



Appeal Decision

Inquiry held on 1-3, 8-9 October 2024

Site visit made on 2 and 9 October 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Appeal Ref: APP/P4225/W/24/3346477

**Former Department of Work and Pensions Dcs Distribution Centre,
Manchester Road, Heywood OL10 2PZ**

- 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 Trammell Crow Company Logistics (Heywood) Limited against Rochdale Metropolitan Borough Council.
 - The application reference is 22/01410/FUL.
 - The development proposed is redevelopment of the site comprising the demolition of all existing logistics units and erection of new storage and distribution units (Use Class B8) with ancillary office space, vehicular, pedestrian and cycle access, external yards, parking, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site comprising the demolition of all existing logistics units and erection of new storage and distribution units (Use Class B8) with ancillary office space, vehicular, pedestrian and cycle access, external yards, parking, landscaping and associated works, at the former Department of Work and Pensions Dcs Distribution Centre, Manchester Road, Heywood OL10 2PZ in accordance with the terms of the application, Ref 22/01410/FUL, dated 25 October 2022, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. I have added 'former' to the site address given that the Department of Work and Pensions no longer occupies the site.
3. Russell Homes, the prospective developer of an adjacent site, appeared at the Inquiry as a Rule 6 Party.
4. Since the application was refused, the Places for Everyone Joint Development Plan 2022 to 2039 (the JDP) has been adopted. I have therefore taken it into account where relevant as part of my assessment below.

Main Issues

5. The main issues are the effects of the development on:
 - the living conditions of occupants of dwellings within Oldbury Close, Bader Drive and Whitehouse Close, and future occupants of dwellings within the North of Harehills Road Phase of the South Heywood Masterplan in relation to outlook, visual amenity, and noise; and

- the character and appearance of the area.

Reasons

Outlook and visual amenity

(a) Background

6. The site originated as an RAF maintenance unit, and has been more recently used to store documents. It comprises several reasonably well spaced, metal clad warehouses of functional appearance and varying size. These are linked by a circuit of roads, with trees planted in the gaps between, and around the boundary. The latter is enclosed by a high chain-link fence topped with barbed wire. The site is currently vacant and showing signs of age and dilapidation. The appeal scheme would see the existing warehouses on site replaced by 2 new warehouses: Units 1&2, and Unit 3, together with associated infrastructure.
7. Bader Drive and Whitehouse Close are located immediately to the north of the proposed position of Units 1&2. Together with Oldbury Close, they are also located to the east of the proposed position of Unit 3. These streets, which generally stand on higher ground than adjacent parts of the site, contain a mix of 2-storey dwellings and bungalows, some of the gardens of which back directly onto the site boundary. Though some large trees grow along the boundary, the screening they provide is patchy. It is therefore apparent that the occupants of many dwellings have clear views into the site, and a correspondingly high level of visual awareness of the existing warehouses and related circulation areas. More limited views are available from within the streets themselves. None of these views can be considered high in quality. The physical and visual relationship between differing uses is nonetheless strongly established.
8. Land towards the south, southwest and west of the proposed site of Unit 3 falls within the North of Harehills Road Phase of the South Heywood Masterplan. The latter is a strategic mixed-use scheme covering around 350 acres, which in turn forms part of the Northern Gateway. The land, hereafter referred to as the 'approved housing site', is currently open and grazed by horses, but has outline planning permission for residential development. Viewed from within the approved housing site, planting and other self-set vegetation within the appeal site boundary is often substantial in height, but again patchy, allowing views through. The clearest of these views are available along the southwestern part of the site boundary where existing warehouses are clearly visible. Though the views are not as extensive as those from existing dwellings, they are equally lacking in quality.

(b) Existing dwellings

9. Units 1&2, which would comprise a central core of warehouse space with offices in wings to either side, would replace 2 existing warehouses. The warehousing component of Units 1&2 would have a more compact footprint than the existing, and the attached offices would be of considerably lesser scale. As the north elevation of Units 1&2 would follow the existing alignment, the spacing between it and dwellings within Bader Drive and Whitehouse Close would remain much the same as at present. The large gap between the existing warehouses would however be filled, and the warehousing component of Units

- 1&2 would be around 7 metres taller, and of more rectilinear form than the existing.
10. The resulting increase in height and massing across a longer single elevation, would cause Units 1&2 to have a greater physical and visual presence than the warehouses replaced. This would be clearly appreciable from most dwellings backing onto the site to the north. The difference in levels and the gap that would continue to exist would nonetheless be sufficient to avoid any direct or perceived overbearing of garden space. The proposed increase in boundary planting, and installation of a timber boarded fence, would also result in much improved and more effective screening, which, notwithstanding some possible seasonal variation, would improve over time. This would also notably enhance the privacy of garden spaces. As in other locations around the boundary, some immediate improvement of screening would be achieved by the planting of semi-mature trees.
 11. Some occupants of dwellings to the north of the site have raised concern that existing planting along the boundary is unmanaged and restricts light. The latter might be made worse in some places by additional planting. Though planting is more generally identified as one of the site's positive features, the way in which visual amenity is balanced against other considerations clearly varies by householder. Here the appellant has indicated scope to work with householders as necessary through the ongoing landscape management of the site.
 12. Unit 3 would be located within the western part of the site. It would replace a block of 4 existing warehouses on a modified alignment. Moving southward, this would bring built form progressively closer to existing dwellings in Bader Drive and Oldbury Close than at present. Unit 3 would again be a rectilinear structure, and in this regard not greatly dissimilar to the buildings replaced. Its ridge height of 17.6 metres would however be significantly greater, as would be its overall massing. The increase in height and massing would be most pronounced across the centre of Unit 3 where existing structures are relatively modest in height, and well-spaced.
 13. The increased physical presence of Unit 3 would again be clearly appreciable from many dwellings which back onto the eastern site boundary. Along most parts of the boundary a considerable gap would however continue to exist, which in most places would comfortably exceed that between Units 1&2 and dwellings in Bader Drive and Whitehouse Close. The gap already contains some substantial trees, and the screening these provide would again be greatly enhanced by new planting. Whilst no direct or perceived overbearing of garden space would arise, removal of an existing 2-storey building located close the site boundary would ease the outlook from adjacent gardens in Bader Drive.
 14. I appreciate that even the appellant's Landscape and Visual Impact Assessment identifies some initial 'adverse' visual effect in relation to existing dwellings. The appeal scheme clearly would result in noticeable change. But set firmly within the context of the long-established and existing visual relationship between differing uses, my findings above indicate that such change would not be harmful. Indeed, though the proposed warehouses would have a much greater physical presence, there would be no overbearing of garden space, and their simple visibility would not render them any more intrusive than it does the existing warehouses. Moreover, their visibility would diminish over time.

Given the enhancement of landscaping, modernisation of the site, and removal of existing structures close to the boundary, the outlook from many dwellings would even see some improvement. The overall effects on outlook and visual amenity would therefore be acceptable, and the differing uses would remain as compatible as they are at present, if not more so.

(c) The approved housing site

15. At present the approved housing site is covered by no more than an outline planning permission with all matters except access reserved. Clearance of reserved matters is not itself expected until November 2026. Though a masterplan exists (the indicative masterplan), it is both indicative and out of date, and thus attracts very limited weight for the purposes of my assessment. The subsequent Design Code Framework provides detailed guidance, but ample flexibility remains. The final design of the approved housing site therefore is both unknown and is unlikely to be fixed for around 2 years.
16. Given that development of the approved housing site is envisaged during 2027-2033, it is furthermore likely that the appeal scheme would be implemented first. Consequently, whatever design was eventually approved, it is unlikely that future occupants of dwellings built on the approved housing site would experience any change in their outlook or visual amenity as a result of the proposed development, other than positive effects arising from maturation of the boundary planting. It nonetheless remains necessary to establish whether an acceptable standard of outlook and visual amenity could be secured.
17. The appeal scheme would again see boundary planting generally reinforced and enhanced. Though there would be some localised loss of existing depth, this would chiefly affect areas of poor-quality self-set vegetation. Exposed storage buildings close to the southwestern boundary of the site would also be removed. Though the chain-link fence would remain in place, the quality of the boundary, as too the proximity to it of built form, would otherwise see general improvement.
18. As is confirmed by verified views generated from and across the approved housing site, Unit 3 would again have a substantial physical and visual presence. The perspectives are however shown from fixed points across a distance, including from higher ground. They also feature neither proposed housing nor planting. As such, the verified views provide a poor guide to the physical and visual relationship likely to exist between the proposed development and dwellings positioned close to the site boundary.
19. In most places the gap between Unit 3 and the boundary of the approved housing site would be far more substantial than that which would exist between Unit 3 and existing housing to the east. As in other locations, planting would form a far more immediately apparent and dominant component of the outlook than built form beyond. Screening would also be reinforced along some sections of the boundary by acoustic fencing, which, though reaching a height of up to 5 metres, would be set well back and again obscured by planting. Even towards the southwest of the site, where the relative increase in height of Unit 3 would be greatest, and the gap would narrow, a combination of the gap, a substantial bund, and planting would provide a strong buffer when fully established. There is no reason to doubt that such an outcome could be properly secured by condition. Again, no direct or perceived overbearing of land within the approved housing site would arise.

20. Long views of Unit 3 would be possible across a broad area given rising ground levels towards the west. These views would however be unremarkable in context given the existing visual prominence of other large modern warehouses on higher ground directly towards the northwest of the approved housing site, and the planned addition of further warehouses directly towards the southwest. Indeed, as the approved housing site can be characterised as largely occupying space between a combination of well-established and prospective storage and distribution uses, simple visibility of Unit 3 would be neither offensive, nor have any obviously intrusive effect on visual amenity.
21. I find that the appeal scheme would therefore be neither physically nor visually incompatible with residential development on the approved housing site, and that a satisfactory standard of outlook and visual amenity could be secured for future occupants.

(d) Conclusion

22. For the reasons set out above I conclude that the effect of the development on the living conditions of occupants of dwellings within Oldbury Close, Bader Drive and Whitehouse Close would be acceptable in relation to outlook and visual amenity, and that the development would not prevent a satisfactory standard of outlook and visual amenity from being secured for future occupants of dwellings on the approved housing site. The development would therefore comply with Policy DM1 of the Rochdale Core Strategy 2016 (the Core Strategy) which amongst other things requires development to be compatible with surrounding land uses and to not adversely affect the amenity of residents or users through visual intrusion or overbearing impact; and Policy P3 of the Core Strategy, which generally seeks to secure development that adheres to high standards of design.

Noise

23. The application was partly refused by the Council's Committee on grounds of noise. However, given a lack of substantiating evidence the Council resolved not to pursue this matter at appeal. As such I am left only with the more positive assessment that its officers undertook at application stage. The matter however remains contested by Russell Homes.
24. Sound generated by traffic forms a key component of the existing noise environment. Whilst the busy Manchester Road is located immediately to the east of the site, a major link road has recently been constructed a short distance to the south. The noise that vehicles using these roads generate is accompanied by the more distant sound of traffic on the M62 to the south, and the M66 to the west. As illustrated by the various monitoring data, background sound levels vary at locations around the site boundary, and suggest some increase since the link road was opened. Further increases are anticipated as the delivery of development within the South Heywood Masterplan proceeds.
25. As outlined above, the site's use as a storage facility is long standing. Though it is currently inactive, and the appeal scheme presumably represents a more financially attractive prospect, I have little reason to doubt that relatively simple renovation works could bring the site back into use. Insofar as a return to active use has been described as the 'fallback' position, it represents a realistic prospect which attracts great weight.

26. Various types of noise could be generated by the activities permitted under the lawful Class B8 use of the site. In this regard it appears somewhat unlikely that a resumption in use would involve the storage of documents. In the absence of any existing attenuation measures on the site boundary, and given a lack of any existing restrictions, it is probable that noise generated by a resumption in use of the site would be perceptible beyond the boundary. Given that the possible impacts have not been modelled, a considerable level of uncertainty exists. However, based on the other evidence presented, it is likely that those impacts would be adverse.
27. As is generally the case, environmental conditions are likely to have played some role in the variation shown in monitored sound levels. This may have included short periods of time when certain wind conditions resulted in low levels of sound being recorded in particular locations. The parties dispute how often this might occur. However, based on the data provided, the values identified by the appellant are more representative of prevailing conditions than the atypically low levels favoured by Russell Homes. Notwithstanding the fact that some minor errors and/or emissions have been identified in the presentation of the appellant's data, following further explanation, I am content to work with the figures provided. Notably, Russell Homes did the same within the context of the somewhat different case it presented at application stage.
28. HGV movements, loading, and unloading operations would form a dominant component of the noise generated by operation of the development. Whilst the parties disagree over the reference data used for modelling, whether noise generated should be broken down into its component parts, and the penalties and corrections applied, the appellant's approach again appears acceptable. This includes the identification of an overall value. To the extent that sources such as reversing alarms, roller doors, portable plant, and forklift trucks could nonetheless generate sounds which might be distinctly audible from outside the site, they could be the subject of management secured by condition. All such noise could otherwise be kept within the parameters modelled by the appellant which could themselves be secured by condition.
29. Within this context the appellant's Noise Impact Assessment (NIA) states that with the proposed scheme of mitigation in place background sound levels would be exceeded by 1-2dB at 2 locations near to the boundary with the approved housing site. At all other locations, including those representing existing residential development, background levels would not be exceeded at any time. The figures presented furthermore show that some headroom would exist. An exceedance of 1-2dB would ordinarily be considered minor, falling below the threshold at which an adverse effect would generally be expected. It is also likely to be less than the level of exceedance which could potentially arise if the appeal was dismissed, and the lawful use of the site resumed.
30. The NIA does not include noise that would be generated by breakout and fixed plant, partly on the basis that specifications are unknown. These sources would contribute to the overall level of noise generated by operation of the development. Whilst conditions have been proposed which would limit these sources to the background sound level, it is more logical for such noise to be subject of control within the context of an overall site value. In that way it could be kept within the same limits as have been shown to be possible in relation to HGV movements and loading/unloading operations. It would remain

for the appellant to identify the plant, sound insulation, attenuation, and management measures necessary to achieve this.

31. The NIA also excludes noise associated with use of parking space. This would not be a source which is either industrial or commercial in nature. As the sounds generated would be much the same as those associated with use of on-street or domestic parking space, they would not necessarily be distinctly perceived from outside the site. Much of the parking space would also be within locations exposed to high levels of road noise. Though noise generated by use of parking space may therefore be neither distinct nor generally exceed background sound levels, it too would make a contribution to the overall level of noise generated by operation of the development. It would therefore again be logical for this to be addressed within the context of an overall site value. Insofar as disturbance could conceivably arise as a result of many vehicles arriving at or departing from the site at once, this could again be addressed through management measures as necessary.
32. I have been presented with a variety of differently worded conditions which seek to restrict the overall level of noise that would be generated by the site. A broad range of levels and locations are suggested. Within this context it would be clearly unreasonable to restrict exceedance of background levels in locations where the NIA has shown that an exceedance would be likely to occur, as this could render the development incapable of operation. This would be similarly true of conditions identifying atypically low background sound levels. Conditions which seek to allow a higher level of exceedance than modelled by the NIA also fail, given that they would allow for adverse impacts to arise which could be avoided, directly undermining the acceptability of the scheme. This applies to conditions proposed by the appellant, which, for reasons which remain unclear, would allow exceedance of background sound levels by 5dB at noise sensitive receptors. Conditions which seek to identify residential receptors within the approved housing site also fail given that as those receptors do not currently exist, and their future locations are unknown, they cannot be precisely defined.
33. As set out above, the most appropriate approach in this case is to impose a condition identifying limits and locations drawn from the NIA. This would necessarily allow for background sound levels to be revised given the evolving context. The condition would operate alongside and complement a separate condition securing a noise management plan, which would set out the measures and management actions necessary for the development to operate within the set limits.
34. In reaching this view I have taken into account Condition 24 imposed on the grant of outline planning permission covering the approved housing site. Amongst other things Condition 24 stipulates that any sound associated with existing and/or proposed industrial/commercial premises shall not result in the predicted Rating Level exceeding the existing typical Background Sound Level at the closest existing or proposed receptors. Condition 24 both logically relates to the situation in existence at the point of its discharge and would require consideration of noise generated by the appeal site. It clearly serves to ensure the compatibility of residential with industrial and commercial uses, and it is apparent that it could not be discharged before the reserved matters.

35. The appeal scheme cannot be held to conflict with Condition 24 as it does not bind the appeal site in any way. Here I also reject Russell Homes' claim that any exceedance of background sound levels by the appeal scheme would be unacceptable based on the agent of change principle. Indeed, given the long-established use of the appeal site, the fallback position identified above, the indicative timescales applicable to clearance of the reserved matters and the likelihood that the appeal scheme would be implemented first, I am satisfied that it remains correct to consider development of the approved housing site itself as the agent of change. As set out within paragraph 193 of the National Planning Policy Framework (the Framework), and reflected in the terms of Condition 24, responsibility thus lies with the approved housing site's developer to provide mitigation.
36. Notwithstanding the minor level of exceedance, it is unlikely that this would present a greater challenge to anyone seeking to discharge Condition 24 than if active use of the appeal site simply resumed. Within this context, future control and management of noise within the appeal site would provide a much higher level of security and certainty than might otherwise be the case. This would also be advantageous to occupants of existing dwellings in Oldbury Close, Bader Drive and Whitehouse Close. I therefore again find that the proposed development would be compatible with surrounding uses.
37. For the reasons set out above I conclude that the effect of the development on the living conditions of occupants of dwellings within Oldbury Close, Bader Drive and Whitehouse Close would be acceptable in relation to noise, and that the development would not prevent a satisfactory standard of amenity from being secured for future occupants of dwellings on the approved housing site. The development would therefore again comply with Policy DM1 of the Core Strategy which amongst other things requires development to be compatible with surrounding land uses, to mitigate any impacts due to noise, and to not have an adverse impact on health through its impact; and Policy G9 of the Core Strategy, which amongst other things requires that development does not have impacts that lead to an unacceptable increase in noise pollution.

Character and appearance

38. Insofar as the application was partly refused on grounds of design quality and overdevelopment, these objections largely stemmed from amenity concerns considered above. Within that context I have already generally described the character and appearance of the site, its context, and ongoing change associated with delivery of the South Heywood Masterplan. I have also established the visual compatibility of the proposed development with adjacent residential uses, existing and proposed, and its broader compatibility with the emerging character of the surrounding landscape. Taking these findings into account, the size, scale and form of the proposed Units would be acceptable, and would not give rise to the perception of overdevelopment.
39. To that extent that objections extend to aesthetic matters, the design of the proposed Units is largely dictated by the function that they would fulfil. In this regard their essential characteristics would be similar to those of other warehouses which fulfil the same function both locally and nationally. Whilst I am conscious of the fact that securing beauty within the built environment is national policy, this is not an attribute typically associated with modern warehouses. For that matter, it is also not an attribute of any of the older

warehouses on site. Approaching the matter on that basis, the incorporation of bands of colour across the top half of each elevation of the proposed Units would provide a far more interesting and distinctive appearance than if each was left blank. From a distance, on a clear day, these bands of colour might even help to diminish visual perception of built form. The fact that the appellant has used the same technique elsewhere does not make it any less valid in this case. When also taking into account the bland finishes of nearby warehouses, I am content that the appellant has taken reasonable steps to secure 'beauty' in line with national policy.

40. Concerns have also been raised in relation to the loss of trees on site, which are an attractive feature viewed from within the surrounding setting, but not subject of protection. Almost all of the trees growing along the site boundary would however be retained and incorporated within the enhanced scheme of landscaping considered above. Though some trees between and close to the existing warehouses would need to be removed to allow the development to take place, few of them are clearly visible from outside the site, and some are diseased. The level of proposed planting would furthermore amply compensate for the loss in accordance with Policy JP-G7 of the JDP. As such, tree loss would not have any unacceptable effect.
41. Interested parties have drawn attention to the guard house adjacent to the site access. This feature helps to identify the military origins of the site. However, whilst it is therefore of some small interest, the building is not listed and has not been identified by the Council as holding any value as a non-designated heritage asset. In these regards, its loss to facilitate access into the site would not be unacceptable.
42. For the reasons set out above I conclude that the effect of the development on the character and appearance of the area would be acceptable. The scheme would therefore again comply with Policy DM1 of the Core Strategy which amongst other things requires development to be of high quality design, to take the opportunity to enhance the quality of the area, and to incorporate high quality landscaping schemes; and Policy JP-P1 of the JDP which amongst other things seeks to secure development whose design respects and acknowledges the character and identity of the locality in terms of design, siting, size, scale and materials used, and is visually stimulating.

Other Matters

Sterilisation

43. Russell Homes favours that part of the layout shown on the indicative masterplan in which dwellings and their gardens back towards and directly onto the boundary of the appeal site without any significant buffering. On that basis it seeks to characterise any land which might instead be required to buffer the appeal site as 'sterilised'. As was explained at the Inquiry, it applies this term to any use of land which is not for housing. Given the nature of the existing relationship between the appeal site and approved housing site it is doubtful whether the layout shown on the indicative masterplan is realistic. In any case, aside from housing, any scheme submitted at reserved matters stage would need to feature infrastructure, landscaping, and open space, the disposition and composition of which has yet to be fixed. It cannot therefore be assumed that simply buffering the appeal site would result in any loss of units.

44. Insofar as Russell Homes' concerns appear to reflect objections raised in relation to sales values and viability at application stage, these were not pursued at the Inquiry. I have otherwise been provided with no convincing reason to believe that the overall delivery of South Heywood Masterplan, or the approved housing site's role within it, would be compromised by the appeal scheme. I am therefore satisfied that the substantial benefits that the South Heywood Masterplan would in turn help to deliver as part of the Northern Gateway would not be placed at any risk. Insofar as it is relevant the appeal would complement rather than undermine the growth strategies set out in Policies JP-Strat6 and JP-Strat7 of the JDP, and the related allocation JPA 1.1.

Flood risk

45. The application was not refused on grounds of flood risk. However, whilst the site falls within Flood Zone 1, part of it has been identified as being at risk from surface water flooding. A sequential assessment carried out by the appellant has established that a reasonably available alternative site for the development is available nearby, within the area covered by the South Heywood Masterplan. Consequently, the appellant's assessment concludes that the sequential test is failed. Given that in such cases the Framework indicates that the development should not be permitted, conflict arises with Policy G8 of the Core Strategy, which supports the application of the sequential test.
46. The replacement of the warehouses on site is not strictly 'necessary' given that their use could resume. Insofar as the proposed development would nonetheless entail their replacement, it is questionable whether a green field site within the area covered by the South Heywood Masterplan would represent a true alternative. The fact that the existing development on site is responsible for the identified surface water flood risk is also highly relevant. This is because it provides a distorted view of the sequential appropriateness of the location. With that in mind, whilst it may not be a consideration taken into account in relation to the sequential assessment, the appeal scheme would provide the direct benefit of removing the risk.
47. Taking the above considerations into account, I attach limited weight to the scheme's failure of the sequential test and resulting conflict with Policy G8, and greater weight to the scheme's compliance with Policy JP-S4 of the JDP, which amongst other things more generally seeks to locate and design development so as to minimise the impacts of current and future flood risk.

Conditions

48. A range of conditions have been proposed and were discussed at the Inquiry. Having further regard to the Planning Practice Guidance I have reworded and rationalised the content of the conditions as necessary, and as set out below.
49. Conditions (1) and (2) set the time period for commencement and identify the approved plans for sake of certainty. Condition (2) allows minor modifications to be made to the approved plans where required to achieve compliance with other conditions, the necessity for which is set out further below.
50. Condition (3) secures the provision of a revised Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement, which are required to address minor inaccuracies within the previously submitted information, and in the interests of safeguarding boundary trees on site. A pre-

commencement condition is required as protective measures will need to be taken from the outset.

51. Condition (4) secures minor modifications to the Landscape Masterplan and Planting Plans as allowed by Condition (2). This will ensure consistency with the revised arboricultural information secured under Condition (3) and allow the retention of additional trees. A pre-commencement condition is required to ensure that a complete set of correct plans is available from the outset.
52. Condition (5) is required to help safeguard the local water supply, restricting works within the part of the site through which a water main runs until details of measures for its long-term protection are approved and implemented.
53. Condition (6) secures investigation and remediation of possible contamination of the site in the interests of health and safety. As the contamination risk has been identified in relation to the ground rather than the buildings, demolition and site clearance are not restricted.
54. Condition (7) requires the provision of a finalised drainage scheme based on the information already provided. This will ensure that the site properly drains, and that in this regard, an improvement is secured.
55. Condition (8) secures compliance with a number of submitted management plan documents, conformity with which will help to ensure that implementation of the development does not have any adverse effects on neighbour amenity, the environment, and the safe and efficient use of the highway.
56. Condition (9) requires provision of a Materials Management Plan which will ensure the safety of bulky materials imported onto the site.
57. Condition (10) requires the development to achieve excellent under BREEAM in accordance with local policy, and in the interests of environmental sustainability. Though certification was suggested within 6 months of occupation, this normally occurs post-construction, prior to occupation. Notably, at this point any remedial works can be more easily undertaken. I have set the requirement accordingly.
58. Condition (11) secures details of materials and finishes in the interests of securing a high quality of appearance.
59. Condition (12) requires incorporation of recommended physical security measures in the interests of reducing the potential for crime.
60. Condition (13) secures implementation of the proposed landscaping, including boundary treatments, and subsequent management. This will ensure that the site is both properly screened and makes a positive contribution to the character and appearance of the area.
61. Condition (14) secures implementation of the mitigation measures specified in the NIA in the interests of safeguarding amenity.
62. Condition (15) secures further details of external lighting, including measures required to safeguard adjacent property from the effects of light spill.
63. Condition (16) secures the provision of onsite infrastructure in order to ensure that it can be fully accessed and serviced, and the availability of adequate parking space.

64. Condition (17) secures provision of a full travel plan in the interests of sustainability. The contents do not need to be proscribed given that a framework for the plan has already been produced. Within that context, the condition is required to apply prior to occupation, as the framework sets out measures which need to be taken at that stage.
65. Condition (18) requires the provision of an Energy Statement demonstrating how net zero carbon emissions will be achieved in accordance with development plan policy. Though submission after 6 months of occupation was again suggested, this could render the condition ineffective. Indeed, any measures that were required to be taken during occupancy would need to be defined prior to occupancy. It would also only be at this stage that any reasons which might be advanced for not achieving target emissions could be properly assessed. I have set the requirement accordingly.
66. Condition (19) requires the provision of a Noise Management Plan setting out how the scheme will comply with the limits set out within Condition (23), and ways in which generation of distinct sounds will be avoided or minimised. This will help to safeguard amenity and avoid annoyance. It is unnecessary to proscribe the contents in further detail.
67. Conditions (20) and (21) secure offsite highways works which are required to help ensure the safe use of the site access. This is additionally secured onsite by Condition (22).
68. Condition (23) limits the overall rating level of noise generated by operation of the development as measured against background sound levels at different locations. This is in the interests of safeguarding amenity. I have based the condition on a draft proposed by the appellant, but set levels and limits, and identified locations based on the NIA. The boundary with the approved housing site has been identified given that the layout of the latter remains unknown, and in order to provide certainty as discussed above.
69. I have not imposed conditions requiring details of electric vehicle charging points, and imposing restrictions in relation to nesting birds, as these are matters covered by separate legislation.
70. I have also not imposed conditions which seeks to prohibit the addition of plant and outdoor storage on the basis of noise concerns and amenity. This is because any plant added would be required to operate within the limits set by Condition (23), and because, aside from a lack of clarity of where outdoor storage would occur, it is unlikely that this would have an adverse effect on visual amenity given the level of boundary screening otherwise provided.

Conclusion

71. For the reasons set out above I find that the proposed development would comply with the development plan taken as a whole. There are no considerations which outweigh this finding. I therefore conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the terms of the conditions below the development hereby permitted shall be carried out in accordance with the following approved plans: 21157-ASA-00-ZZ.ZZ-D-A-0003 Rev.P13; 21157-ASA-00-ZZ.ZZ-D-A-0006 Rev.P1; 21157-ASA-00-EL.ZZ-D-A-0013 Rev.P8; 21157-ASA-00-ZZ.GF-D-A-0010 Rev.P6; 21157-ASA-00-ZZ.01-D-A-0011 Rev.P7; 21157-ASA-00-ZZ.RT-D-A-0012 Rev.P7; 21157-ASA-00-ZZ.GF-D-A-0020 Rev.P4; 21157-ASA-00-ZZ.01-D-A-0021 Rev.P4; 21157-ASA-00-ZZ.02-D-A-0022 Rev.P4; 21157-ASA-00-ZZ.03-D-A-0023 Rev.P4; 21157-ASA-00-ZZ.RT-D-A-0024 Rev.P5; 21157-ASA-00-EL.ZZ-D-A-0025 Rev.P7; 21157-ASA-00-ZZ.ZZ-D-A-0026 Rev.P5; 21157-ASA-00-EX.ZZ-D-A-0027 Rev.P3; 21157-ASA-00-EX.YD-D-A-0028 Rev.P2; 21157-ASA-00-EX.00-D-A-0030 Rev.P9; 21157-ASA-00-EX.00-D-A-0033 Rev.P3; 21157-ASA-00EX.00-D-A-0034 Rev.P3; 21157-ASA-00-ZZ.ZZ-D-A-0014 Rev.P7; 21157-ASA-00-ZZ.ZZ-D-A-0004 Rev.P13; 21157-ASA-90-EX.ZZ-D-A-9005 Rev.P3; 21157-ASA-00-ZZ.ZZ-D-A-0005 Rev.P15; 21194-BGL-XX-XX-DR-C-00200 Rev.P21; 21194-BGL-XX-XX-DR-C00201 Rev.P16; 21157-ASA-00-EX.00-D-A-0029 Rev.P2; MRR-BWBGEN-XX-RP-TR-101 Rev.P1; 21157-ASA-00-EX.00-D-A-0032 Rev.P1; 101 Rev.R; 201 Rev.I; 202 Rev.I; 203 Rev.I; 204 Rev.I; 205 Rev.I; 206 Rev.I; 207 Rev.I; 208 Rev.I.
- 3) The development hereby permitted shall not commence until a revised Arboricultural Impact Assessment (AIA), Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) produced in accordance with BS 5837 (2012) Trees in Relation to Design, Demolition and Construction (or equivalent British Standard if replaced) have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.
- 4) The development hereby permitted shall not commence until revised versions of the Landscape Masterplan ref. 101 Rev.R, and Planting Plans ref. 201 Rev.I (Nos. 1-8) have been submitted to and approved in writing by the Local Planning Authority. The revisions shall be limited to any minor corrections required to ensure consistency with the revised arboricultural information approved under Condition (3) and details of the wall required to enable retention of T190 and T191. The development shall then be carried out in accordance with the revised plans as approved.
- 5) The development hereby permitted shall not commence within the part of the site through which the water main runs until details of measures to secure its long terms protection from damage have been submitted to and approved in writing by the Local Planning Authority. The development within that part of the site shall proceed once the approved measures have been implemented.
- 6) With the exception of demolition and site clearance works, the development hereby permitted shall not commence until an assessment of the risks posed by contamination has been carried out in accordance with BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, no development shall take place until:

- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 7) Construction of the development hereby permitted shall not commence until a finalised drainage scheme informed by the Flood Risk Assessment and Drainage Strategy ref. 21194-BGL-XX-XX-RP-D-00001 Version 7 dated June 2023 has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and operational prior to the first occupation of the development, and shall thereafter be maintained in a fully functional state.
- 8) The development hereby permitted shall be implemented in accordance with the:
 - (a) Construction Management Plan dated October 2022;
 - (b) Construction Environmental Management Plan ref. ER-6197-04 dated January 2023; and
 - (c) Invasive Species Survey and Management Plan ref. R-EE-6197-01 dated July 2022.
- 9) No materials shall be imported into the site for the purposes of constructing the bunds/batters and/or re-profiling of embankments hereby permitted, until a Materials Management Plan (MMP) has been submitted to and approved in writing by the Local Planning Authority. The MMP shall include:
 - (a) details of the volumes and types of material to be imported;
 - (b) details of the source(s) of the material(s) to be imported;
 - (c) details of chemical testing of material(s) to be undertaken prior to importation into the site; and
 - (d) the results of the chemical testing which must demonstrate that the suitable material is safe and suitable for its intended use.

The development shall then proceed in accordance with the approved MMP.
- 10) The development hereby permitted shall achieve Excellent under BREEAM (or any scheme which replaces it). Certification of this shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of each Unit.
- 11) Notwithstanding any details shown on the approved plans, the development hereby permitted shall not proceed above slab level until a full specification of the materials/finishes to be used for the external surfaces of the approved warehouses, fencing and battery storage container have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.
- 12) The development hereby permitted shall incorporate the physical security measures set out within the Crime Impact Statement, ref. 2022/0284/CIS/01 Version B dated October 2022.

- 13) All new boundary treatments shown on the revised Landscape Masterplan and Planting Plans approved in relation to Condition (4) shall be installed prior to the first occupation of the development hereby permitted, and all planting, seeding or turfing shown shall be carried out no later than the first planting and seeding seasons following. The landscaping shall then be managed and maintained in accordance with the Landscape Management Plan ref. 4146 502 Rev.A dated July 2023, in relation to which any trees or plants that die, are removed or become seriously damaged or diseased within a period of 5 years following completion of the development shall be replaced in the next planting season with others of similar size and species.
- 14) Prior to the first occupation of the development hereby permitted the mitigation measures shown on the approved plans and set out within Section 5 of the Noise Impact Assessment ref. 220785 dated June 2023, shall be installed. The mitigation measures shall thereafter be retained and maintained for the lifetime of the development.
- 15) Notwithstanding the information previously submitted, and subject to the requirements of Condition (12), no external lighting shall be installed within the site until details have first been submitted to and approved in writing by the Local Planning Authority prior. These details shall include the location, position, height, luminance, and angle of installation of each fixture, and measures which will be taken to prevent light spill onto neighbouring properties and land. The lighting shall then be installed in accordance with the approved details.
- 16) Prior to the first occupation of the development hereby permitted the bicycle parking facilities, car parking areas, service yard, refuse stores and manoeuvring areas shown on the approved plans shall be constructed, marked out, and made available for use. Each shall thereafter be retained and kept available for their intended functions at all times.
- 17) Prior to the first occupation of the development hereby permitted, a full Travel Plan based on the Framework Travel Plan ref. MRR-BWB-GEN-XX-RP-TR-004_P04 FTP dated March 2023, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.
- 18) Prior to the first occupation of each of the Units hereby permitted an Energy Statement, including SAP calculations, shall be submitted to and approved in writing by the Local Planning Authority. The Energy Statement shall outline how the Unit will achieve net zero operational carbon emissions, unless it can be demonstrated that such a requirement would be impracticable or not financially viable. The Units shall thereafter be operated in accordance with the approved Energy Statements.
- 19) Prior to the first occupation of the development hereby permitted a Noise Management Plan (NMP) shall be submitted to and approved in writing by the Local Planning Authority. The NMP shall detail all measures and management actions required to ensure that the development operates in compliance with the limits set out within Condition (23). Within this context it shall also identify any sounds likely to be generated by operation of the development which have the potential to be distinctly audible outside the site, and set out the ways in which their production will be avoided or minimised. The development shall thereafter be operated in accordance with the NMP.
- 20) The development hereby permitted shall not be occupied until the access into the site from Manchester Road has been constructed in accordance with a

detailed junction arrangement plan developed in accordance with the approved site access plan ref. MRR-BWB-GEN-XX-RP-TR-101 Rev.P1, which has first been submitted to and approved in writing by the Local Planning Authority.

- 21) The development hereby permitted shall not be occupied until a Traffic Regulation Order for the restriction of on street parking along the west side of Manchester Road between the intersections of Queen Elizabeth II Way and Bader Drive has been implemented.
- 22) The first 16.5 metres of the approved site access, as measured from its junction with Manchester Road, shall be kept free from obstruction at all times.
- 23) The rating level (L_{Ar},Tr) of noise generated by the operation of the development hereby permitted shall not exceed:
 - (a) the most recently approved background sound levels when measured within the garden of any existing dwelling within Oldbury Close, Bader Drive and Whitehouse Close between 07:00 and 23:00;
 - (b) the most recently approved background sound levels when measured at the facade of any existing dwelling within Oldbury Close, Bader Drive and Whitehouse Close at a height corresponding to that of the bedroom windows between 23:00 and 07:00; and
 - (b) 2dB above the most recently approved background sound level (L_A,Tr = L_{A90} + 2dB) when measured at the site's boundary with the North of Harehills Road Phase of the South Heywood Masterplan.

All measurements shall be completed in line with BS4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound (or equivalent British Standard if replaced).

Unless further background sound levels are approved in writing by the Local Planning Authority, the approved background sound levels shall be taken as:

- 42dB(A) L_{Ar},1hr between 07:00 and 23:00 and 40dB(A) L_{Ar},15 mins between 23:00 and 07:00, when measured within Oldbury Close, Bader Drive, Whitehouse Close and along the north-west facing boundary of the site; and
- 50dB(A) L_{Ar},1hr between 07:00 and 23:00 and 46dB(A) L_{Ar},15 mins between 23:00 and 07:00 when measured along the south and south-west facing boundaries of the site.

APPEARANCES

For the Appellant

Christopher Katkowski KC Lead Counsel for the Appellant, Kings Chambers

Martin Carter Counsel for the Appellant, Kings Chambers

He called:

Michael Carr (Design) Pegasus

Chris Goughan (Trees) Amenity Tree

Mark Maclagan (Noise) Waterman Infrastructure and Environment Ltd

Kit Patrick (Landscape/Amenity) TPM Landscape

Graham Reece (Design) Trammell Crow Company

Richard Routh (Design) Ashton Smith

Harry Spawton (Planning) Gerald Eve LLP

For the Local Planning Authority

Ian Ponter Counsel for the LPA, Kings Chambers

He called:

Luke Thorpe (Amenity, Planning) Capita

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Giles Cannock KC Counsel for Russell Homes, Kings Chambers

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Nicholas Folland (Landscape/Amenity) Barnes Walker Limited

Carl Salisbury (Trees) Mulberry Tree Management

Alex Southall-Ghosh (Design) AEW Architects

Jon Suckley (Planning) Asteer Planning

Tobias Lewis (Noise) WSP

INQUIRY DOCUMENTS

- ID1. Inquiry Notification Letter.
- ID2. Appellant Opening Statement.
- ID3. Council Opening Statement.
- ID4. Russell Homes Opening Statement.
- ID5. Appellant List of Appearances.
- ID6. Council List of Appearances.
- ID7. Russell Homes List of Appearances.
- ID8. Verified Views and Methodology.
- ID9. Appellant and Russell Homes Addendum SOCG.
- ID10. Jon Suckley PoE Corrections Sheet.
- ID11. RBC Letter: Confirmation of Interest and Landownership Maps.
- ID12. Existing and Proposed Site Sections (CD1.3 Substitute).
- ID13. Draft Condition Schedule.
- ID14. Russell Homes Noise Condition.
- ID15. Council Closing.
- ID16. Russell Homes Closing.
- ID17. Appellant Closing.