

APPLICATION REPORT - PA/340982/17

Planning Committee, 18 April, 2018

Registration Date: 09/01/2018
Ward: Shaw

Application Reference: PA/340982/17
Type of Application: Full Planning Permission

Proposal: Residential development comprising of 8 no. houses and 2 no. apartments with associated parking

Location: 19-21 Milnrow Road, Shaw, OL2 8AP

Case Officer: Richard Byrne

Applicant Clements Court Properties Ltd
Agent : Wiplow Ltd

THE SITE

This application relates to a parcel of land at 19-21 Milnrow Road, Shaw. The site is bound by Milnrow Road to the east, King Albert Street to the south and Cooperative Street to the west. To the north of the site is a restaurant.

The site was formerly occupied by the Cricketers public house, which has been demolished and the land now comprises hardsurfacing enclosed by security fencing and a westerly retaining wall.

THE PROPOSAL

Planning permission is sought for the erection of eight houses and two apartments with associated parking.

The dwellings are arranged into two terrace rows which face Milnrow Road and King Albert Street. Five houses would front Milnrow Road with a corner building on the junction with King Albert Street comprising a ground floor and first floor flat. The terrace row measures 31 metres in length, 5.5 metres in height to the eaves and 9.3 metres to the roof ridge. The front of the dwellings are set back from the highway with an intervening small walled front garden area. Plots 6 – 10 have rear flat roof dormer windows and front facing skylights.

The terrace row facing King Albert Street measures 15.2 metres in width with plot 1 recessed to account for the corner of the site adjacent to the junction with Cooperative Street. The dwellings project 5.5 metres in height to the eaves and 9.3 metres to the roof ridge.

The proposed houses each have a rear garden and share the rear parking area. The buildings are constructed with facing brick, tile roofs and windows with headers and sills. The apartments do not have a garden area, however, there are two parking spaces which lead onto King Albert Street.

The main vehicular access is attained from Cooperative Street which leads into a car park for 12 bays and manoeuvring space.

RELEVANT HISTORY OF THE SITE:

DM/339839/17 – Demolition of former 'The Cricketers'. Prior Approval Granted 29 March 2017.

PA/338211/16 - Outline application for demolition of existing building and erection of a three storey block of 20 apartments including associated car parking (access, layout and scale applied for). Withdrawn 24 October 2016.

RELEVANT PLANNING POLICIES AND GUIDANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, to the extent that development plan policies are material, planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. This requirement is reiterated in Paragraph 11 of the National Planning Policy Framework (NPPF).

In this case the 'Development Plan' is the Joint Development Plan Document (DPD) which forms part of the Local Development Framework for Oldham. The application site is within Shaw Centre allocated by the Proposals Map associated with this document.

The following DPD Policies are considered to be relevant:

- Policy 1 - Climate Change and Sustainable Development
- Policy 2 - Communities
- Policy 3 - An Address of Choice
- Policy 4 - Promoting Sustainable Regeneration and Prosperity
- Policy 5 - Promoting Accessibility and Sustainable Transport Choices
- Policy 9 - Local Environment
- Policy 11 - Housing
- Policy 14 - Supporting Oldham's Economy
- Policy 15 - Centres
- Policy 19 - Water and Flooding
- Policy 20 - Design
- Policy 23 - Open Spaces and Sports

CONSULTATIONS

Environmental Health	No objection subject to a landfill gas and ground contamination investigation being undertaken
Traffic Section	No objection subject to a planning condition requiring the access, driveway, turning area and parking spaces to be in accordance with the submitted drawings.
LLFA	No objection in principle
GM Ecology Unit	Recommend opportunities for biodiversity enhancements
GMP Architectural Liaison Unit	No objection subject to the development being constructed in accordance with the applicant's Crime Impact Statement
United Utilities	No objection subject to a planning condition requiring the development to be implemented in accordance with the applicant's drainage strategy and the securement of a drainage management plan
Shaw & Crompton Parish Council	Recommend Approval

REPRESENTATIONS

The proposed development has been advertised by means of individual consultation letters sent to the occupiers of the neighbouring properties and a site notice erected adjacent to the site. As a result of the publicity two representations have been received and are summarised as the following:

- Cooperative Street is currently affected by parked vehicles, the proposed development would create more obstructions and increase parking problems;
- Block light to houses on Cooperative Street;

- Would harm highway safety for pedestrians;
- Decrease of property valuation;
- Proposed residential properties would detrimentally effect adjacent business;
- Future plans of the adjacent business would be affected by new residential properties being immediately adjacent to planned expansion;

PLANNING CONSIDERATIONS

The main issues for consideration comprise:

- Principle of land use;
- Design;
- Residential amenity;
- Highway matters;
- Flooding & Drainage;
- Ground conditions; and,
- Conclusion.

Principle of land use

DPD Policy 1, in the context of this application, seeks the effective and efficient use of land, but prioritises development on previously developed land. However, it also states that residential development should be focused on land in sustainable and accessible locations and should be of high quality and respect the local character of the environment.

Annex 2 of the NPPF defines "previously developed land" as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. An exception to this is where the site was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

In this instance, there is clear evidence that the site comprises previously developed land and is a preferred type of land for residential development in line with DPD Policies 1, 3 and 11.

The site is located in Shaw Centre and as such DPD Policy 15 is relevant. Although DPD Policy 15 remains silent on residential development in the centre allocation, the NPPF recognises that residential development can play an important role in ensuring the vitality of centres and encourages policies for residential purposes on appropriate sites. This would indicate there is national policy support for residential uses in the town centre.

DPD Policy 3 gives preference to the use of previously developed sites for residential development and the availability of such land, both in the locality and boroughwide, as assessed by the Council's monitoring arrangements. This would be the first consideration when considering applications on greenfield sites.

DPD Policy 3 states that such developments will be considered favourably where they satisfy three criteria:

- (i) a deliverable 5-year supply of housing land cannot be demonstrated,
- (ii) it contributes towards the delivery of the borough's regeneration priorities, or,
- (iii) it contributes to the delivery of affordable housing that meets the local affordable housing needs.

Proposals on a non-allocated site for residential development will be considered favourably where it meets the three criteria listed above or it is for a small development, comprising a change of use or conversion or not identified in the Council's Strategic Housing Land Availability Assessment ('SHLAA').

Notwithstanding the above policy criteria, NPPF paragraph 15, which post-dates the local

plan, requires that local plan policies should follow the approach of the presumption in favour of sustainable development so it is clear that development which is sustainable can be approved without delay. It is clear therefore that so long as the proposals do not result in significant harm to material planning interests, they should be approved.

Whilst the site is allocated within Shaw's Centre it has been identified in the Council's SHLAA (site ref. 169) as being capable of residential development. The site meets the definition of previously developed land, and the proposal represents the effective and efficient use of land. It will also assist in regeneration objectives by improving the local environment in an established urban area and contributing to activity and use of local services.

Having regard to the above factors, including the benefits attributed to the contribution to the Council's housing land supply and providing types of accommodation which assimilates with the surrounding area which weigh in favour of the proposed development, it is considered that the principle of the proposed development is acceptable.

Design

DPD Policy 9 stipulates that development should not have a detrimental impact on the visual appearance of an area. DPD Policy 20 further advocates that development must meet design principles relating to local character, good streets and well-designed buildings.

Paragraph 64 of the NPPF advocates development should be a high quality and inclusive design and where a poor design that fails to take opportunity to improve the character and quality of an area it should be refused.

The proposed layout follows the linear pattern of surrounding terraced houses and reflects the proportions of the dwellings and their plot sizes comparable to surrounding area. The dwellings complement the heights of the existing buildings and are designed to respect the rhythm and arrangement of fenestration that is prevalent on the surrounding terraced rows.

The dwellings provide adequate private garden space and provide an adequate level of natural surveillance to the rear car park. The front of the dwellings provide a small walled area keeping a sense of ownership from the public highway.

Residential amenity

DPD Policy 9 aims to safeguard the users or occupiers of adjoining land or properties from significant impacts associated with development proposals. It also requires developments to be appropriate for their intended end users or occupiers.

It is considered the proposed dwellings would not significantly overshadow 1 – 9 Cooperative Street. There is a topography difference between Milnrow Road and Cooperative Street with the latter having a higher ground level. Taking into account the level difference it is not considered the height and massing would have a detrimental overshadowing effect to the front of the dwellings. There is a sufficient separation distance to mitigate a loss of privacy for the houses on Cooperative Street.

There is a separation distance of 15 metres between habitable ground floor and first floor windows of plots 6 – 10 and 30 – 36 Milnrow Road. Although this separation distance falls short of standard minimum privacy distances it should be noted the existing situation exists in the immediate surrounding area which are predominantly terrace lined streets. Therefore taking the existing building lines and separation into account the proposed properties fronting Milnrow Road are not significantly different and are broadly akin to the interface distance. With the expectation of the ground floor being subject to a certain loss of privacy from the street, it is not considered this part of the development to be wholly unacceptable. In regard to overshadowing, the proposed dwellings are a similar height to the facing terraced properties and any overshadowing effect would not be detrimentally harmful to make it unacceptable.

Effect on existing adjacent business

It is not considered the apartment windows would unduly harm the operation of the adjacent funeral parlour which corners the junction of King Albert Street and Milnrow Road.

It is noted there is a restaurant immediately north of the application site with the access and car park immediately adjacent to plot 10 of the proposed development. The land surrounding the restaurant building is currently hardstanding. There is a degree of separation between plot 10 and the kitchen area for the restaurant which is located to the rear of the building. Given the position of the building within the site, noise and general disturbance would be mainly from the comings and goings of customers. It is assumed the restaurant closes 2300 hours in the weekday and 0000 Hours on Fridays and Saturdays.

Paragraph 19 of the NPPF states that: -

“...planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system...”

Paragraph 123 of the NPPF states that planning decisions should aim to: -

“...recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established...”

The presence of a noise sensitive use, such as residential development, are likely to undermine proposals that seek to potentially expand or hinder the current operations of the employment generating use restaurant to the north of the application site. This would likely to lead to complaints to the Council's Environmental Health Section as statutory nuisances under Environmental Health Legislation.

Against the backdrop of the NPPF and taking into account the presence of the restaurant it is noted there is an existing burden on the current operations of the commercial business in respect of a statutory noise nuisance. This results from the existing properties on Cooperative Street.

Whilst the siting of the proposed dwelling is indeed closer, the level of disturbance is not materially different than the existing situation.

The Environmental Health Section of the Council have not raised an objection to the application which would imply that the business has operated over the course of time without giving rise to statutory nuisance complaints. Therefore taking into account that noise and general disturbance would be mainly from the comings and goings of customers and those future occupiers can exercise *Caveat Emptor* (let the buyer beware) it would be unsustainable to refuse the application on having an adverse effect on residential amenity from the existing commercial business.

A future expansion of the business, such as a seating out area, would have to be considered against the context of the surrounding area and the Development Plan.

Highway matters

With regard to sustainability and accessibility, DPD Policies 3 and 5 define the criteria to be considered. The supporting text within DPD Policy 3 acknowledges the contribution that residential development on non-allocated sites can make to the housing market providing they are in sustainable locations. It specifically states that residential development (for 'major' category proposals such as this) should be within 480m or a ten-minute walk of at least three 'key services' which are taken to include areas of employment, major retail centres, local shopping parades, health related facilities and services, schools, post offices and community uses.

In this regard, the application site would conform to the requirements of this policy, insofar as it would be within such a walking distance of St James Primary School, areas of employment and Shaw Centre containing retail shops and community uses.

DPD Policy 5 requires major development to achieve 'high accessibility' as a minimum which is defined as being within approximately 400m of a frequent bus route or approximately 800m of a rail station or Metrolink stop. The site is located near to bus stops and the Metrolink which provides a service between Rochdale, Oldham and Manchester at a frequency which attains 'very high accessibility'. As such, it is evident that the site is more than well placed in terms of access to forms of transportation which in turn mitigates the need for a high provision of car parking.

The layout of the scheme provides 14 off-street car parking spaces to serve the ten residential units. The car parking spaces have a sufficient manoeuvring space within the site and have a safe means of access onto Cooperative Street and King Albert Street.

Flooding & Drainage

DPD Policy 19 aims to ensure that development does not result in unacceptable flood risk. The site is located within flood zone 1 and a critical drainage area suggesting there is evidence the site is subject to surface water flooding, albeit a low risk. A drainage strategy has been submitted which considers there is a low residual risk to flooding in the area and advocates the existing system is capable of accommodating the proposed development subject to a restricted flow rate.

This is considered to be acceptable and through a condition attached to the recommendation it will ensure the development satisfies the requirements of DPD Policy 19 and the NPPF.

Ground conditions

Paragraphs 120 and 121 of the NPPF are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The application has submitted a Phase I Preliminary Risk Assessment which shows the site has a low risk of ground gases and a low/moderate risk from ground contamination. It is considered appropriate to secure precautionary site investigations works recommended by the Risk Assessment by planning condition to mitigate the future risk.

Other matters

It is noted the concerns expressed regarding the effect on house prices. In this respect the effect on house prices this is not a material planning consideration that can be taken into account in assessing this proposal.

Conclusion

It is considered the proposed development would boost the borough's supply of housing land in a sustainable urban location which is readily accessible to key services and public transport.

The proposed dwellings, by virtue of their size, scale, layout, height, materials and design, would be compatible with the density and character of surrounding development, and would assimilate sympathetically into the street scene. The development's spacing, scale, plot sizes and the arrangement and design of fenestration would ensure that it does not have an undue impact on the privacy and amenity of surrounding occupiers through loss of outlook, overshadowing or overlooking. The development would facilitate safe and suitable access to the site for all users, adequate parking provision would be made and the level of traffic

generated by the scheme would not have any severe impact on the capacity of the surrounding highway network.

The proposal is therefore in accordance with the requirements of the relevant policies in the Joint Core Strategy and Development Management Policies Development Plan Document and the National Planning Policy Framework.

RECOMMENDATION

Approve, subject to the following 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 permitted shall be fully implemented in accordance with the following plans and specifications:

Location Plan - received 27 October 2017;

Drg No. 2256-MA-WS-00-PL-A-100-01 Rev 2 - received 5 April 2018;

Drg No. 2256-MA-WS-00-PL-A-100-02 Rev 2 - received 5 April 2018;

Drg No. 2256-MA-B1-GF-PL-A-200-01 Rev 1 - received 27 October 2018;

Drg No. 2256-MA-B1-FF-PL-A-200-02 Rev 1 - received 27 October 2018;

Drg No. 2256-MA-B1-SF-PL-A-200-03 Rev 1 - received 27 October 2018;

Drg No. 2256-MA-B1-XX-EL-A-200-04 Rev 1 - received 27 October 2017;

Drg No. 2256-MA-B1-XX-EL-A-200-05 Rev 1 - received 27 October 2017;

Drg No. 2256-MA-B2-ZZ-PL-A-2001-01 Rev 2 - received 5 April 2018; and,

Drg No. 2256-MA--B1-XX-EL-A-2004-04 Rev 2 - received 2 April 2018;

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 unless and 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 (such assessment include any subsequent amendments as required by the 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 - In order to protect public safety, because the site is located within 250 metres of a former landfill site.

4. No part of the development shall be occupied until details of the type, siting, design and materials to be used in the construction of boundaries, screens or retaining walls have been submitted to and approved in writing by the Local Planning Authority and the approved structures have been erected in accordance with the approved details.

Reason - In the interests of visual amenity.

5. The development hereby approved shall not be brought into use unless and until details of facilities for the storage and removal of refuse and waste materials have been submitted to and approved in writing by the Local Planning Authority and the agreed scheme has been fully implemented. Thereafter approved facilities shall at all times remain available for use.

Reason – To ensure that the site is not used in a manner likely to cause nuisance to occupiers of premises in the surrounding area and to provide adequate provision for future occupiers of the development.

6. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Outline Drainage Strategy, Ref 3242-SHD-00-ZZ-RP-C-0001 - Dated October 2017 which was prepared by Scott Hughes. For the avoidance of doubt and unless otherwise agreed in writing by the Local Planning Authority, surface water must drain at the restricted rate of 6.5 l/s. The development shall be completed in accordance with the approved details.

Reason - To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

7. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
 - a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
 - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason - To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

8. No dwelling hereby permitted shall be brought into use unless and until the access, driveway, turning area and parking spaces for that dwelling has been hard-surfaced and drained in accordance with the approved received on 3rd April 2018 (Ref: Dwg No.2256-MA-WS-00-PL-A-100-01) have been provided. Thereafter, the parking and/or garage spaces so provided shall be available at all times thereafter for the parking of vehicles.

Reason - To ensure that vehicular access exists and that adequate off-street parking facilities are provided for the development in the interests of highway safety.

9. The development shall be constructed in accordance with the materials schedule received 5 April 2018 (reference 2256 Cricketers Materials Schedule).

Reason - To ensure that the appearance of the development is acceptable to the Local Planning Authority in the interests of the visual amenity of the area within which the site is located.

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