The Planning Inspectorate

Appeal Decision

Site visit made on 1 April 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 APRIL 2022

Appeal Ref: APP/B4215/W/21/3286742
Jefferson Place, 1 Fernie Street, Manchester M4 4AZ

- 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 A Henry of Broompark Management Ltd against the decision of Manchester City Council.
- The application Ref 129542/FO/2021, dated 26 February 2021, was refused by notice dated 1 June 2021.
- The development proposed is described as change of use from vacant store to studio apartment and insertion of new fenestration.

Decision

1. The appeal is allowed, and planning permission is granted for the change of use from vacant store to studio apartment and insertion of new fenestration at Jefferson Place, 1 Fernie Street, Manchester, M4 4AZ, in accordance with the terms of the application Ref 129542/FO/2021, dated 26 February 2021, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is whether the studio apartment would provide an acceptable internal living environment in respect of light, ventilation, noise, disturbance, and air pollution.

Reasons

3. The evidence is that the proposed studio flat would be acceptable in terms of its size and internal configuration according with both local and national space standards. In this regard, the proposed accommodation would be of a high standard.

4. As part of the appeal, the appellant has submitted an Air Quality Assessment (AQA), dated 30 September 2021, and a Noise Assessment (NA), dated 20 September 2021. I have taken these assessments into account as part of the determination of this appeal.

5. I acknowledge that the entrance to the proposed apartment would be in close proximity to a roller shutter door leading to an indoor car park to the multi-storey apartment building. There would be some comings and goings associated with vehicular and pedestrian movements in this area, but given the potential for an internal entrance lobby to the apartment, coupled with the recommended mitigation measures relating to sound attenuation to walls, the ceiling and the floors, and the introduction of a system of mechanical

ventilation, I am satisfied that the proposal would not cause material harm in terms of noise and disturbance for the occupiers of the proposed apartment. Required mitigation measures could be secured by means of the imposition of a planning condition.

6. In addition to the above, the provision of additional stainless-steel bollards, to match those that already exist, would suitably ensure that pedestrians and vehicles were segregated outside the entrance to the proposed flat. Given this, coupled with the likely speed of vehicles, I am content that the proposal would not give rise to any unacceptable highway safety impacts or conflicts.

7. In respect of air quality, the AQA concludes that while there is potential for idling vehicles to be present at the car park entrance, these are likely to be few in number, short term and transient. The proposed development is partially located in an Air Quality Management Area although there is no air quality monitoring undertaken near the site. The evidence is that a review of other, nearby and considered to be representative air quality monitoring locations, would indicate that the annual mean air quality objective is below the annual mean air quality objectives.

8. For the purposes of the AQA, it was assumed that the apartment would have glazing that would be thermal and double glazed; the front door would be a minimum 40 mm thick, solid and with good perimeter seals; the lounge/diner would have 2 standard in-frame passive trickle vents; and the bedroom would have 1 standard in-frame passive trickle vents. On the evidence that is before me, I am satisfied that the proposal would be acceptable from a ventilation point of view and that the occupiers of the proposed flat would not be subjected to unacceptable levels of air pollution from motorised vehicles. Required mitigation measures could be secured by means of a planning condition.

9. The proposal includes the removal of existing external louvres and to replace them with six windows which would be about the same size and appearance as those above and which serve existing residential development. Hence, the proposed windows would not be dissimilar to the windows that have already been approved for the building and which serve existing apartments. I do not agree with the Council that these windows would be too small, or that there would be insufficient natural light penetration into the proposed flat. Furthermore, the external fenestration changes to the building would not look out of place and, in fact, would suitably match and align with existing windows at a higher level.

10. For the above reasons, I therefore conclude that subject to the imposition of conditions, an acceptable internal living environment would be provided for occupiers of the proposed apartment in respect of light, ventilation, noise, disturbance and air pollution. In this regard, there is no evidence to indicate that the apartment would not be to a high standard and, consequently, it would therefore accord with the amenity, high quality, housing supply and design requirements of policies SP1, CC3, H3 and DM1 of the Manchester's Local Development Framework Core Strategy DPD 2012; saved policy DC5 and DC26 of the Manchester Unitary Development Plan 1995; the Council's Residential Quality Guide 2019 and Chapter 12 of the National Planning Policy Framework 2021.

Other Matters

11. The evidence indicates that 67 car parking and 10 motorcycle spaces are already in place within the wider development. The appellant has confirmed that a car parking and/or cycle parking space could be allocated to the occupiers of the proposed flat should that be required. The appeal site is, however, in an accessible location where there is good public transport provision. Furthermore, there is no evidence to indicate that the proposal would, in itself, give rise to any on-streetcar parking stress in the area even if a car parking space was not allocated to the occupiers of the proposed flat. I do not find that it is necessary that a dedicated car parking space is available for occupiers of the flat, but I do nonetheless note that a space could be acquired on a freeholder basis.

12. A number of third parties have raised concern about the loss of the appeal building as a former bin store. The evidence indicates that the appeal building has not been used for this purpose for some time and that the car park is being used for the storage of bins. This is a matter that has occurred irrespective of the submission of this planning application and there is no evidence to indicate that separate planning controls were imposed in respect of specifically retaining the appeal building as a bin storage area. Furthermore, there is no evidence to indicate that the existing bins in the car parking areas would not have the capacity to accommodate refuse from the occupiers of the proposed apartment.

13. The appellant acknowledges that the appeal building was used as a bin store in the past, but this was discontinued as a result of bins being tightly packed together and associated odour and fire risk issues. The appellant states that *'the site in question has been a vacant storeroom for more than four years'*. While I acknowledge that the appeal building has previously been used as a bin store, my site visit, albeit a snapshot in time, revealed that bin storage arrangements in the car park were satisfactory. While concerns have been raised about bins impeding access to some car parking spaces (e.g. space No 75), I was able to see that this was not the case at the time of my site visit.

14. The evidence is that the current bin storage areas are serviced by way of three access points to the car parking area and the on-site caretaking team move the bins on a Friday to the outside where the Council collect and empty them. The bins are then returned to designated areas by the caretaking team. On the basis of my site visit, I consider that these arrangements are satisfactory.

15. None of the other matters raised alter or outweigh my conclusion on the main issue.

Conditions

16. The Council did not provide any suggested conditions as part of the appeal despite my request to do so. It was therefore necessary for me to suggest conditions and the main parties were afforded the opportunity to respond.

17. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.

18. In order to ensure an acceptable living environment for occupiers of the flat, it is necessary to impose conditions relating to a scheme of noise mitigation and

sound insulation (including the provision of an internal lobby area) and details of mechanical ventilation.

19. In the interests of highway and pedestrian safety, it is necessary to impose a condition requiring the provision and retention of the bollards as shown on the approved plan. In the interests of the character and appearance of the area, it is necessary to impose a materials condition. In the interests of the privacy of the occupiers of the proposed flat, a condition is necessary requiring the window at the entrance to the building to be fitted with opaque glass.

20. A bin storage area in the existing car park is shown on drawing No 001 Rev 1. The Council has indicated that this area is associated with an approved disabled car parking space associated with the existing approved apartment building. I have not therefore imposed a condition relating to the use of this area as a bin storage area as this may result in a conflict with existing approved development. However, I am satisfied that there would nonetheless be space available elsewhere in the car parking areas to deal specifically with the likely low amount of refuse associated with use of the appeal building. In the interests of acceptable living conditions for existing and proposed residents of the area, I have therefore imposed a bin storage condition requiring further details to be submitted to and approved in writing by the local planning authority and thereafter retained.

Conclusion

21. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, and subject to the imposition of the stated conditions, I therefore conclude that the appeal should be allowed.

D Hartley

INSPECTOR

Schedule of Conditions

1)The development hereby permitted shall begin not later than three years from the date of this decision.

2)The development hereby permitted shall be carried out in accordance with the following approved plans: 00 (Existing and proposed GA elevations); 001 Rev 1 (Site location and block plan); 002 (Existing GA plans); 003 Rev 6 (Proposed GA plans); and 004 Rev 2 (Existing and Proposed GA Elevations).

3)No development shall commence until details of the mechanical ventilation for the approved property has been submitted to and approved in writing by the local planning authority. The approved mechanical ventilation details shall be implemented prior to the first occupation of the property and thereafter retained.

4)No development shall commence until details for noise mitigation and sound insulation have been submitted to and approved in writing by the local planning authority. Notwithstanding the approved plans, such details shall also include the provision of an internal lobby area as shown in the drawing in appendix A of the Noise Assessment Prepared by Miller Goodall dated 20 September 2021. The approved noise mitigation and sound insultation measures shall be implemented prior to the first occupation of the approved apartment and thereafter retained.

5)The external alterations to the building, including window frames, shall match the materials and finishes used on the existing building.

6)The property hereby approved shall not be occupied until the five steel bollards as shown on drawing No 003 Rev 6 have been provided. The five steel bollards should be the same height and appearance as the existing adjacent bollards. The five-steel bollard shall thereafter be retained.

7)Notwithstanding the bin storage area as shown on drawing No 001 Rev 1, prior to first occupation of the approved apartment details relating to the storage and location of refuse associated with the approved apartment shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation of the apartment and thereafter retained.

8) The window at the pedestrian entrance to the approved apartment shall be fitted with opaque glass, the details of which shall be submitted to and approved by the local planning authority prior to first use of the apartment. The approved opaque glass window shall be provided in accordance with approved details and thereafter retained.