Appeal Decision

Site visit made on 4 November 2008

by Siân Worden **BA DipLH MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
25 November 2008

Appeal Ref: APP/B4215/A/08/2081667
Gamecock Pub, Boundary Lane, Hulme, Manchester M15 6FD

- 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 Barrowford Property against the decision of Manchester City Council.
- The application Ref 085071/FO/2007/S1, dated 14 November 2007, was refused by notice dated 24 July 2008.
- The development proposed is 42 no. apartments over 8 floors, parking provided at ground floor and mezzanine level

Decision

1. I allow the appeal, and grant planning permission for 42 apartments over 8 floors, parking provided at ground floor and mezzanine level at the Gamecock Pub, Boundary Lane, Hulme, Manchester M15 6FD in accordance with the terms of the application, Ref 085071/FO/2007/S1, dated 14 November 2007, and the plans submitted with it, subject to the following conditions:

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

    2) No development shall take place until samples and specifications of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

    3) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 611.08 – P02, P03A, P04, P05, P06, P07, P08, P09, P10, P11, P12, P13, P14, P15A, P16,P17, P18, 835-01, 02A and 03A.

    4) The development hereby approved shall achieve a post-construction Building Research Establishment Assessment Method (BREEAM) rating of at least 'very good' or 'excellent' and at least a three star sustainability rating under the Code for Sustainable Homes. A post construction review certificate shall be submitted to and approved in writing by the local planning authority before any part of the development hereby approved is first occupied.

    5) The building shall not be occupied until the car parking provision shown on the approved plans, including the car lift, has been installed,

surfaced, demarcated and otherwise made available for use. Those areas shall not thereafter be used for any purpose other than the parking of vehicles.

6) The hard and soft landscaping scheme shown on drawing ref. 835-03A shall be implemented not later than 12 months from the date of commencement of works. If within a period of 5 years from the date of the planting of any tree or shrub that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the species and size as that originally planted shall be planted at the same place unless otherwise agreed in writing with the local planning authority.

7) The development shall not be occupied unless accreditation confirming achievement of the Secured by Design standards in respect of the development has been issued by Greater Manchester Police unless otherwise agreed in writing with the local planning authority.

8) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

   i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 5387 (Trees in relation to construction).

   ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

   iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

9) Before the development commences studies containing the following with regard to television reception in the area containing the site shall be submitted to and approved in writing by the local planning authority.

   i) Identify the potential impact area in which television reception is likely to be adversely affected by the development. The study shall be carried out either by the Office of Communications (OFCOM) or by a body approved by OFCOM and shall include an assessment of

when in the construction process an impact on television reception might occur.

ii) Measure the existing television signal reception within the potential impact area identified in (i) above before development commences. The work shall be undertaken either by an aerial installer registered with the Confederation of Aerial Industries or by a body approved by the Independent Television Commission and shall include an assessment of the survey results obtained.

iii) Assess the impact of the development on television signal reception within the potential impact area identified in (i) above within one month of the practical completion of the development or before the development is first occupied, whichever is the sooner, and at any other time during the construction of the development if requested in writing by the local planning authority in response to identified television signal reception problems within the potential impact area. The study shall identify such measures necessary to maintain at least the pre-existing level and quality of signal reception identified in the survey carried out in (ii) above. The measures identified must be carried out either before the building is first occupied or within one month of the study being submitted to the local planning authority, whichever is the earlier.

10) The wheels of contractors vehicles leaving the site shall be cleaned and the access roads leading to the site swept daily in accordance with a management scheme submitted to and approved in writing by the local planning authority prior to any works commencing on site.

11) No development shall commence until a scheme for the storage (including segregated waste recycling) and disposal of refuse has been submitted to and approved in writing by the local planning authority. The details of the approved scheme shall be implemented as part of the development and shall remain in situ whilst the development is occupied.

12) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include:

i) the numbers, type, tenure and location within the building of the affordable housing provision to be made which shall consist of not less than 20% of apartments;

ii) the arrangements for the transfer of the affordable housing to an affordable housing provider;

iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Main issues

2. I consider that the main issues in this case are the effect of the proposal on the;
   - character and appearance of the surrounding area with particular regard to height, mass and scale,
   - living conditions of future occupiers with regard to private amenity space, and
   - the living conditions of the existing occupiers in Cooper House with particular regard to overshadowing, outlook and privacy.

Reasons

Character and appearance

3. The appeal site is a corner plot currently occupied by a two storey, modern public house which is now vacant and in a dilapidated condition. The proposal is to demolish it and erect a multi-storey apartment block with parking provision within the building. The majority of the building, which would have a mezzanine floor, would be of nine storeys topped with a small tower of a further two storeys and roof on that part nearest to the junction.

4. Whilst the neighbourhood to the west of Boundary Lane consists of residential development of two, three and four storeys, the area between Boundary Lane and Higher Cambridge Street is characterised by taller blocks. The tallest part of the proposed development would stand out but the differences in height between buildings would not be such as to result in extremes in the area. Although the majority of the proposed block would be of a similar height to adjacent Cooper House it would have a significantly smaller footprint and, in particular, would be less than half as wide.

5. Booth Street West and Boundary Lane are both quite wide and there are areas of open space for parking and landscaping around surrounding buildings. I do not consider however that there is a particularly open feel which would be significantly reduced or altered by the proposed block. Indeed, the small scale, suburban appearance and neglected state of the existing building are out of place and make the site look unfinished and in want of development. To my mind the height, massing and scale of the proposed building would not make it an intrusive or over-dominant feature in the street scene or surrounding area. On the contrary I consider that it would be an imposing and striking structure that would make the most of a prominent site which at the moment is not fully exploited.

6. The proposed development would therefore be of a high standard of design and, in making a positive contribution towards improving the City's environment would comply with Policy H2.7 of the Unitary Development Plan for the City of Manchester, adopted 1995.

Living conditions - amenity space

7. Amenity space for the proposed flats would be provided in the form of south facing decks with communal, planted seating areas on the first to sixth floors. The one on the first floor would be sufficiently large to serve as play space for

small children. They would be easily accessible, secure and, whilst not private, the numbers of people using them would be limited. These would be similar circumstances to those prevailing satisfactorily at many other apartment developments. Whilst I can see the advantage of balconies in providing private outdoor space the amount of room they offer is often very limited. All-in-all I consider that the proposed development would provide adequate amenity space for future occupiers.

Living conditions – neighbouring occupiers

8. The flats in Cooper House are dual-aspect with, as I understand it, their principle rooms to the south and kitchens and bathrooms on the northern side. Where there are second bedrooms these are on the north side of the building and more sensitive than kitchens and bathrooms. Since the proposed development would be to the north, not as wide as Cooper House and with its tallest part set back as far as possible from the southern elevation, my view is that overshadowing would not be significant and, in the main, would not affect principal rooms. The appellant has provided a drawing showing projected overshadowing at various times during a July and December day which confirms my assessment.

9. At their closest points the two blocks would be about 20m apart although this proximity would be for a distance of less than 13m along the access road. Beyond this the southern frontage would be set back by about 3m for the mezzanine and first floors, and further back again from the second floor upwards. To my mind therefore the relationship between the blocks would not be such as to be overbearing or create a canyon effect. I also consider that the separation distance would be sufficient to ensure little possibility for overlooking and no damaging loss of privacy. Whilst I am sympathetic to the residents' difficulties in heating and lighting the north-facing rooms in their flats I consider that this is a pre-existing problem which would not be substantially worsened by the proposed development.

10. I consider therefore that the proposed development would not cause significant damage to the living conditions for the occupiers of Cooper House. In terms of its scale, appearance and other impacts it would not have an unacceptable impact on residential areas in line with UDP Policy H2.2.

Other matters

11. I consider that the provision of an element of affordable housing within the proposed development is necessary in the light of UDP Policy H1.2 and the Council's supplementary planning guidance *Providing for Housing Choice* which was adopted in September 2008. The latter sets down a city-wide target of 20% and although this would be significantly less than the appellant originally offered the Council has provided little evidence as to why a higher proportion would be necessary. Affordable housing is usually secured through a unilateral undertaking. The Council however, has several concerns with that submitted by the appellant and in this case, therefore, I consider it appropriate to attach a condition requiring arrangements to be made for the provision of affordable housing before work starts on the building.

12. Two of the existing trees on site, one of which is covered by a Tree Preservation Order, would be removed. The tree survey identifies them as

being of low quality and value but I appreciate that they have some importance because of the limited number of trees in the area. Nevertheless, I consider that the retention of other trees and the landscaping scheme submitted by the appellant, which would include a number of small trees or large shrubs along this frontage, would compensate for their loss. Whilst the Council would welcome a financial contribution for the provision of street trees I do not consider that it would be necessary in order to make the proposal acceptable in planning terms.

13. I am satisfied that there would be sufficient room for cars to pass one another in the access road which would serve the proposed development as well as Cooper House. I have also noted that the Highways Department considers that the car lift arrangement would be acceptable as there would be adequate space within the site for ingoing drivers to wait until it was vacant. The Council has not expressed any concerns about visibility at the junction with Boundary Lane and it did not appear to me that this was substandard. At the time of my visit the surrounding roads were not very busy although I am sure there must be a great deal more traffic on them at peak times. The Council has not, however, indicated that it has any concerns about highway safety arising from the proposal and I have no reason to disagree with this position. With regard to parking I am satisfied that, in this central location within walking distance of the city centre and close to frequent train and bus services, the provision of 41 parking spaces would be sufficient. The provision of a car sharing scheme would have been a benefit for future occupiers but I have no evidence as to whether this would be necessary and consider that without it the proposal is nonetheless acceptable.

14. I note that the comments of the Police Architectural Liaison Officer have been taken into account and that the proposal would be capable of achieving Secured by Design accreditation. I have taken account of all the objections and comments made including that the project may be abandoned half completed, that there is under occupancy of such flats in area and a greater need for family housing, and that existing occupiers have little choice in where they live. They are not, however, sufficient to outweigh my conclusion that the proposal would not cause significant harm to either the character of the surrounding area or the living conditions of neighbouring occupiers.

Conditions

15. In the light of Circular 11/95 *The Use of Conditions in Planning Permissions* I have attached conditions suggested by the Council which will ensure that the development is carried out as shown on the submitted plans and protect the appearance of the surrounding area through the use of sympathetic materials, the retention of existing trees and provision of hard and soft landscaping. The conditions covering landscaping will also provide the planted amenity areas and so protect the living conditions of future occupiers, as will the provision of proper refuse and recycling facilities. The condition regarding the study of television reception will enable any necessary improvements to be made and the provision of the parking areas and wheel washing facilities will be in the interests of highway safety. The requirement for certification under BREEAM and Secured by Design will minimise the environmental impact of the development and reduce the risk of crime. As explained above that regarding

affordable housing will make sure that this is provided properly and retained as such.

16. For the reasons given above I conclude that the appeal should be allowed.

Siân Worden

Inspector