping with prevailing height of buildings in this locality. In addition, the Council has stated that the apartments and townhouses design responds positively with clear reference to the scale and form of the buildings to the industrial past. Therefore, I find that 3 storey development is considered to be acceptable by the Council in this area, which compares with my findings set out above.
19. The Council has raised concerns regarding site layout, particularly of car parking spaces to the frontage and absence of a dedicated service yard, however this is a reserved matter and is not for determination before me. Furthermore, the Council has referred to the design and has expressed that it would have a dead frontage at street level. However, this is a matter of appearance and therefore is not for determination as part of the appeal before me.
20. Therefore, for the reasons set out above, in conclusion, the scale of the proposed development would have an acceptable effect on the character and appearance of the area. The proposal would therefore accord with policy C1 of the UDP insofar as it relates to the scale of the development only, which requires the relationship between buildings and their setting to be given particular attention in the design of any proposal for development. The proposal would also accord with Policy JP-P1 of the JDP insofar as it relates to this main issue which requires development to respect and acknowledge the identity of the locality in terms of siting, size and scale.
21. The suggested reason for refusal provided by the Council relating to this main issue refers to Policy E6 of the UDP, however this relates primarily to detailed design and external appearance, which is a reserved matter in this case. Therefore, I see no specific conflict with this policy in relation to this main issue.

Highway safety

22. Chapel Street, in particular, is narrow and parking restrictions in the form of double yellow lines are in front of the site, therefore car parking is limited. Based on the indicative plans before me, the vehicular access arrangements show a total of 14 car parking spaces accessed from Harrop Street and Chapel Street, at right angles to the streets it fronts onto. I note that the existing site does not appear to have dedicated car parking at the current time due to the nature of the existing

building which fills the plot. The proposed number of employees is 12 which is an increase of 10 from the existing level.

23. The Council's evidence states that the proposal shows a frontage which is dominated by car parking. Leaving insufficient provision for servicing and deliveries, refuse storage and collection and secure cycle storage. Further stating that the lack of dedicated space would obstruct the public highway causing circulation issues for vehicles and pedestrians.
24. The proposed car parking arrangement, by reason of its cramped layout, is likely to result in vehicles reversing or in a forward gear into the street across the footpath, with parked vehicles further restricting visibility for drivers and pedestrians. This arrangement could result in pedestrians having to enter the carriageway to navigate around vehicles, which would be a safety concern. I am not satisfied that the proposed arrangement would avoid conflict between delivery vehicles (where required for the proposed use), pedestrians, and vehicles using or passing the site.
25. The appellant has stated that certain detail could be secured by condition, which may be the case for matters such as cycle and bin storage, however, the proposal is to determine access to the site, therefore I do not consider that this would be a suitable solution to determine the access itself, in this case.
26. I note that the site is in a sustainable location and provides a genuine choice of transport modes due to the proximity of the railway station. Which is beneficial in terms of access to the proposed development for staff and visitors. Together with the provision of dedicated car parking for the proposed development.
27. Nevertheless, for the above reasons, I conclude that it has not been adequately demonstrated that the proposal would not have an unacceptable effect on highway safety with particular regard to access arrangements and circulation space. The proposal would therefore fail to accord with Policies E6 (a), T1 and T10 of the UDP which in combination require employment developments to provide suitable arrangements for safe parking, servicing and access to and from the highway, and require access arrangements for development schemes to meet the aims of improving safety for all road users.
28. Furthermore, it has not been adequately demonstrated that the proposal would not result in an unacceptable impact on highway safety, having regard to paragraph 116 of the Framework.

Protected Species

29. The appeal proposal includes the demolition of a substantial building. Therefore, the Council's ecology adviser has requested ecological survey information as there is a reasonable likelihood that bats or other protected species such as birds could be present. No survey information has been provided by the appellant.
30. Bats are a European Protected Species under The Conservation of Habitats and Species Regulations 2017. In accordance with Circular 06/2005² it states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the

² Government circular: biodiversity and geological conservation – statutory obligations and their impact within the planning system

planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

31. In the absence of sufficient ecological information, it is not possible to confirm that the proposal would not cause harm to protected species, or that if protected species were present that suitable mitigation could not be put in place.
32. The appellant's evidence has referred to government guidance³. The appellant has stated that the guidance confirms that conditions can be used to request protected species surveys at outline stage. However, the guidance is very clear that 'you should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the development proposal on protected species before you can grant planning permission.'
33. Furthermore, it states that: 'In exceptional cases, you may need to attach a planning condition for additional surveys. For instance, to support detailed mitigation proposals or if there will be a delay between granting planning permission and the start of development. In these cases a planning condition should be used to provide additional or updated ecological surveys to make sure that the mitigation is still appropriate. This is important for outline applications or multi-phased developments.'
34. Having had regard to the above guidance, I do not consider that it would be appropriate to attach a condition at this stage as the status of protected species at the site is unknown, in addition, whether any mitigation is required is also unknown.
35. Therefore, for the above reasons, it has not been demonstrated that the proposal would not cause harm to protected species with particular regard to bats. Therefore, the proposal would conflict with Policy JP-G8 of the JDP which states that development will be expected to follow a mitigation hierarchy and should be informed by the findings of ecological assessments submitted as part of the planning application process.

Biodiversity Net Gain

36. Biodiversity Net Gain (BNG) is a mandatory requirement of Schedule 7A of the Town and Country Planning Act 1990 as inserted by Schedule 14 of the Environment Act 2021. The Biodiversity Gain Requirements (Exemptions) Regulations 2024 exempt certain developments from meeting the biodiversity requirement that would otherwise be imposed as a deemed condition of planning permission.
37. In this case the appellant has stated that the development would be subject to the de minimis exemption, as it does not impact a priority habitat, less than 25 square metres of onsite habitat and 5 metres of linear habitats such as hedgerows.
38. The Council's ecological adviser has stated that there appears to be trees or shrubs located on the northern and southern boundaries of the site.
39. The appellant has confirmed that there is a buddleia located near to the site outside the red line boundary, which is tightly drawn around the building. Upon visiting the appeal site, which was a snapshot in time, it was clear that the building

³ Protected species and development: advice for local planning authorities

has built development on both northern and southern sides, furthermore I did not witness vegetation such as trees, hedgerows or established shrubs within the site. Although I did see some very limited vegetation growing out of the walls of the building.

40. Therefore, I have limited substantive evidence before me to demonstrate that the proposal would not meet the de minimis exemption in this case. I consider that the proposal would be exempt from the statutory requirements for the provision of biodiversity net gain.
41. Nevertheless, Policy JP-G8 of the JDP seeks a 10% net enhancement of biodiversity and geodiversity. In the absence of ecological information such as a Biodiversity Net Gain assessment, it has not been adequately demonstrated that this could be achieved.
42. Therefore, in conclusion, it has not been demonstrated that the proposed scheme would meet the requirements for the provision of biodiversity net gain as required by the development plan. Therefore, the proposal fails to accord with Policy JP-G8 of the JDP which states that development will be expected to achieve a measurable net gain in biodiversity of no less than 10%.

Planning Balance

43. The Council has provided evidence from the Coal Authority which says that the site falls within a defined Development High Risk Area and is in an area where historic unrecorded coal mining is likely to have taken place at shallow depth. In the absence of a Coal Mining Risk Assessment the Coal Authority has objected to the proposal. Notwithstanding this the Council is satisfied that a Coal Mining Risk Assessment could be added as a condition, and based on the evidence before me, I am satisfied that this adequately addresses this issue.
44. Having regard to environmental health matters, flood risk and waste, the Council has raised no technical objections at this stage and has stated that a number of matters could be dealt with by condition, based on the information before me, I see no reason to disagree.
45. There would be undoubted benefits of the scheme, by providing employment and regeneration of the existing building, a brownfield site, in a suitable location, that is sustainable due to its location within the town and proximity to the railway station, and provision of car parking where this is currently short supply. Together with an efficient use of land, and a scale of development that is acceptable within its setting. However, due to the small overall scale of the scheme the benefits are only afforded limited weight in terms of approval.
46. On the other hand, I have found that the access to the site with the proposed parking arrangement could have highway safety issues. In addition, the effect on protected species and biodiversity. In combination these are serious shortcomings of the proposal. These matters weigh to a substantial extent against the scheme. Indeed, I consider that the harm and related policy conflict would be such that the development would conflict with the development plan when considered as a whole.

47. It follows that the benefits of the scheme should be afforded limited weight and would be outweighed by the substantial weight that I attach to the harm and policy conflicts of the development.

Conclusion

48. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

N Duff

INSPECTOR