Appeal Decision

Inquiry held on 21 & 22 January 2009
Site visit made on 22 January 2009

by P N Jarratt **BA (Hons) DipTP MRTPI**

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

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Decision date:
2 March 2009

Appeal Ref: APP/B4215/A/08/2085547
Former Cine City, 494 Wilmslow Road, Withington, Manchester, M20 3BG

- 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 Goldbound Properties Ltd against the decision of Manchester City Council.
- The application Ref 083778/FO/2007/S1, dated 22 May 2007, was refused by notice dated 21 August 2008.
- The development proposed is the erection of a 6 storey building and plant room comprising 285sqm of retail floorspace (class A1) with 17 self contained flats with 12 car parking spaces on a mezzanine level accessed by a car lift from Copson Street.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues in this appeal are the effects that the proposed development would have on the setting of the adjacent listed building and on the character and appearance of the Conservation Area. The weight to be attached to any fallback position also needs to be considered.

Reasons

Setting of the Listed Building

3. The proposed development would be situated adjacent to the White Lion Public House which is a Grade II listed building, currently vacant and boarded up. The White Lion occupies a key position at the junction of Wilmslow Road, Palatine Road, Burton Road and Parsonage Road and provides a landmark for entry into the centre of Withington to the north. There are separately listed stone bollards in front of the White Lion.

4. The site is currently vacant although it was formerly occupied by a cinema which had related well in terms of scale and massing to the listed building prior to the cinema's recent demolition.

5. The proposed building is of contemporary design and it would be significant in terms of its height, scale and mass compared to other buildings nearby and to the White Lion. The parties agree that the height difference between the ridge of the White Lion and the height of the proposed building at roof level would be

almost 4m[1]. In addition the proposal incorporates a tower on the Copson Street corner and a plant room, both of which extend above the roof level.

6. As a contemporary building, it takes few design cues from the listed building although the projecting bay or 'pod' on the front elevation is intended to have some regard for the string course of the White Lion. The glazing above the pod and the set back of the top floor flat help to articulate the front elevation.

7. Whilst contemporary designs can complement the settings of listed buildings, this should not be at the cost of compromising those features that have contributed to their special architectural character. The White Lion is of an eclectic Gothic style of 2 storeys and a 4 storey tower with a central clock turret. It is a very significant building within the streetscene with the tower and chimney stacks being prominent against the skyline.

8. The proposed development would affect the setting of the listed building due to its general design which through its scale, height and massing would result in a prominent building. This prominence would lead to it competing visually with the listed building and affect its setting. It would be substantially higher than the roof line of the White Lion and it would affect views of the roof and chimney stacks against the skyline. Although the proposed building would be physically detached from the listed building by virtue of a side access within the curtilage of the public house, the separation distance would not significantly reduce the impact that the proposal would have.

9. I consider that these effects would be detrimental to the setting of the adjacent listed building and consequently it would be contrary to national guidance in PPG15[2] and to Policy DC19.1 of the Unitary Development Plan for Manchester adopted in 1995 (MUDP) which seeks to preserve and enhance the setting of listed buildings by appropriate control over new development.

10. I am satisfied that the setting of the listed bollards would not be adversely affected. On the contrary, the appellants completed Section 106 unilateral planning obligation makes provision for the enhancement of the bollards and other works which would enhance the setting of the White Lion. However this would not overcome the harm that I have described above.

Character and Appearance of the Conservation Area

11. The contextual analysis by the appellants of the proposed development in the Conservation Area did not provide the degree of analysis of its character and appearance necessary to convince me that the proposed design was properly informed by it. Although the appellants say that as the proposal had been the subject of considerable discussion and design development with the Council, a detailed appraisal was not considered necessary, I do not regard this as being good practice.

12. The Withington Conservation Area assessment published in 1994 features the White Lion (or the Withington Ale House as it was known) on its cover, which seems to reflect the value placed on the building within the Conservation Area. The assessment states that building heights vary moderately in the area, and

[1] Plan A and Document 2 – current scheme – referred to as Scheme C
[2] PPG 15 Planning and the Historic Environment

heights of proposed developments should be kept within those limits and not normally exceed the height of their immediate surroundings.

13. There are a number of new buildings which generally respect the context of the Conservation Area in terms of scale, height and massing and make a positive contribution to it. The Council has granted planning permission for a 6 storey building opposite the appeal site on the corner of Wilmslow Road and Parsonage Road which is known as the 'Pleasures Bar'[3]. It would be significantly higher than neighbouring buildings although the two upper floors would be set back from the Wilmslow Road frontage. The Council in granting permission for that development and in previously supporting the appellants' proposal had considered that the junction could provide the opportunity for landmark buildings that provide a gateway to the southern entry to Withington centre.

14. The Guide to Development in Manchester[4], to which I attach some weight, at paragraph 2.15 states that 'Although a street can successfully accommodate buildings of different heights, extremes should be avoided unless they provide landmarks of the highest quality and are in appropriate locations'. Whilst the Council may have been satisfied that the Pleasures Bar achieves this, they do not consider that to be the case in respect of the appeal proposals because of the different relationship they have with the listed building.

15. The setting of the listed building which I have considered above is part of the character of Conservation Area and this distinguishes the appeal proposals from those for the Pleasures Bar which would be on the other side of the junction and have less impact on the setting of the White Lion.

16. Copson Street is a narrower shopping street, generally of two storey buildings. The proposed development would fill the length of the site and abut a small shoe repair building. The protruding pod would be lower on this elevation and the upper two floors of apartments set back. The building would represent a very significant addition, being of a far greater mass and height than buildings elsewhere in the street. From a distance it would provide a focal point at the end of Copson Street, which, with limited views of the Pleasures Bar, would announce entry to the greater activity associated with Wilmslow Road. However, in closer proximity its massing would be more apparent which would be reinforced by the narrowness of the street. This would be harmful to the Conservation Area.

17. The impact of the proposed development would be greatest on the Wilmslow Road frontage where the discordance in scale, height and massing with its neighbours would be most evident from a number of viewpoints. Whilst architecturally the building is carefully and imaginatively composed, it appears to disregard the context of the site in seeking to be a landmark building. Its relationship with its neighbours would be unsatisfactory and consequently it would harm the character and appearance of the Conservation Area. This would be contrary to Policy DC18.1 of the MUDP and to national guidance in PPG15.

[3] Document 7
[4] Guide to Development in Manchester Supplementary Planning Document and Planning Guidance adopted April 2007.

The Fallback Position

18. Planning permission exists for a five storey mixed development comprising a basement car park, 5 retail units and 17 apartments on 4 floors.[5] (Scheme B). The appellants say that a start has been made on site to implement the permission and this is not disputed by the Council.

19. The height of Scheme B is however disputed by the parties. The appellants say it is about 200mm less than the appeal scheme whereas the Council believe it would be 600mm higher. Scheme B also incorporates a leaning tower. The Council's officers considered that in design terms the appeal scheme is preferable to Scheme B. I agree that this would be the case, particularly by removing the incongruous leaning tower. However, although it would be slightly less harmful to the setting of the listed building and the Conservation Area, the more accurate understanding of the relationship of both schemes with the listed building demonstrates that significant harm would still be caused, in my opinion, by either scheme.

20. In both schemes the application plans show the height of the White Lion incorrectly such that a misleading impression would have been given of the relative height of the proposed development to existing buildings. The actual height differences compared to the presented height differences are substantial. However, it is clear that the height of the various proposed schemes, including the cinema proposal, has always been an issue. The correct portrayal of proposed buildings in the street scene is important to the assessment of proposals, particularly for those in a Conservation Area or affecting the setting of listed buildings where context is crucial to the decision.

21. There is a dispute between the appellants and the Council over whether the permission can be implemented in accordance with the approved plans due to the errors on the various drawings upon which the Council has based its decisions. Whether that permission can be lawfully implemented is not a matter for my determination.

22. However, the appellants have indicated that the developer had concluded that the basement car park was proving difficult to construct and was highly unviable economically. Additionally, in order to attract a bluechip tenant, a larger retail unit would be required rather than the smaller units permitted in Scheme B. In view of these factors I am not convinced that Scheme B would necessarily be implemented in its approved form despite the appellants' assurance that the scheme is viable overall. I therefore do not consider that the extant planning permission carries sufficient weight to justify the appeal proposals because of the harm to the setting of the listed building and to the Conservation Area.

Other Matters

23. The appellant considers that the proposal would contribute to the regeneration of Withington. The scheme would also lead to the enhancement of the listed bollards and forecourt area through the Section 106 unilateral planning obligation. However, these would not overcome the harm that I have identified.

[5] Planning authority reference 066797/FO/SOUTH1/02

Nor is a vacant site in a Conservation Area sufficient reason to accept a design inappropriate to its context.

Conclusions

24. Although the appellants might have understood that their proposals would have met the design requirements of the Council, and that officers had expressed support, this appears to have been on the basis of misleading information in respect of the relationship of the relative heights of the proposed building to the White Lion. I do not consider that the proposed building is appropriate for the site as it would adversely affect the setting of the listed building and be harmful to the character and appearance of the Conservation Area. Nor do I consider that the fallback position carries sufficient weight to justify the proposals.

25. For these reasons and having had regard to all other relevant matters, I conclude that the appeal should be dismissed.

P N Jarratt

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr I Ponter of Counsel instructed by the City Solicitor

He called:

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Julie Roscoe	Section Manager, Manchester City Council

FOR THE APPELLANT:

Mr R Lancaster of Counsel, instructed by Lambert Smith Hampton

He called;

Stephen Foulkes BA(Hons), Dip Arch.	SW Foulkes Architecture, 761 Wilmslow Road, Didsbury, Manchester, M20 6RN
Mark Wolstenholme MA, Dip TP, MRTPI	Director, Lambert Smith Hampton, 79 Mosley St, Manchester, M2 3LQ

DOCUMENTS

1 Statement of Common Ground
2 Comparison of Ridge Heights
3 Errata to evidence of M Wolstenholme
4 Letter dated 6 November 2005 from SW Foulkes to the Council
5 Draft Section 106 undertaking
6 Completed Section 106 Undertaking
7 Committee report for the 'Pleasures Bar' ref 083260/FO/2007/S1

PLANS

A Scheme survey comparison M1666.01 Rev C
B Wilmslow Road elevation 201.40/P402 Rev E
C Elevational Study stamped 20 December 2007
D Appellant's 2007 scheme comparative elevations