

TRAFFORD COUNCIL

Report to: Planning and Development Management Committee
Date: 9 June 2022
Report for: Decision
Report of: Head of Planning and Development

Report Title

Member Update:
Appeal by Acre Manchester Ltd at City Point, 701 Chester Road and 2 Hornby Road, Stretford, M32 0RW

LPA ref. 104811/FUL/21
Appeal ref. APP/Q4245/W/22/3299133

Summary

This report provides an update to Members of the Planning and Development Management Committee in respect of an appeal submitted by Acre Manchester Ltd following the Committee's decision to refuse application 104811/FUL/21 contrary to officer recommendation at the meeting of the Planning and Development Management Committee on 10th March 2022. The appeal site comprises the City Point office building and curtilage at 701 Chester Road and the adjacent residential property at 2, Hornby Road in Stretford. The appellant has requested that the appeal be dealt with via a Public Inquiry.

Since the decision of the Committee in March the layout plans for the development have been reviewed again in conjunction with the Local Highway Authority and Counsel and concerns have been raised about the following statement within the highways reason for refusal (Reason 3):

The proposed drop off and pick up point on Warwick Road would result in an unacceptable loss of pedestrian footway to the detriment of pedestrian safety.

This is factually inaccurate and may have resulted from a misunderstanding of the plans displayed at the Committee meeting. The plan shows a clear 2m wide footway partly set into the site and an area for adoption by the Local Highway Authority. As such authorisation is sought to remove this sentence from the highways reason for refusal due to concerns over the potential for the Council to be deemed to have acted unreasonably in this regard.

Recommendation

That the Planning and Development Management Committee authorise officers to remove the sentence relating to the loss of pedestrian footway from the highways reasons for refusal (reason 3) in the upcoming appeal in respect of planning application 104811/FUL/21.

Contact person for access to background papers and further information:

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Introduction and Background

1. At its meeting of 10 March 2022 the Planning and Development Management Committee refused planning permission contrary to officer recommendation for application ref. 104811/FUL/21. This proposed: *Demolition of existing office building and erection of 169 bed hotel, comprising between 4 and 10 storeys of hotel accommodation and ancillary uses including ground floor café, plus basement with pool and gym and screened rooftop plant area and tower feature. Associated parking and servicing areas with main vehicular access off Hornby Road and associated changes to the public realm. Use of No. 2 Hornby Road for hotel staff accommodation.*

2. Three reasons for refusal were stated as follows:
 - The proposed development, by reason of its design, external appearance, scale, height and massing would result in an unduly dominant and obtrusive form of development, which would be out of keeping with the character of the surrounding area. As such, the proposed development would have a detrimental impact on the character and visual appearance of the street scene and the surrounding area. It is therefore considered that the proposed development does not represent good design and would fail to comply with Policy L7 of the Trafford Core Strategy and the National Planning Policy Framework.*

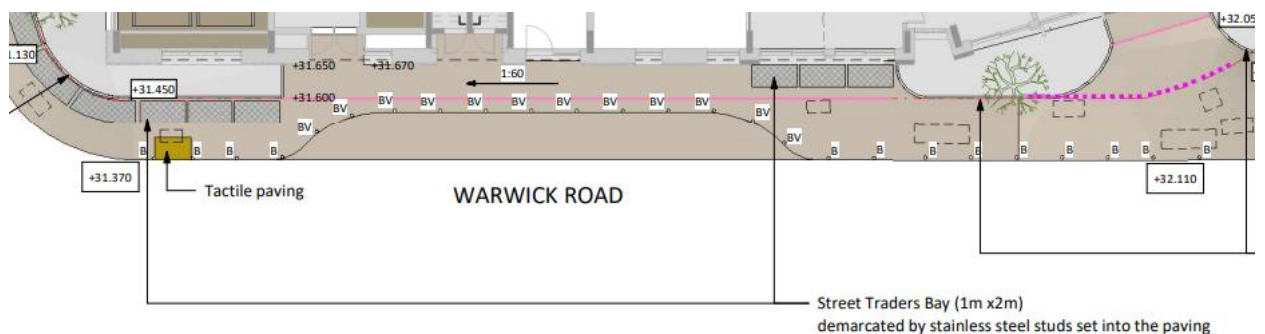
 - *The proposed development by reason of its height, scale and massing in close proximity to adjacent residential properties, would give rise to an unduly overbearing and overdominant impact and result in harmful overlooking to the detriment of the amenity that the adjoining occupants could reasonably expect to enjoy. As such the proposal is contrary to Policy L7 of the Trafford Core Strategy and the National Planning Framework.*

 - *The proposed development would generate an additional demand for car parking which cannot be accommodated on this site in a satisfactory manner with the result that vehicles would be forced to park on surrounding highways to the detriment of residential amenity. In addition the development would provide insufficient parking space for disabled persons. The proposed drop off and pick up point on Warwick Road would result in an unacceptable loss of pedestrian footway to the detriment of pedestrian safety. The proposal is therefore contrary to Policies L4 and L7 of the Trafford Core Strategy, SPD3: Parking Standards and Design and the National Planning Policy Framework*

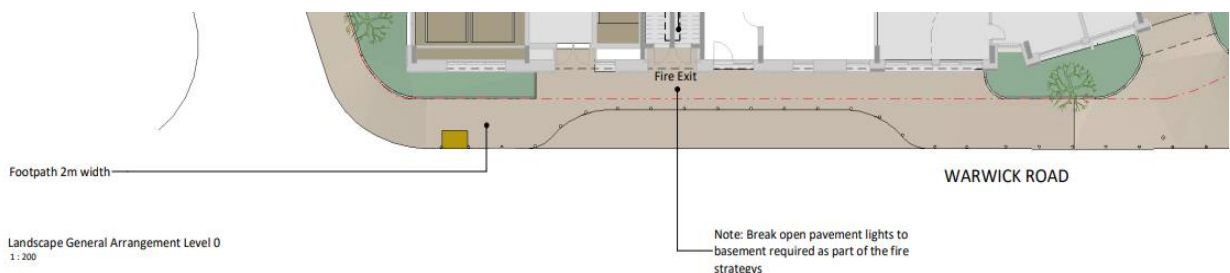
3. An earlier application ref. 98676/FUL/19 for *Demolition of existing office building and erection of 190 bed hotel, varying in height from 2 - 16 storeys of accommodation plus basement and screened rooftop plant area and tower feature. Associated parking and servicing areas with main vehicular access off Hornby Road associated changes to the public realm* was also refused contrary to officer recommendation in January 2020 with four reasons for refusal. A subsequent written representations

appeal was submitted and the Inspector dismissed the appeal on the basis of two of the reasons (residential amenity and parking).

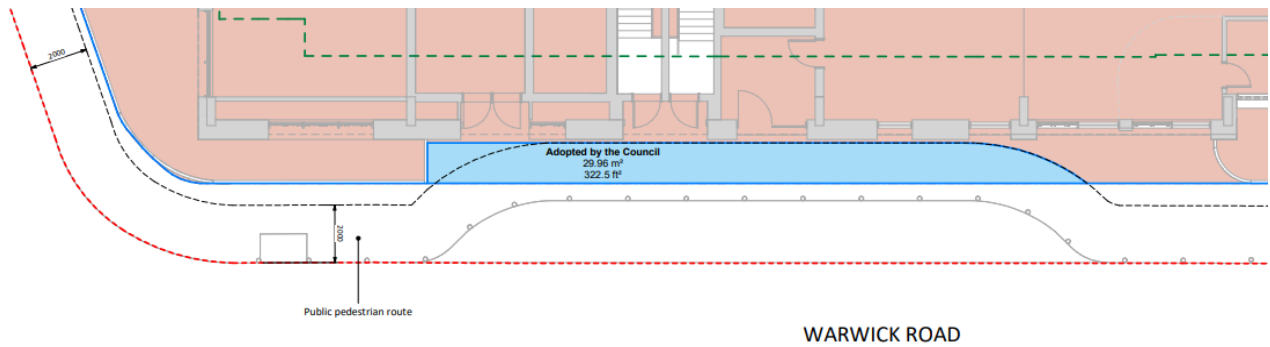
4. The appellant has now appealed the most recent refusal and has requested that the appeal is heard by way of Public Inquiry. The Council has requested that this is downgraded to a Written Representations appeal and the matter is currently with the Planning Inspectorate for a decision.
5. The original report to Committee of 10th March 2022 stated that subject to the proposed conditions and a S106 legal obligation relating to the Traffic Regulation Order review/alteration the LHA had no objection to the application. They have reiterated that position in relation to the submission of the appeal.
6. In relation specifically to the part of reason 3 relating to the *'unacceptable loss of pedestrian footway to the detriment of pedestrian safety'*, this is factually incorrect and it appears that there would be no evidence to substantiate this element of the reason for refusal. It is possible that plans displayed on the overhead projector at the Committee meeting may have been somewhat confusing as they included areas demarcated for potential Street Traders Bays on the Hard Landscape plan (see below). It is important to note that during event days when the Street Traders Bays would be in use, it is intended that the layby would be closed and able to be utilised by pedestrians, and this matter could be controlled by planning condition and via highways agreements.



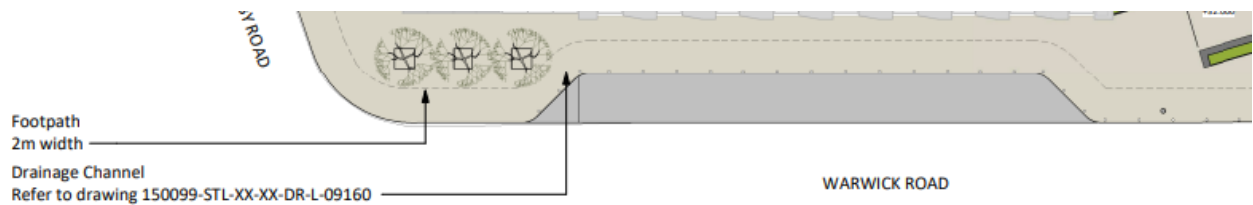
7. The same section of the site is shown on the Landscape General Arrangement plan below which states a 2 metre wide footpath width.



8. The submitted Land Adoption plan (below) which also formed part of the application shows the area of land being given over to the Council for adoption to offset the footway to be used for the pick-up and drop off layby in order that a public pedestrian route of 2 metres could be maintained.



9. It is also of relevance that a very similar arrangement was proposed in the previous application ref 98676/FUL/19 (as shown below) and this did not form part of the previous reasons for refusal.



10. Additionally in the appeal relating to the previous refusal the Inspector noted that ‘a drop off area that would be available for use by taxis or similar would be created on Warwick Road.’ He raised no concerns about the impact of this on the footway or pedestrian safety.
11. In the preparation of the case to defend the appeal, concern has been raised that the Council could have costs awarded against it due to unreasonable behaviour. The Government’s Planning Practice Guidance (PPG) lists examples of unreasonable behaviour. They include;
- failure to produce evidence to substantiate each reason for refusal on appeal,
 - vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis,
 - persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable
12. When considering the above Members would need to consider the evidence available to support the reasons for refusal which would be advanced at an appeal, this evidence should be robust, accurate and supported by robust analysis. Officers advise that there is no cogent or accurate evidence which supports the suggestion that the proposal would result in an overall loss of pedestrian footway or unduly impact on pedestrian safety. Unless the Council is able to advance evidence (that is clear, specific and accurate), then there is a significant risk that an award of costs will be made against the Council in respect of that part of the third reason for refusal.
13. If it lacks cogent and accurate evidence in support of any of its objections, the position should be reviewed as a matter of urgency before the appeal advances significantly.
14. In view of the appeal submission and potential for the award of costs, Members may also wish to consider the robustness of the other reasons for refusal if they are so minded.

RECOMMENDATION

15. It is recommended that the Planning and Development Management Committee authorise officers to remove the reference to the loss of pedestrian footway and consequent impact on pedestrian safety from reason for refusal 3 in relation to the submitted appeal in respect of planning application 104811/FUL/21.