



Appeal Decision

Site visit made on 23 April 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th May 2024

Appeal Ref: APP/B4215/W/23/3336057

Unit A, 48 Derby Street, Manchester M8 8HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Shamaz Subhani against the decision of Manchester City Council.
 - The application Ref is 136035/FO/2023.
 - The development proposed is the erection of new self-contained commercial unit.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of new self-contained commercial unit at Unit A, 48 Derby Street, Manchester M8 8HN in accordance with the terms of the application, Ref 136035/FO/2023, and the plans submitted with it, subject to conditions in the attached schedule.

Preliminary Matters

2. The Council's evidence refers to the proposal being for an ancillary storage unit for the existing premises. However, the description of development in the banner heading above is for a new self-contained commercial unit and I have assessed the proposal as a stand-alone premises rather than as an ancillary use.
3. Places for Everyone Joint Development Plan (PfE) was adopted on 21 March 2024 by nine Greater Manchester Authorities, including Manchester City Council. This appeal was received before the adoption of PfE and as such the policy, at that time was emerging policy. However, both main parties have had an opportunity to comment on the adoption of PfE. I have therefore given full weight to PfE in my decision.

Main Issue

4. The main issue is the effect of the proposal on highway safety, with particular regard to the provision of parking and servicing.

Reasons

5. The appeal site is the side/rear yard of 48 Derby Street (No. 48) and sits between the rear elevation of No. 48 and a two-storey building on Woolley Street. The yard is gated and hard surfaced with service access to the rear of No. 48. I saw at my visit that the yard is wide enough to provide either parking for the business or service access.
6. The surrounding area is within the warehouse district and identified by the Council as "The Workshop Village." The area is predominately wholesalers, cash and carry businesses, small-scale retail, and other ancillary uses. There are a

mix of building types and sizes, built in a strong grid street pattern. There is also a mix of parking provision with some units provided with off-street parking and servicing and others without such facilities. On-street parking is restricted on the corners of junctions through the use of double yellow lines.

7. The proposed development, as amended during the Council's consideration of the planning application, proposes cycle storage and bin storage in the retained yard area to the rear of the proposed building. No parking or servicing area is proposed within the site.
8. Policy CC10 of The Manchester Plan, The Unitary Development Plan for the City of Manchester, adopted 1996 (UDP) encourages the continued high level of economic activity in the area and seeks to recognise the needs of the wholesale trades. Policy CC10 supports redevelopment of sites where the proposals incorporate sufficient parking and servicing for their own needs, subject to the balance of other planning requirements.
9. The proposal, by not providing any parking or servicing arrangements within the site, would not comply with the requirements of Policy CC10 of the UDP. However, the proposal would provide additional employment opportunities and an additional commercial unit within a key area of the City's economy. As such, the proposal would comply with the aim of the policy to ensure the continued economic vitality of the area.
10. The UDP dates from 1996 and the parking requirement of Policy CC10 of the UDP is not entirely consistent with the Framework which promotes sustainable transport, requires the consideration of the accessibility of the development, and requires clear and compelling justification for maximum parking standards to be based on the need to manage the local road network.
11. Policy T2 of the Manchester's Local Development Framework Core Strategy Development Plan Document, adopted 2012 (CS) also seeks to ensure that all new development provides appropriate car parking facilities. Policy DM1 of the CS requires consideration of vehicular access and car parking and policy SP1 of the CS sets out the spatial principles and seeks to ensure well designed places. None of these policies specifically require car parking and servicing for new development to be provided within the application site and are therefore materially different to Policy CC10 of the UDP. Policies T2, DM1 and SP1 of the CS are generally consistent with the advice in the Framework.
12. The Council considers that there is already a significant high level of on-street parking demand in the vicinity of the appeal site and a high level of congestion, including from large vehicles used for servicing needs. The Council raise concerns that the development would result in the loss of off-street parking and an increase in demand for on-street parking.
13. I note the appellant's comments that the rear yard has not been used for parking or servicing of the existing business at No. 48. Servicing is carried out from the road and the business uses on-street parking. The appeal proposal would, therefore, not alter the existing parking or servicing provision for No. 48, although it would remove the ability for any future occupiers of No. 48 to use the rear yard for servicing or parking. I have not been provided with any compelling evidence that the existing parking and servicing arrangements at No. 48 result in any highway safety implications. Consequently, the continued

servicing from the road and use of on-street parking for No. 48 would not be harmful to highway safety.

14. The development as a self-contained commercial unit would also generate a level of parking demand. I have not given any weight to the appellant's assertions regarding the use of the proposed building as I have considered the proposal as a self-contained commercial unit and there is no reasonable or enforceable means to control the use as ancillary.
15. However, given the small scale of the proposed unit the parking demand and servicing requirements are likely to be limited. The appellant, albeit acknowledging that parking can be busy and in high demand, has provided photographs showing evidence of capacity within the on-street parking immediately outside the appeal site. This corresponds with my own observations of the immediate area.
16. The Council has not provided any evidence to counter the appellant's evidence or any detail of parking demand specifically in Derby Street or Woolley Street. Given my own observations I, therefore, give more weight to the appellant's evidence.
17. Although the development would result in the loss of existing parking and servicing area, albeit not currently used as such, and an increase in parking demand, in the absence of clear and compelling evidence to demonstrate that the proposal would lead to significant highway impacts in terms of capacity and congestion, the proposal would not warrant the dismissal of the appeal on highway safety grounds.
18. For the same reasons, the development of the site would not result in an over intensive use of the site and would result in the provision of a new, small, unit in an existing employment area. Furthermore, the highway impacts would be limited and would not result in harm to the amenities of neighbouring business premises.
19. I, therefore, find that the proposal would not result in unacceptable effects on highway safety, with particular regard to the provision of parking and servicing. Although there is some conflict with Policy CC10 of the UDP I find no conflict with Policies DM1 or T2 of the CS or with the general thrust of Policy CC10 of the UDP in seeking to promote high level of economic activity in the area.
20. For the same reasons, I find that the proposal would comply with the guidance set out in the Framework with regard to considering the potential impacts of development on transport networks, provide for parking and servicing and only refuse development on highway grounds where it would result in an unacceptable impact on highway safety.

Other Matters

21. An interested party has raised concerns regarding the right to light, privacy, security, anti-social behaviour, and the security of the drainage system. The Council did not include any of these matters in their reason for refusal. However, I have considered all of these issues in reaching my decision.
22. The proposed building would not include any windows in the side elevations and the adjacent premises on Woolley Street does not have any windows in its side elevation. The existing property at 48 Derby Street does have windows

and doorways in the rear elevation, however these were closed up with shutters at the time of my visit. Moreover, from the evidence before me No. 48 is wholly in a commercial use. Therefore, the proposal would not overlook the existing premises or cause unacceptable level of overshadowing or loss of daylight or sunlight to the premises either side of the appeal site.

23. The proposal would need to include replacement gates to secure the routes either side of the building and restrict access to the rear. The Council has suggested a condition to include security measures to secure this and gating the rear area would reduce security risks, the risk of anti-social behaviour or tampering with the drainage system.

Conditions

24. The Council has provided a list of conditions that it considers would be appropriate and the appellant has had an opportunity to comment. I have considered these in light of the Framework and the Planning Practice Guidance, and I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
25. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of certainty. In order to ensure a satisfactory appearance, I have included a condition requiring the submission of the details of the materials to be used for the external surfaces of the building.
26. The conditions relating to opening hours and delivery hours are reasonable and related to the proposed development and are required to ensure that the use of the premises do not adversely affect other users in the area. A servicing strategy is also required to provide the Council with the details of how the development would be serviced from the road and to ensure that servicing can be carried out without impacting on highway safety.
27. To provide a genuine alternative means of travel I have included a condition requiring the details of cycle storage as, although cycle storage is indicated on the plan, it is not clear what extent of cycle storage is proposed and whether this is to be secure and covered. However, I do not consider that a scheme for storage and disposal of refuse is necessary given that the submitted plan shows an area for bin storage and it would be for the future occupant of the premises to arrange suitable collection of waste.
28. In the interests of protecting the area I have included a condition requiring the submission of plant/machinery details, if such facilities are required. I have also included a condition requiring the details of security measures to ensure that the rear of the site is secured. As I have been made aware that contamination is possible within the site, a simplified contaminated land condition is required.
29. I also accept that the condition preventing sub-division of the proposed unit is reasonable and necessary to ensure that the development encourages a high level of economic activity and would not result in unacceptable highway impacts in accordance with the policies.

Conclusion

30. For the reasons given above the appeal should be allowed, subject to conditions.

K Townsend

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan, ground floor and front elevation drawing 1992/2 and site plan, mezzanine floor plan, rear and side elevations drawing 1992/3.
- 3) Prior to any above ground, details/samples of the materials to be used in the construction of the external surfaces of the proposed building hereby permitted shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) Prior to the first use of the building hereby approved a servicing strategy for the site shall be submitted to and approved in writing by the local planning authority. The servicing strategy shall include delivery hours and details of how deliveries will be managed. The approved scheme shall be implemented before the first use of the building and be operational for the lifetime of the development.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. 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;
 - 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;
 - viii. delivery, demolition, and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) The premises shall only be open for customers between the hours of 09:00-18:00 Mondays – Fridays and 10:00-17:00 Saturdays, Sundays, and Bank Holidays.
- 7) Deliveries shall be taken at or despatched from the site only between 07:30-20:00 Mondays to Saturdays and 10:00-18:00 on Sundays and Bank Holidays.
- 8) Before any plant and/or machinery is mounted externally on the building hereby approved a scheme shall have been submitted to and approved in writing by the local planning authority to ensure that the plant/machinery achieves a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. The plant/machinery shall be installed in full accordance with the scheme before the first use of the plant/machinery and shall be retained thereafter.

- 9) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 10) Prior to the first use of the building hereby approved space and facilities for bicycle parking shall have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The approved space and facilities shall then be retained and permanently reserved for bicycle parking.
- 11) Prior to first use of the premises, details of the security measures to be incorporated into the development, which, shall be to secured by design specification, shall be submitted for approval in writing by the local planning authority. The development shall be carried out in accordance with these approved details and shall be implemented prior to first use.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the building shall not be further subdivided to form additional units.

*** END OF CONDITIONS ***