

APPLICATION REPORT - PA/337710/15
Planning Committee – 9 March 2022

Registration Date: 28th October 2015
Ward: Failsworth West

Application Reference: PA/337710/15
Type of Application: Full Application

Proposal: Erection of 18 no. new dwellings and associated external works

Location: Land off Hale Lane/Hughes Close, Failsworth

Case Officer: Graham Dickman
Applicant Mr Mohammed Al-Saffar
Agent : Lousie Leyland

RECOMMENDATION

Approve, subject to the applicant entering into a Section 106 Agreement for the provision of off-site public open space.

BACKGROUND

This application was considered by Planning Committee on 10 February 2016, at which meeting it was resolved to grant planning permission subject to a Section 106 agreement for the applicant to contribute £135,000 to be allocated to the following:

- Off-Site Public Open Space - £40,000; and,
- Off-Site Affordable Housing - £95,000.

The figure was reached following the submission of an economic viability statement, which was independently assessed and concluded that after taking into account development costs and a reasonable rate of return, a maximum contribution of £135,000 could be provided.

The applicant has recently negotiated an agreement with First Choice Homes to develop the site as a 100% affordable housing scheme. Consequently, it is recommended that the terms of the Section 106 agreement are amended to provide the total £135,000 towards public open space.

The latest agreement will allow development of this sustainable, brownfield site to be brought forward quickly.

The details of the proposed scheme, including house types and layout, will remain unaltered as previously determined by the Planning Committee.

The content of the original Committee report is included below. The recommended conditions are as previously determined, with the exception of conditions 4, 10 and 12 (now 11) relating to drainage and energy efficiency, which will require submission of up-to-date schemes given the passage of time since the original scheme was submitted.

Planning Committee report 10 February 2016

THE SITE

The application site located adjacent to Hale Lane/Hughes Close, Failsworth and comprises a vacant industrial unit measuring approximately 400 square metres set within an open parcel of land bound by a 2 metre high security fence.

To the north of the site is Moston Brook, which is allocated as Other Protected Open Land in the Local Development Framework. The southern side of the site is flanked by an elevated railway, which is enhanced as part of the Metrolink connecting Oldham to Manchester City Centre. The embankment falling outside of the application site rises sharply to the Metrolink line and is separated by a 1.8 metre high palisade fence. The area to the west is a small cul-de-sac with associated parking provision and garden space.

Abutting the south westerly boundary and intersecting part of the site is a Public Right of Way (No. 14) which connects Grimshaw Street, Hughes Close / Hale Lane and the wider Moston Brook area.

THE PROPOSAL

This proposal is for the erection of 18 dwellings and associated external works.

The proposed access to the development utilises an existing access arrangement leading from an intersection with Hughes Close. The proposed access road then turns into the central section of the site where a turning area is created towards the rear of the site.

The proposed dwellings comprise 14 four bedroom and 4 three bedroom properties with parking provision and private garden space. The proposed dwellings all set on three floors measure 5 metres in width (three bedroom) and 6 metres (four bedroom) in width, 9.2 metres in depth and 9.8 metres in height to the roof ridge. The dwellings are a traditional build using facing brick, masonry lintels and triple glazed timber sliding sash windows. The proposed dwellings have been designed with brick corbelling, side roof parapets and chimneys. The roof is to be constructed with slate grey tiles and where facing in a southerly direction roof flat plate kingspan panels.

The existing PROW which cuts through the site is to be slightly realigned to the front of plots 16-18.

ENVIRONMENTAL IMPACT ASSESSMENT SCREENING OPINION

In accordance with The Environmental Impact Assessment Regulations 2011, the Council has conducted a Screening Opinion in order to establish whether the proposed development was likely to have significant effects on the environment to warrant the carrying out an Environmental Impact Assessment and the submission of an Environmental Statement by the developer. It has been concluded that it was not necessary to submit an Environmental Impact Assessment with this planning application.

RELEVANT HISTORY OF THE SITE

PA/056846/09 – Granted 23 September 2009 Outline application for the erection of a two storey building accommodating 4 no. apartments with associated parking. Layout and access to be considered, all other matters reserved.

PA/053924/07 – Granted subject to S.106, 22 October 2007 Resubmission of PA/53233/07 for outline application for residential development comprising of 2 no. blocks of two, three and part

four storeys providing a total of 38 no. apartments. Layout, scale and access to be considered. Appearance and landscaping to be reserved.

PA/051890/06 – October 2006 Outline application for the erection of two storey building accommodating 4 no. apartments with associated parking. Layout and access to be considered, all other matters including scale, appearance and landscaping reserved.

PA/040006/00 – Granted subject to S.106, 1 March 2001 Residential development comprising 18 no. dwellings, 10 no. houses - 8 flats

PA/23206/88 – March 1990, granted. Proposed Housing Development Land off Stanhope Way Hale Lane, Failsworth.

22863 – Granted September 1988 Residential Development (43 Dwellings) Stanhope Way Hale Lane, Failsworth.

26222 – July 1990, granted. Residential Development - 17 Dwellings

RELEVANT PLANNING POLICIES

Policy 1 - Climate change and sustainable development;
Policy 3 - An address of choice; and,
Policy 5 - Promoting accessibility and public transport choices;
Policy 6 - Green Infrastructure Development Management policies;
Policy 9 - Local environment;
Policy 10 - Affordable housing;
Policy 11 - Housing;
Policy 14 - Supporting Oldham's Economy
Policy 18 - Energy;
Policy 19 – Water and Flooding;
Policy 20 - Design;
Policy 21 - Protecting Natural Environmental Assets
Policy 23 - Open spaces and sports; and,
Policy 25 - Developer Contributions

Saved Unitary Development Plan Policies

Policy D1.5 – Protection of trees on development site

CONSULTATIONS

Highways Officer - No objection. Recommend condition for the parking to be provided in accordance with amended site plan and for details of road construction to be submitted and approved by the LPA.

Environmental Health - No objection, subject to the submission of a landfill gas and ground contamination report.

Trees Officer - No objection.

Drainage - No objection in principle subject to the submission of a drainage plan.

TfGM - No objection subject to condition requiring a construction management plan and the submission of boundary treatments between the application site and Metrolink land.

United Utilities - No objection subject to condition requiring foul and surface water to be drained on a separate system and the control of surface water runoff.

GM Ecology Unit - No objection in principle subject to the attachment of conditions to secure:

lighting of the site, designed to avoid unnecessary illumination of trees affecting potential bat foraging; no removal of vegetation in bird nesting season; inclusion of biodiversity enhancements; submission of method statement for control of Japanese Knotweed.

Ramblers Association – No objection to the amended site layout subject to a 2 metre width along the whole length of the public footpath.

Manchester City Council - No comment.

REPRESENTATIONS

The proposed development has been advertised as a major development by means of a press notice, individual consultation letters sent to the occupiers of the neighbouring properties and a site notice erected adjacent to the site in accordance with the Regulations. As a result of the publicity no representations have been received.

PLANNING CONSIDERATIONS

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.

This is reinforced by Paragraph 11 of the National Planning Policy Framework (NPPF) that states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 expands on this and states that the NPPF does not change the statutory status of the development plan as a starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless material considerations indicate otherwise. The guidance in the NPPF is taken as a material planning consideration and, of the twelve core planning principles listed under Paragraph 17, it includes that planning should be genuinely plan led.

In this case the 'Development Plan' is the Joint Development Plan Document which forms part of the Local Development Framework for Oldham. It contains the Core Strategies and Development Management policies used to assess and determine planning applications.

The application site is unallocated by the Proposals Map associated with this document.

Principle of land use

Loss of employment siteIn terms of the site allocation the provisions of Policy 13 and Policy 14 of the Oldham LDF Joint DPD apply. These policies provide a list of acceptable uses within BEAs which comprise employment-generating uses. The proposed scheme includes the erection of 18 no. dwellings which do not comply with Policy 13 and Policy 14 given that they are not employment-generating uses. However, Policy 14 states that an exception to this policy is where the applicant can demonstrate that the site is no longer viable as an employment-generating uses through either a marketing statement or a viability appraisal.

A material consideration in this application is planning permission approved under PA/053924/07 where the principle of the loss of the employment generating use was assessed against the provisions of the now superseded Unitary Development Plan. That application found that the discontinuation of the commercial use would protect the future amenity of local residents and it was considered that the demonstration through a marketing/viability exercise of the loss of an employment site was not necessary.

Nevertheless, with the change in Development Plan in mind, Officers consider the planning history and the merits of the current application would outweigh the loss of an employment generating use at the site and the requirement to demonstrate an exception to Policy 14. Therefore, it is considered the application achieves the principle in respect of the loss of the employment opportunities for the site.

Release of land for housing

Notwithstanding the loss of the employment generating use, a key objective of Policies 1, 3, 5 & 11 within the Development Plan is the effective and efficient use of land by promoting development on previously developed sites in accessible and sustainable locations, above greenfield sites. This echoes the advice offered in the National Planning Policy Framework (NPPF) which (in Paragraph 17) states that the core planning principles include encouraging the effective use of land by reusing land which has been previously developed. The site is currently occupied by associated hardstanding, however, the planning history shows occupation by a brick and steel clad industrial building. It is therefore considered to fall within the definition of 'previously developed land' as defined by the NPPF.

In addition the Council seeks to make the borough an 'address of choice'. To achieve this, a range of attractive accommodation must be provided to suit all requirements by providing high quality, choice and diversity in new residential developments. In addition, Policy 3 requires major residential development should have access to at least three key services. As a guide, 'access' is currently defined as being within approximately 480 metres or approximately ten minutes' walk time to a key service. With regard to transportation matters, Policy 5 'Promoting Accessibility and Sustainable Transport Choices' provides the backdrop by stating that development should be focused in the most accessible locations and that use of public transport, walking and cycling should be encouraged.

The application site is located on the fringe of an established residential area in close proximity to public open space. It is considered the site is in a sustainable location in close proximity to Failsworth Centre offering a range of key services and public transport options such as the Failsworth Metrolink station and the A62 key bus corridor. Officers are therefore satisfied that the scheme is acceptable in land use terms.

Public Open Space and Affordable Housing

Policy 23 'Open Spaces and Sports' of Oldham's Joint DPD states that all residential developments should contribute towards the provision of new or enhanced open space, unless it can be demonstrated by the developer that it is not financially viable for the development proposal or that this is neither practicable nor desirable.

Following an assessment of the proposal and needs of the local area it is recommended that all of the planning contribution is to be put forward to provision of off-site open space rather than providing on site provision. The proposed housing will put additional pressure on the existing open space which is both deficient in quality and quantity. On the basis of the development a cost has been calculated for off-site public open space provision and equates to £139,931.

Policy 10 'Affordable Housing of the Oldham LDF Joint DPD states that all residential developments of 15 dwellings and above will be required to provide an appropriate level of affordable housing. The current target is for 7.5% of the total sales value to go towards the delivery of affordable housing, unless it can be demonstrated to the Council's satisfaction that is not viable. On the basis of the proposed development the figure for affordable housing provision would be £322,744.

The applicant has provided justification on why it is not desirable in providing on site provision for Affordable Housing. The justification centres around the design ethos of the development and to enable new houses on a small estate to use a shared surface rather than a layout with standards which would be formally adopted by the LPA through a s.38 Agreement. In doing so the future maintenance would be undertaken by occupiers of the development and it is considered a RSL would be reluctant to own a property with this additional maintenance factor. As such it is considered the applicant has demonstrated that it is not desirable to provide onsite provision.

In respect of the total off site provision (£462,675) the applicant has provided an economic viability statement purporting the scheme cannot sustain a full contribution towards off site Public Open Space and Affordable Housing. However, the viability report taking into account development costs and a reasonable rate of return, offers a maximum contribution of £135,000. The report and its findings have been assessed by the PDI Section of the Council and agree with the maximum offer is reasonable without jeopardising the development.

Officers therefore consider the scheme is unviable if the full amount of contribution is required to address Policy 10 and 23. The applicant has offered a figure based on an appraisal of the viability of the development which is considered to be acceptable in addressing the policy requirements for Public Open Space and Affordable housing.

It is therefore recommended to Members that the Council enter into a s.106 Agreement for the applicant to contribute £135,000 and allocated to the following:

Off-Site Public Open Space - £40,000

Off-Site Affordable Housing - £95,000

Energy

The Council, through Policy 18 'Energy', must have regard to measures that reduce energy consumption, increase energy conservation through construction techniques, technologies and low carbon energy, unless it can be clearly demonstrated by the developer that it is not financially viable and would prejudice the proposed development.

The applicant fully supports the need to reduce energy consumption and has submitted a report outlining how the scheme has been designed to achieve Level 5 under the Code for Sustainable Homes. Although the code for sustainable homes has been withdrawn the applicant maintains its aim to construct the proposed dwellings to reflect a 100% improvement to CO2 emissions over 2010 building regulations. This is proposed to be through a combination of a sensitive fabric first approach, low air permeability values, mechanical ventilation and heat recovery, integrated southeast and southwest solar panels and rainwater harvesting.

The applicant's approach is found to be acceptable, achieving the aims of Policy 18. It is considered expedient to attach a condition to ensure the development is completed in accordance with the submitted details.

Appearance and design

In terms of design, Policy 20 'Design' of Oldham's Joint DPD recognises the contribution that high quality design can make to regeneration and sustainable development. It states that high quality design brings economic, social and environmental benefits, adding to quality of life, attracting new business and investments and reinforcing civic pride. High quality design is as much about the way buildings and environments function as with their appearance. Design principles apply equally to urban and rural situations, and to the built and natural environment.

They need to be expressed in ways which reflect the character of the area in which the development is taking place, reinforcing local identity. The Council will therefore promote high quality design and sustainable construction of developments that reflect the character and distinctiveness of local areas, communities and site across Oldham.

It is considered the proposed layout is reflective of the character and appearance of the surrounding area. The dwellings satisfactorily address the street frontage whilst providing a degree of separation by the inclusion of front gardens, landscaping and curtilage parking. The arrangement of the dwellings within the site provides rear garden space reflective of the surrounding area and each dwelling would sit comfortably within each plot. The appearance of the dwellings is appropriate in terms of their scale and massing in relation to the surrounding built form. Providing that materials complementing the residential area are used in the construction of the proposed dwellings it is considered that they will readily integrate with the surrounding area.

The proposed landscaping scheme is considered to be acceptable and shows all gardens are enclosed to the rear by close boarded fencing, grass seeded with a combination of Indian sandstone paving, secure cycle storage and 51 new trees comprising Crab Apples, Bird Cherrys, Native Rowans and Silver Birches (to the front and rear of dwellings). To the front of the dwellings the streetscene is made up with tarmac roads, GrassCel (75% grass 25% concrete) and driveways with dividing cleft post and rail fencing. The landscaping scheme can be secured by condition.

Residential Amenity

Policy 9 within the DPD states that consideration must be given to the impact of a proposal on the local environment. It seeks to ensure that development, amongst other matters, is not located where it would be adversely affected by neighbouring land uses, does not cause significant harm to the amenities of the occupants of the development or to existing and future neighbouring occupants or users through impacts including safety and security and noise. Furthermore, development should minimise traffic levels and not harm the safety of road users.

In regards to neighbour amenity, whilst it is acknowledged that the proposal would have a tight relationship with 22 Hughes Close and within the site, on balance, Officers are satisfied that the overall separation distances are sufficient to ensure an acceptable level of amenity and privacy for both existing and future residents.

Insofar as residential amenity is concerned for the future occupiers it is noted the close proximity of the proposed dwellings to the elevated Metrolink. The applicant has provided an acoustics report which identifies there is no evidence to suggest significant levels of ground-borne vibration and that the noise from passing trams can be mitigated through appropriate glazing and ventilation techniques. Therefore, taking into account the principle of development, the acoustic report (received 22 October 2015) and Environmental Health's comments I consider in planning terms the scheme is acceptable.

Access and parking

The Council's Highway Engineer has been consulted regarding the provision made for access, parking and servicing to meet the operational needs of the development. The Engineer has no objection to the scheme and has recommended a condition securing the layout and requiring details of construction to be submitted and approved in writing. With the sustainable location credentials and the Highway Engineers comments in mind it is considered the scheme is acceptable in this respect.

Natural Environment

Habitat and wildlife issues are dealt under the provisions laid out in Policy 21 'Protecting Natural Environmental Assets'. The Council requires new developments proposals, where appropriate, to protect, conserve and enhance biodiversity, legally protected species and their habitats. It has been reported by the applicant's Ecological Surveyor and supported by the Greater Manchester Ecological Unit that there are no features on site with any significant potential for roosting bats and therefore the proposed development will not significantly affect the level of wildlife, especially bats, in the area.

The application site does not contain any significant trees and the current vegetation is relative small scale and does not promote significant biodiversity.

The applicant has submitted a survey of the extent of Japanese Knotweed identifying three principle areas of formation. This has been assessed by the GM Ecology Unit who have recommended a condition requiring a method statement to be submitted to explain in detail the control and clearance of this invasive plant.

Conclusion

Officers consider the site is previously developed land and suitable for residential development. The proposed development, in terms of design, siting and scale, is acceptable whilst respecting the level of amenity of surrounding properties.

In respect of the comments from TfGM, Officers do not consider a condition requiring the submission of a Construction Management Plan would meet the tests as set out in Planning Practice Guidance. It is considered ultra vires as this matter would be more appropriately dealt with by other health and safety legislation. However, an informative note can be attached to the approval advising the applicant of this matter.

Subject to the applicant entering a Section 106 Agreement for the contribution of off-site public open space and affordable housing, it is considered that the proposal is acceptable.

RECOMMENDATION

Approve, subject to the applicant entering into a Section 106 Agreement for the provision of off-site public open space and affordable housing contribution and the following conditions:

RECOMMENDED CONDITIONS

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission.

REASON - To comply with the provisions of the Town & Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be fully implemented in accordance with the Approved Details Schedule list on this decision notice.

REASON - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.

3. No development shall commence until a site investigation and assessment into landfill gas risk and ground contamination has been carried out and the consultant's written report and recommendation have been submitted to and approved in writing by the Local Planning Authority. Written approval from the Local Planning Authority will be required

for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition.

REASON - Prior approval of such details is necessary as they are fundamental to the initial site preparation works and in order to protect public safety as the site is located within 250 metres of a former landfill site having regard to Policy 9 of the Oldham Local Plan.

4. No development shall commence until a sustainable surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and

- (iii) A timetable for its implementation.

The approved scheme shall be in accordance with the other requirements of the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

REASON - To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution having regard to Policy 19 of the Oldham Local Plan.

5. No works to trees or shrubs shall take place between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

REASON - To ensure the protection of bird habitats, which are protected species under the Wildlife and Countryside Act 1981 having regard to Policy 21 of the Oldham Local Plan.

6. No dwellings shall be first occupied until a lighting scheme has been implemented in accordance with details which have been submitted to and approved in writing by the Local Planning Authority detailing the position, height and design of the lighting columns and its level of illumination across the site.

REASON - To ensure the protection of foraging bats having regard to Policy 6, 9 and 21 of the Oldham Local Plan.

7. No development shall take place until details of the boundary treatment between the application site and the Metrolink line have been submitted to and approved in writing by the Local Planning Authority. All such works shall then be implemented in accordance with the approved scheme and maintained thereafter.

REASON - To ensure the protection of future occupiers and the adjacent Metrolink site having regard to Policy 9 the Oldham Local Plan.

8. No development shall take place unless and until a scheme for the treatment and removal of Japanese knotweed from the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the commencement of development on the site.

REASON - In the interest of enhancing the amenity and ecology of the area having regard to Policies 6, 9 and 21 of the Oldham Local Plan.

9. No dwelling shall be brought into use unless and until the access and car parking space for that dwelling has been provided in accordance with the approved plan received on 26th January 2016 (Ref: Dwg No.1340/2/0201/Rev A). The details of construction, levels and drainage shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development. Thereafter the parking spaces shall not be used for any purpose other than the parking and manoeuvring of vehicles.

REASON - To ensure that adequate off-street parking facilities are provided and remain available for the development so that parking does not take place on the highway to the detriment of highway safety having regard to Policy 9 of the Oldham Local Plan.

10. Prior to the first occupation of the development hereby permitted, full details of the biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme and timetable.

REASON - To ensure the protection of species protected under the Wildlife and Countryside Act 1981 and having regard to Policies 9 and 21 of the Oldham Local Plan.

11. No development comprising the construction of a building shall take place until a detailed energy statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall set out how the development will accord with the Energy Infrastructure Target Framework set out in Oldham Local Plan Policy 18 and shall detail how:

- a target area has been determined; and,
- how the development will meet this target.

The development shall be carried out in accordance with the approved scheme phasing arrangements and retained as operational thereafter.

REASON - To ensure that the development accords with the provisions of Policy 18 of the Oldham Local Plan.

12. The proposed dwellings shall be constructed with the glazing and ventilation specifications as detailed in the acoustic report dated October 2015 produced by AB Acoustics, or in accordance with an alternative scheme which has previously been submitted to and approved in writing by the Local Planning Authority.

REASON - To protect future occupiers from excessive noise from the Metrolink in accordance with Policy 9 of the Oldham Local Plan.

13. The landscaping works shown on the approved plans [Ref: Drg Nos. 1340/2/1001/Rev A 'Hard Landscaping' (received 9 February 2016), 1340/2/1101/Rev A 'Soft Landscaping' (received 27 January 2016) and 1340/2/1201 'Planting Scheme' (received 22 October 2015)] shall be carried out in accordance with the approved details and within the first planting season following final occupation of the development hereby permitted,

whichever is the sooner. Any trees or shrubs planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

REASON - To ensure that the site is satisfactorily landscaped having regard to its location and the nature of the proposed development and having regard to Policies 9 and 20 of the Oldham Local Plan.

14. The development hereby permitted shall not be brought into use unless and until measures to minimise the risk of crime and disorder to meet the specific security needs of the application site has been submitted to and approved in writing by the Local Planning Authority. The design features and equipment that comprise the scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been agreed in writing by the Local Planning Authority, and shall thereafter be retained in place at all times.

REASON - To ensure that the development is in compliance with Policy 20 of the Oldham Local Plan.

SITE LOCATION PLAN (NOT TO SCALE)

