The Planning Inspectorate

Appeal Decision

Site visit made on 29 October 2013

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 2 December 2013

Appeal Ref: APP/B4215/A/13/2201613
No. 28 and 30 Wellington Road, Whalley Range, Manchester, M16 8EX

- 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 Harrington House Estates Ltd against the decision of Manchester City Council.
- The application Ref 101218/FO/2012/S1, dated 18 December 2012, was refused by notice dated 4 July 2013.
- The development proposed is described as "Proposed demolition of properties No.s 28 and 30 Wellington Road including front boundary wall and gate posts and proposed erection of 7 No. dwellings with new boundary wall, gate posts and associated car parking."

Decision

1. The appeal is allowed and planning permission is granted for the erection of a three-storey building to form one dwelling house and six flats (C3) with new boundary wall, gate posts, associated car parking and landscaping at No.28 and 30 Wellington Road, Whalley Range, Manchester, M16 8EX in accordance with the terms of the application, Ref 101218/FO/2012/S1, dated 18 December 2012, subject to the conditions in the attached Schedule.

Procedural Matters

2. The application form describes the development proposed as referred to in the banner heading above. However, the appellant has adopted the Council's revised description in making the appeal. This more precisely describes the proposal. Therefore, I have used this description in my formal decision above and determined the appeal on this basis.

3. The proposal was amended following submission to the Council but prior to its determination. These changes, shown in the revised plans have resulted in some minor alterations to the fenestration details and car parking layout. I am satisfied that all relevant parties have had the opportunity to comment on these amendments and would not be prejudiced. Therefore I have determined the appeal taking account of the revised plans as amendments to the original application submission.

4. On 1 October 2013, the separate system of Conservation Area Consent was abolished. Both parties have questioned whether the demolition of the existing building containing Nºs 28-30 Wellington Road is now to be considered as a part of this appeal. I can find no reference in The Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and

Saving Provisions) (England) Order 2013 to the changes applying retrospectively to applications dealt with before 1 October 2013. As such, an appeal for an application for Conservation Area Consent that was determined by the Council before this date would proceed under the previous statutory provisions of S74 and S20 of the Town and Country Planning Act 1990. For the avoidance of doubt, this appeal therefore relates to the refusal of planning permission for a three storey building containing one dwelling and six flats only, and I have determined it on that basis.

Main Issue

5. The main issue in this appeal is the effect of the proposed development on the character of the area, in relation to the aim of creating sustainable, inclusive and mixed communities.

Reasons

6. The appeal site is rectangular in shape and contains a pair of two storey semi-detached properties. Wellington Road itself comprises a mixture of detached and semi-detached residential properties of predominantly three storey size and scale, whose spacious frontages are enclosed by a combination of dwarf brick walls, hedgerows, and shrubbery. The majority of the three storey properties have been converted into apartments.

7. The heart of the dispute between the main parties focuses around Policy H6 of Manchester's Local Development Framework Core Strategy Development Plan Document 2012 (Core Strategy). This policy stipulates that high density residential developments in South Manchester will generally only be appropriate within certain district centres, as part of mixed use schemes. Outside of district centres priorities will be for houses that meet identified shortfalls, including family housing and provision that meets the needs of the elderly, and add to the stock of affordable housing.

8. Wellington Road is dominated by large three storey buildings that have been converted into apartments. These make a substantial contribution to its character. The addition of just six more apartments here would not make a significant difference or cause a material worsening of the present situation in relation to the mix of housing types.

9. Core Strategy Policy H6 is the development plan policy that seeks to deliver a choice of housing in South Manchester. On the one hand, it does not explicitly preclude apartments. On the other, though, it is clear that apartments of the type proposed are not among the priorities for housing. In my view, on this point, the proposed development would conflict with the aim of the development plan.

10. However, the appellant argues that the Council cannot demonstrate a five-year supply of land for housing. Paragraph 49 of the National Planning Policy Framework (The Framework) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate such a supply.

11. The Council's Annual Monitoring Report 2012 (AMR) clearly indicates that to date there is an undersupply of 1,846 new dwellings over 2010/11 and 2011/12 in comparison to the Core Strategy estimates. It says that the Council will be reviewing and updating their Strategic Housing Land Availability

Assessment (SHLAA) in 2013 to take account of the Framework's requirements. I have not been provided with any more up to date figures. The Council has not contested the appellant's argument on this point. On the evidence produced in this case, I consider that the existence of a five-year supply of land for housing has not been demonstrated. In this context, Policy H6 should therefore be regarded as not up-to-date.

12. I am mindful that for decision-taking, paragraph 14 of the Framework states that the presumption in favour of sustainable development means, where the development plan is absent, silent or out of date, granting permission unless any adverse impacts would significantly or demonstrably outweigh the benefits.

13. The Council does object to the density of the proposed development, and the main parties disagree on whether the proposal constitutes 'high density development' in terms of the development plan. Whilst Policy H6 does not define high density, Core Strategy Policy H1, which is the strategic policy setting the overall level and spatial distribution of housing across Manchester, clearly regards 'high density developments' to be schemes over 75 units per hectare. The appeal scheme falls well below this level. I therefore do not consider the density of the proposal to be a problem. As such, it is not a factor of sufficient weight to overcome the presumption in favour of sustainable development.

14. I consequently conclude that the proposed development would not cause material harm to the character of the area in relation to creating sustainable, inclusive and mixed communities. While it would conflict with Core Strategy Policy H6, I regard that policy to be not up-to-date, and paragraphs 14 and 49 of the Framework both point to allowing the appeal.

Other Matters

15. I note that the site is in the Whalley Range Conservation Area. I agree with the Council that the existing two storey building offers little to the predominantly Victorian and Edwardian conservation area. The proposed building's size, scale and design would in keeping with its surroundings and the wider conservation area, and would preserve or enhance its character or appearance.

16. Local residents have raised a number of other matters, which include concerns about additional traffic, noise, loss of light and the design of the window openings and boundary treatment. However, the Council's Highways Development Management have not raised any objections to the increase in traffic or the revised car parking layout, and I am satisfied that the number of vehicle movements would not result in any highway safety risk. Satisfactory intervening distances would be achieved between the appeal building and the habitable windows of neighbouring properties to ensure that local residents would not experience any significant loss of light. I also do not consider that the proposed use, in a residential area comprising similar flat type uses, would result in such an increase in noise to cause any substantial disturbance to the occupiers of neighbouring properties. Furthermore, the submitted plans show the existing front boundary wall to be retained, and window openings that are of appropriate proportions and design to respect the appearance of the proposed building and surrounding properties. A condition will ensure that the development is carried out in accordance with these plans.

Conditions

17. I have considered the conditions suggested by the Council against advice in Circular 11/95. I agree that a condition is needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. In the interests of the character and appearance of the surrounding area it is also considered necessary to attach a condition to ensure that samples of the materials to be used on the building are submitted for the local planning authority's approval. Conditions requiring the provision of schemes for hard and soft landscaping, the protection of existing trees, and to demonstrate how 'Secure by Design' accreditation will be achieved are also considered to be necessary for the reasons put forward by the Council. In order to achieve high quality development I have also required that the development should achieve Level 3 in the Code for Sustainable Homes. Whilst the submitted plans and details show obscure glazing and a sustainable drainage system, the conditions suggested by the Council are necessary to ensure that they are "permanently retained" and are "managed and maintained thereafter". A condition requiring a Construction Method Statement is also needed to protect the living conditions of neighbouring residents. Nevertheless, the condition for the demarcation, surfacing and laying out of the car park area and the Whalley Range Conservation Area Group suggested conditions regarding the finish, materials and landscaping of the boundary treatment are not considered to be necessary. This is because these details are to form a part of the landscaping scheme that is be submitted to and approved in writing by the Council under the requirements of condition no.4.

Conclusion

18. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

Mark Caine

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: drawing no's PS-01, PS-03 revision A, PS-04, PS-05, PS-06, PS-07 revision A, PS-08 revision A, PS-09 revision A, PS-10 revision A, and the details of the Drainage Strategy PM4312, including drawing no. PM4312/001.

3) No development shall take place until samples 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.

4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; car parking layouts; hard surfacing materials; and structures (eg. sheds, bicycle and refuse storage).

   The approved hard and soft landscaping scheme shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

   If within a period of five years from the date of the planting of any tree that tree, or any tree 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 of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

5) 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 3998 (Tree Work).

   (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.

6) The dwellings shall achieve Code Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

7) Before the first occupation of the building hereby permitted the first and second floor windows in both side elevations shall be fitted with obscured glass that is not less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall be permanently retained in that condition.

8) The development shall not begin until details of the security measures to be incorporated into the development have been submitted to and approved in writing by the local planning authority. All such measures shall achieve 'Secured by Design' accreditation. The measures shall be implemented as approved prior to first occupation of the building and retained as such thereafter.

9) No building hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details of the Drainage Strategy PM4312, including drawing no. PM4312/001. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

10) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
   i) the parking of vehicles of site operatives and visitors
   ii) loading and unloading of plant and materials
   iii) storage of plant and materials used in constructing the development
   iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
   v) wheel washing facilities
   vi) measures to control the emission of dust and dirt during construction
   vii) a scheme for recycling/disposing of waste resulting from demolition and construction works