



**PLANNING APPEAL STATEMENT IN RESPECT OF
BRINDLEY ARMS, WHITTLE STREET, WORSLEY M28 3WY**

Dated: October 2022

LPA Reference: 21/78050/FUL

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ANNEX 1 – Planning Appeal decision of 15th February 2021 in respect of the current appeal site:

APP/U4230/W/20/3258891.

ANNEX 2 – Comparative overlays with the February 2021 scheme.

ANNEX 3 – Statutory Declaration of Shimon Rudich.

1.0 INTRODUCTION

- 1.1 We are instructed by Shimon Rudich to appeal against the refusal of planning permission in respect of the proposed, “*Conversion of former public house to create 9 apartments, together with erection of single storey front extension, and alterations to elevations*” at Brindley Arms, Whittle Street, Worsley M28 3WY (“the Site”).
- 1.2 The planning application (Council reference 21/78050/FUL) was submitted on 11th June 2021 and notice of refusal was dated 22nd June 2022.
- 1.3 The Council’s reason for refusing planning permission is as follows:
- “The development would provide poor levels of amenity for future occupiers to enjoy by reason of the internal layout, and levels of light and outlook to the apartments, contrary to Policy DES7 of the City of Salford Unitary Development Plan, Policy HOU2 of the Housing Planning Guidance, the National Planning Policy Framework and Policies D5 and H2 of the Publication Salford Local Plan: Development Management Policies and Designations.”*
- 1.4 This application was refused by the Council’s Planning Committee. Principally, reference will be made to the Council’s Officer Report and the report to Members of the Planning and Transportation Panel.
- 1.5 Other planning issues were raised by third parties, and these are briefly addressed in this statement, but are otherwise issues of common ground between the Council and the appellant and therefore are not considered in full at this stage.
- 1.6 As a minor point, Shimon Rudich is a Director with Viking Luxury Properties Limited, and not Viking Properties Limited, the latter which is a different and unconnected corporate entity. A mistake was made by the agents in completing the application form as it should have referred to Viking Luxury Properties Limited. However, this makes no difference to the rights of Mr. Rudich to appeal against the refusal of planning permission in this case as he is clearly the applicant and was named as such on the application form. This appeal is therefore brought on his behalf instead of on behalf of any related company.

2.0 SITE AND SURROUNDINGS

- 2.1 The property is not listed (either as a designated or as a non-designated heritage asset) and is not located in a conservation area. The nature of the development is such that it is exempt from the requirements of a Coal Mining Risk Assessment.
- 2.2 The appeal site comprises a vacant public house with residential accommodation on the upper floors. The Site is located between Whittle Street, Springside Avenue and Meadowside Avenue, Walkden. The building is part single and part three storey and irregular in shape. The building consists of red brickwork on all sides of the building with a, rounded 3 storey feature on the corner of Whittle Street and Springside Avenue.
- 2.3 The Site is located in a mainly residential area. The majority of the homes in the vicinity of the Site are two storey dwellings. A small collection of shops are located to the west of the Site with residential units above. The property lies within walking distance of these local shops and amenities and within 1 mile of Walkden train station. The Site can also be reached by various bus routes from Manchester Road.
- 2.4 The Site is located near Walkden town centre which is part of the Salford Metropolitan Borough. It is next to the Walkden Cricket Club. The site is located within close proximity to Hill Top Moss, Blackleach Country Park and Linnyslaw Loopline green spaces. There are 7 off-street parking spaces.
- 2.5 Access for vehicles and pedestrians is taken from Springside Avenue to the east leading to a hard- surfaced car park. Areas of soft landscaping are placed to the north and south of the Site. There is a rear yard to the north-west which is used as bin storage. The total Site area is 1120 sq.ms.
- 2.6 The Council in the *Salford SPD: Design – Shaping Salford (2008)* has described the character of Walkden ward in the following terms (at page 103):

“The area is predominantly residential with pockets of industry but supports two distinct retail centres. There is a close proximity to several parks and recreation routes, such as the loop line urban walking route. Along several routes there is a lack of a strong street frontage with a number of empty or vacant plots. There is a variety

of architectural and styles offering the potential for innovation. Little Hulton and Walkden due to their location often have strong connections with Bolton to the North.”

2.7 The LPA has previously supported flatted developments and conversion of properties to flats in the area as well as approval of large developments generally and the area is therefore characterised by a broad mix of dwelling sizes and types. Examples include the following:

- *14 apartments - Erection of a part two/part three storey building comprising 14 apartments together with associated landscaping, car parking and alteration to existing vehicular access (ref: 05/50577/FUL, Granted).*
- *209 dwellings - 209 dwellings, creation of open space and associated infrastructure and works Re-submission of 18/72845/FUL. (ref: 19/73971/FUL, Granted on 3rd October 2019).*
- *13 residential units - Refurbishment, conversion and erection of a 2nd floor extension of a former retail unit (Use Class A1) at ground floor and offices (Use Class B1) at first floor, into 13 no. residential units (within 2 no. Houses of Multiple Occupation (Use Class Sui Generis) and 1 no. 2-bedroom 2 storey townhouse (Use Class C3(a) (ref: 18/72836/FUL, Granted on 15th February 2019).*

2.8 Therefore, this is an area of mixed residential character, good public transport links and good connections to local shops and amenities.

3.0 PLANNING HISTORY

3.1 On 2nd July 2019, an application was withdrawn for: “*Conversion of former public house to 5no. self-contained apartments and 11-bedroom HMO (sui generis) together with elevations*” (LPA reference: 18/72752/FUL).

3.2 This was followed by an application for “*Conversion of former Public House to create 8 apartments and 1 studio together with alterations to elevations*” (LPA reference: 19/73741/FUL). This application was recommended for approval by officers but refused by notice dated 6th March 2021 for the following reason by the Planning Committee of the Council:

“The development would provide poor levels of amenity for future occupiers to enjoy by reason of the internal layout, and levels of light and outlook to the apartments contrary to policy DES7 of the City of Salford Unitary Development Plan, policy HOU2 of the Housing Planning Guidance and the National Planning Policy Framework.”

3.3 The subsequent appeal was dismissed on 15th February 2021 (ref: APP/U4230/W/20/3258891) and the Inspector made the following comments in this appeal in terms of living accommodation and the amenity of future occupiers:

- a) Five of the proposed two-bedroom units would have a floorspace of 57m² or above (apartments A, D, F, G and J), which would comply with the Council’s Housing Planning Guidance (HPG) 2006. In this respect the layouts of the five larger units would be generally acceptable.
- b) Apartment H would have two bedrooms and a floorspace of 50m², which would be lower than that suggested in the HPG for this type of unit. However, the proposed layout shows a reasonable amount of space for living and sleeping, including space for a dining table which could be used for home working.
- c) Apartments B and C are shown as having a floorspace of 40m² each. Although this is considerably below the 57m² suggested for a two- or three-bed unit, these would be one-bedroom apartments, for which the proposed floorspace does not seem unreasonable.
- d) The proposed layout for apartment C shows an adequate amount of living/dining space, and the bedroom would be of a reasonable size too.

- e) The appellant had commissioned a Daylight Sunlight report, which assessed the proposal in accordance with guidance produced on behalf of the Building Research Establishment. An assessment of the light levels at each window and within each room concluded that all rooms and windows met the industry standard.
- f) The number and size of windows, such as to apartments D and E, would ensure a good level of daylight to the main living spaces, with direct sunlight during the morning.
- g) In respect of apartment B, the south westerly aspect would mean that the space would have direct sunlight, particularly during the afternoon. The windows would be of a reasonable size and the glazed door would provide additional light to the space.

3.4 A copy of the appeal decision is enclosed with this appeal as Annex 1.

3.5 The present appeal is in respect of an application dated 11th June 2021 and received by the Council on 9th July 2021 and validated on 14th October 2021.

3.6 This application is for the “*Conversion of former public house to create 9 apartments, together with erection of single storey front extension, and alterations to elevations.*”. This application was presented to Members of the Planning and Transportation Panel on 16th June 2022 where it was refused by the Council, notwithstanding a recommendation for approval from officers.

3.7 Objections had been raised by less than half (7no out of the 18no) neighbouring occupiers notified about the proposals in respect of the following issues:

- a) Low quality standard of accommodation.
- b) Failure to comply with national space standards and the proposed layout would hinder the movement of these units.
- c) Inadequate natural light, poor ventilation and means of escape.
- d) Failure to meet local need for 2- and 3-bedroom dwelling sizes.
- e) Congestion to highways, especially in conflict with local school-related traffic.
- f) No soft landscaping or perimeter fence proposed.
- g) Speculation of future intentions of use of the building as a hostel or hotel.
- h) Concerns over the capacity for bin storage.

- 3.8 The Members of the Committee considered these matters and voted against the recommendation for approval, and the decision notice was issued on the 22nd June stating the following reason for refusal:

“The development would provide poor levels of amenity for future occupiers to enjoy by reason of the internal layout, and levels of light and outlook to the apartments, contrary to Policy DES7 of the City of Salford Unitary Development Plan, Policy HOU2 of the Housing Planning Guidance, the National Planning Policy Framework and Policies D5 and H2 of the Publication Salford Local Plan: Development Management Policies and Designations.”

- 3.9 There is no further information published in the official Council minutes as to the reasoning behind reference to *“internal layout, and levels of light and outlook”*. It is not clear whether or not this is intended to include any reference to the Nationally Described Space Standards (NDSS), a point raised by some objectors. For reasons explained below, we have taken the view that NDSS was seen as a relevant aspect in this decision by Members. Accordingly, we note that Members endorsed the concerns of local residents in respect of points (a) and (b) above (quality of accommodation, NDSS and layout), as well as natural light in point (c), but did not endorse or find sufficient merit in the remaining points made by objectors in the rest of point (c) or in points (d) to (h) above.
- 3.10 At time of writing, a new application has been submitted to the Council for 9no apartments, comprising 4 x 1-bedroom units and 5 x 2-bedroom units, with some material changes to the layout of the proposed apartments.

4.0 PROPOSAL

- 4.1 The proposal is to change the use of Brindley Arms, a former public house (last used as a drinking establishment, Use Class A4, but now in sui generis use) to 9no apartments, comprising 3 x 1-bedroom units and 6 x 2-bedroom units, together with alterations to elevations.
- 4.2 No additional buildings or extensions are proposed to the structure which comprises a Site covering 1120 sq.ms.
- 4.3 This iteration of the proposals has been based on a positive and constructive response to the comments of the last Inspector concerning the scheme considered in planning appeal APP/U4230/W/20/3258891, decided on 15th February 2021. The most recent update incorporating comments from the neighbours, local MP and local Councillors, is the extension of the circular section at Ground Floor to provide better sized apartments overall.
- 4.4 The existing building would be retained. There are also very few and minor alterations to the external façade of the building. These minor alterations have been carefully designed to fit in with the character and architectural language of the existing building. The additional windows will match the appearance and size of existing windows at the property and so allow coherency. A small extension is proposed to the end of the curved wing opposite Whittle Street.
- 4.5 Vehicles will access the Site from the main entrance point on Springfield Avenue. There will be no change to the 7 car spaces which exist at the Site. These will be retained.
- 4.6 The following changes to the internal layout and external appearance should be noted, compared to the scheme that was considered by the last Inspector in February 2021:

UNIT	NO.BEDS (PREVIOUS)	SIZE (SQM)	COMMENTS ON REVISED PROPOSAL 21/78050/FUL
A	2-BED	57	Now apartment B. Bathroom moved to allow greater circulation in kitchen area. Retained as 2-bed. 58 sqm.
B	1-BED	40	Now apartment C. Increased to 2-bed and 59 sqm. Door position moved to allow for more windows. Rear bedroom would look out onto landscaped open courtyard to the rear of rear bedroom as before in 2021 scheme.

C	1-BED	40	Now apartment A. Increased to 2-bed and 58 sqm. Rear bedroom would look out onto landscaped open courtyard to the rear of bin store as before in 2021 scheme.
D	2-BED	58	Reduced to 1-bed apartment of 38 sqm.
E	1-BED	23	Increased to 1-bed apartment of 37 sqm.
F	2-BED	57	Reduced to 1-bed apartment of 38 sqm.
G	2-BED	57	Retained as 2-bed apartment of 57 sqm. No changes.
H	2-BED	50	Retained as 2-bed apartment of 50 sqm. No changes.
J	2-BED	60	Retained as 2-bed apartment but reduced to 56 sqm. No changes. The 4sqm difference only represents additional space on the landing at the top of the stairs before entering the flat, thus no change to the layout within the flat.

4.7 A copy of comparative overlays between the scheme considered on appeal in February 2021 and the current appeal scheme is enclosed at Annex 2.

4.8 This application was not accompanied by a sunlight and daylight report and one was not provided prior to the Committee meeting. However, we have provided a report with this appeal given the concerns raised by Members in their reasons for refusal. This report is up-to-date with the BRE Sunlight and Daylight Guidance as revised in June 2022.

4.9 Therefore, although there are material differences in the layout and size of some of the units proposed in this application, compared to the scheme dismissed on appeal in February 2021 (except in the case of units G, H and J), in every case the differences shown improve the scheme and its layout beyond that considered by the Inspector in the February 2021 decision or at least would be similarly of good quality and layout compared to the earlier layout:

- a) Unit A (now B): similar size but more space to kitchen area.
- b) Unit B (now C): increased in size (by an additional circa 20 sqm) and a second bedroom added, with better natural light openings to the lounge and improved circulation by moving the front door.
- c) Unit C (now A): increased in size (by an additional circa 20 sqm) and a second bedroom added.
- d) Unit D: complies with 1-bedroom NDSS standard.
- e) Unit E: floor area increased by 14 sqm for 1-bedroom unit.
- f) Unit F: complies with 1-bedroom NDSS standard.

- 4.10 It should be noted that the Inspector in the February 2021 appeal considered that it was only the size and layout of Unit E, which at the time would have been 23 sqm, that warranted the appeal being dismissed, as all of the other units provided a good standard of accommodation. Notwithstanding this, the appellant has attempted to use the opportunity of resubmitting this scheme to try to improve the standard of accommodation to other units besides Unit E and therefore lift the overall standard of the scheme beyond what was regarded by officers and the appeal Inspector as acceptable in the first place.
- 4.11 The appellant intends to supply these flats as fully-furnished, as indicated in the plans included with this application. He has provided a statutory declaration confirming this with reference to the refused appeal plans. This intention was also openly declared verbally by the appellant to officers at the Planning Committee hearing on the 16th June 2022, as is evidenced by the Statutory Declaration from Shimon Rudich that accompanies this appeal.
- 4.12 In terms of light and outlook, the Council’s officers have commented as follows at page 13 of the report to Committee:

“All habitable rooms in the proposed apartments have at least one window or rooflight for natural light. The majority of habitable rooms are served by at least one window.

One of the bedrooms in Apartment B has outlook over the waste storage area. However, the other bedroom and the shared living area benefit from outlook onto the front courtyard. This is considered to be acceptable in this instance.

Apartment C has two bedrooms, one with outlook onto the waste storage area and the other served by a rooflight with no window. Nevertheless, Apartment C also has the largest floor space of the apartments, and due to its configuration has sufficient room for compartmentalisation of its dining and living areas, which benefits from outlook onto the front courtyard. Overall, the quality of accommodation is considered to be acceptable in this instance.”

- 4.13 We have commissioned for this appeal a sunlight and daylight report, which complies with the June 2022 revisions to the BRE Sunlight and Daylight guidance. This has concluded as follows:

“The proposed conversion of the Brindley Arms public house, Walkden, has been assessed for internal daylight and sunlight levels using the Target Daylight Factor (DFT) and Annual/Winter Probable Sunlight Hours tests as prescribed by the BRE guidance and BS EN 17037:2018.

The design team has endeavoured to ensure that the proposed habitable rooms have levels of natural light in excess of the minimum standards prescribed by the standards.

This has been successfully achieved, as demonstrated by the positive results presented within this report.

The assessed room meets the recommendations using the DFT and APSH tests where relevant.

This means the future occupants will enjoy a well-lit environment, with reduced reliance on artificial lighting.

It is therefore the conclusion of this report that the proposals meet the guidance levels for daylight and are therefore acceptable in planning terms.”

- 4.14 Therefore, the proposal in this appeal has been demonstrated would fully comply with BRE Sunlight and Daylight guidance in respect of the quality of the proposed accommodation in daylight and sunlight terms.

5.0 GROUNDS OF APPEAL

5.1 The application in this case was refused on only one ground:

“The development would provide poor levels of amenity for future occupiers to enjoy by reason of the internal layout, and levels of light and outlook to the apartments, contrary to Policy DES7 of the City of Salford Unitary Development Plan, Policy HOU2 of the Housing Planning Guidance, the National Planning Policy Framework and Policies D5 and H2 of the Publication Salford Local Plan: Development Management Policies and Designations.”

5.2 We set out below the Council’s adopted and emerging policy in these references in respect of layout, light and outlook. The adopted Local Plan comprises only the City of Salford UDP. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination: *“must be made in accordance with the plan unless material considerations indicate otherwise”*.

Current Status of Relevant Development Plan Policies

5.3 In the adopted Local Plan, the City of Salford UDP (adopted June 2009), Policy DES7 states:

All new development, and alterations and extensions to existing buildings, will be required to provide potential users with a satisfactory level of amenity, in terms of space, sunlight, daylight, privacy, aspect, and layout. Development will not be permitted where it would have an unacceptable impact on the amenity of the occupiers or users of other developments. [Emphasis added]

5.4 The Housing Planning Guidance (June 2015), which is not part of the development plan, at Policy HOU2 states the following:

Where apartments are proposed, they should provide a broad mix of dwelling sizes, both in terms of the number of bedrooms and the net residential floorspace of the apartments. Small dwellings (i.e. studios and one bedroom apartments) should not predominate, and a significant proportion of three bedroom apartments should be provided wherever practicable. [Emphasis added]

5.5 Paragraph 4.31 under this policy provides further useful context:

Smaller dwellings undoubtedly have a role to play in meeting the needs of some one and two person households, but they should not be allowed to dominate new apartment developments, in order to avoid homogenous areas that are only attractive to a very narrow sector of the population and are thus at greater risk if there is a downturn in the housing market. Therefore, the majority of apartments in new developments should normally have two or three bedrooms, with a floorspace and layout that makes them adaptable to changing needs (typically 57 square metres or above). [Emphasis added]

5.6 The NPPF 2021 notes also the following:

- Planning policies and decisions should support development that makes efficient use of land, paragraph 124.
- Plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible, paragraph 125a.
- local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards), paragraph 125c.
- Planning policies and decisions should ensure that developments optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development...create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, paragraph 130.
- Footnote 49 to paragraph 130f notes that policies **may** also make use of the nationally described space standard; the clear implication being that the use of Nationally Described Space Standards is a discretionary matter for each Council and thus not to be automatically applied in every case.

- 5.7 It should also be noted that in the Nationally Described Space Standards (NDSS), footnote 4 (added May 2016) notes that: **“furnished layouts are not required to demonstrate compliance”**.
- 5.8 Therefore, the NPPF and the NDSS are both other material considerations in this case, but do not conflict with the adopted Local Plan Policy DES7 or Policy HOU2 of the Housing SPG.
- 5.9 The reason for refusal also refers to the Publication Salford Local Plan, Policies D5 and H2. The January 2020 version states in Draft Policy D5 (Amenity) that:

Development shall ensure that it:

- 1) Provides all potential users with an acceptable level of amenity; and*
- 2) Does not have an unacceptable impact on the amenity of the users of other buildings and spaces.*

Amenity includes, but is not limited to, issues of:

- A) Space, both internal and external, and public and private*
- B) Layout*
- C) Aspect*
- D) Privacy*
- E) Sunlight*
- F) Daylight*
- G) Temperature and microclimate*
- H) Pollution (see also ‘Pollution and hazards’ chapter)*

Separation distances

Development shall maintain suitable separation distances between the windows of habitable rooms in dwellings and the windows and walls of other properties, to ensure that an appropriate level of amenity is provided for all residential occupiers. The following minimum distances shall be maintained from the principal windows of habitable rooms in dwellings:

- a) 21 metres to facing principal windows of habitable residential rooms, and windows of other uses that could result in significant overlooking;*
- b) 13 metres to other walls that are one storey higher; and*
- c) 9 metres to other walls of a similar height.*

Shorter distances will be permitted where they are consistent with the character of the area, such as the high-density nature of City Centre Salford and Salford Quays, or are necessary to secure the positive reuse of an historic building, provided that it can be demonstrated that an appropriate level of amenity for occupiers would be achieved. Longer distances may be required where one of the buildings is more than one storey higher than the other or where land levels vary between buildings. For the purposes of this policy, habitable rooms are defined as principal living rooms, principal dining areas, bedrooms, and, in dwellings where there is no separate dining room, kitchens.

5.10 Draft Policy H2 states that:

Residential development shall deliver a balanced mix of dwelling sizes across Salford, enabling people to access housing with sufficient space to meet their needs and support good health.

Number of bedrooms

All developments providing net additional dwellings shall deliver a range of dwelling sizes in terms of the number of bedrooms.

In new developments providing apartments, a minimum of 50% of the apartments shall contain at least two bedrooms. A lower proportion may be permitted where it can be clearly demonstrated by the applicant that smaller accommodation is required to meet an identified local need of acknowledged importance, such as the provision of affordable housing (in accordance with the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any subsequent definition), housing for older people or other specialist accommodation.

Space standards

In the following cases, the gross internal floor area of new dwellings shall as a minimum meet the nationally described space standards (or any subsequent standards):

- 1) All dwellings in new build developments, including dwellings in build to rent schemes*
- 2) Where practicable, having regard to the physical constraints of the existing building, changes of use and conversions.*

The nationally described space standards will not be applied to purpose-built student accommodation, hotels, residential institutions (including secure institutions), and dwellings with furnished layouts. Developments that do not meet the minimum space standards because they incorporate furnished layouts will be permitted subject to a condition or planning obligation requiring them to be first occupied and retained in perpetuity as furnished accommodation. For the purposes of this policy, a dwelling will only be considered to have a furnished layout if it incorporates all furniture that is likely to be required by a typical household occupying the dwelling.

- 5.11 The May 2022 Main Modifications to Policy H2 indicate an intention by the Council to introduce a degree of flexibility to the application of NDSS in some new schemes, where the “*internal floorspace within a dwelling provides an appropriate living environment when regard is also had to the provision of any internal communal space*”. The Council proposes this modification in the wake of a number of objections that have been received to this Draft Policy and in order to make the policy effective.
- 5.12 Although it widely accepted as a principle of planning that emerging local plan documents gather weight as they near adoption, regard must be had to all the circumstances and this weight may be limited depending on the current stage of plan review, degree of objection and the timeframe toward adoption. Despite the late stage of these Publication Salford Local Plan policies, the ongoing modifications, continuing objections to Policy H2 from other parties and the current unresolved stage of the Local Plan Inquiry collectively mean that, not only is this not part of the current Development Plan, but also has limited weight as a material consideration.
- 5.13 Therefore, we would respectfully suggest to the Inspector that Policy DES7 of the Adopted Local Plan (together with Policy HOU2 of the Housing SPG) carry the greater weight as adopted documents, which despite their age do not conflict with the NPPF 2021. This was the basis for the officer’s recommendation to the Committee to approve this scheme and should be the basis (at time of writing and submitting this appeal) for the determination of this appeal, especially given the primacy of the adopted development plan documents in law under the 2004 Act.
- 5.14 Notwithstanding, the assessment of this ground of refusal will consider all of the policies states above.

Layout

- 5.15 As noted in the preceding section to this appeal statement, this current scheme stands in favourable comparison to the scheme considered on appeal by the previous Inspector in February 2021, improving the proposed amenity for future residents in a number of respects, but especially in terms of layout.
- 5.16 The principal concern in the appeal in 2021 concerned the size and layout of Unit E. This has now been increased in size as a 1-bedroom unit, thereby providing a more spacious and flexible layout.
- 5.17 As noted above the current scheme under appeal has been revised as follows:
- a) Unit A (now B): similar size but more space to kitchen area.
 - b) Unit B (now C): increased in size (by an additional circa 20 sqm) and a second bedroom added, with better natural light openings to the lounge and improved circulation by moving the front door.
 - c) Unit C (now A): increased in size (by an additional circa 20 sqm) and a second bedroom added.
 - d) Unit D: complies with 1-bedroom NDSS standard.
 - e) Unit E: floor area increased by 14 sqm for 1-bedroom unit.
 - f) Unit F: complies with 1-bedroom NDSS standard.
 - g) Unit G: no change.
 - h) Unit H: no change.
 - i) Unit J: no change.
- 5.18 With regard to the Council's adopted Local Plan Policy DES7 and HOU2 of the Housing SPG, the layout and unit sizes still comply. With the exception of Units H and J, all of the proposed 2-bedroom units would be at least 57 sqm and all of the proposed 1-bedroom units would be at least 37 sqm. Unit J is only marginally below 57 sqm, by 1 sqm, and its layout and circulation space is unchanged from the previous appeal scheme. In respect of Unit H, as noted by the previous appeal Inspector at paragraph 7:

“Apartment H would have two bedrooms and a floorspace of 50m², which would be lower than that suggested in the HPG for this type of unit. However, the proposed

layout shows a reasonable amount of space for living and sleeping, including space for a dining table which could be used for home working.”

- 5.19 Even though Units A, H and I would have curved walls, as noted in the previous appeal at paragraph 9, the living and dining space is adequate and the bedrooms would all be of a reasonable size. Therefore, there is still reasonable scope for some flexibility in layouts to these units.
- 5.20 Furthermore, even though the current adopted Local Plan does not include the NDSS within its standards, the previous Inspector opined as follows at paragraph 12 of the decision: “*The Council has not incorporated the Nationally Described Space Standards (NDSS) in its development plan policies. However, the standards provide a useful benchmark for considering the quality of accommodation in terms of floorspace.*” Therefore, it was given weight in considering the quality of layout of the proposal at the time, which adds weight to the opinion of the Inspector then and the officer’s recommendation when applying the adopted Local Plan policies to considerations of layout in this appeal.
- 5.21 It is noted above in respect of Draft Policy H2 that the Council seeks to incorporate the NDSS into adopted local plan policy and will also require that at least 50% of the bedrooms should contain at least 2 bedrooms. It should be noted, however, that the intended application of the NDSS would not be without exception, as long as the proposed layout would still result in an acceptable living environment, and some degree of flexibility is applied to conversions taking into account the practicability of meeting these standards, the need to allow for flexible floor layouts and meeting the NPPF’s overarching housing objectives (see above) of optimising housing delivery (NPPF, paragraphs 124, 125, 130).
- 5.22 If the NDSS was to be applied to the current scheme, then all 3no of the proposed 1-bedroom units would exceed the 37 sqm minimum and provide reasonable bedroom and living room space (Units D, E, F). In the case of all of the other units, Units A, B, C, G and J, all are less than 5 sqm below the minimum for 2-bedroom apartments (61 sqm), and as noted above, the previous Inspector has already opined in positive terms about the size and layout of Unit H.
- 5.23 The current proposals also provide a dwelling mix strongly in favour of 2-bedroom apartments (67%).

- 5.24 The applicant was questioned at the Planning Committee of 16th June 2022 regarding the proposed layouts and he stated to the Planning Committee that he would be prepared to provide this accommodation as a “furnished layout”. Draft Policy H2 states that *“Developments that do not meet the minimum space standards because they incorporate furnished layouts will be permitted subject to a condition or planning obligation requiring them to be first occupied and retained in perpetuity as furnished accommodation. For the purposes of this policy, a dwelling will only be considered to have a furnished layout if it incorporates all furniture that is likely to be required by a typical household occupying the dwelling.”* This furniture is clearly shown on the application drawings and it was clearly open to the Council during the Planning Committee meeting to propose to mitigate any concern relating to NDSS and space standards in the scheme through such a condition or obligation once this intention had been openly declared by the applicant.
- 5.25 Accordingly, we are prepared to accept such a condition, if the Inspector in this appeal considers this to be necessary, but only if the Inspector would otherwise consider that the proposed layout and dwelling sizes would not be compliant with local plan policy. We have included a sworn Statutory Declaration from the applicant in relation to this; see Annex 3.
- 5.26 Therefore, the current proposal would in any event comply with Policy DES7 of the Local Plan, Policy HOU2 of the Housing SPG, the NPPF and NDSS, and Policies D5 and H2 of the Draft Local Plan in terms of layout and space standards.

Light

- 5.27 The Inspector in the February 2021 appeal and the planning officer throughout this scheme have concluded that the scheme would be policy compliant in terms of light amenity to future occupiers. As noted at paragraphs 14 and 15 of the previous appeal decision in 2021:

“14. The former Brindley Arms has an open position and is surrounded on three sides by residential streets. As a result, the main elevations are not overshadowed or enclosed by other buildings, and most of the windows have an open aspect.

15. The appellant has commissioned a Daylight Sunlight report, which assessed the proposal in accordance with guidance produced on behalf of the Building Research Establishment. An assessment of the light levels at each window and within each

room concluded that all rooms and windows met the industry standard. This study provides reassurance that all of the proposed apartments and individual rooms would have adequate levels of daylight and sunlight.”

- 5.28 The changes to the layout of the scheme since the February 2021 decision as set out in this appeal have not unduly compromised this compliance. Officers commented thus:

“All habitable rooms in the proposed apartments have at least one window or rooflight for natural light. The majority of habitable rooms are served by at least one window.”

- 5.29 As set out in summary above in the preceding section to this Statement, the proposal has been tested in terms of sunlight and daylight against current June 2022 BRE Sunlight and Daylight Guidance and is proven will provide a satisfactory standard of light amenity to all future occupants of the building.

- 5.30 Therefore, the proposal would comply with adopted Policy DES7 of the Local Plan, Policy HOU2 of the Salford Housing SPG and with Draft Policy D2 of the Publication version of the Local Plan in respect of light.

Outlook

- 5.31 The Inspector in the February 2021 appeal and the planning officer throughout this scheme have concluded that the scheme would be policy compliant in terms of outlook amenity to future occupiers.
- 5.32 The currently proposed scheme further improves on the layout and outlook from the scheme, particularly in respect of Units B (formerly Unit A), C and F.
- 5.33 The bedroom windows to Units B and C near to the bin store would look onto a semi-landscaped space (see Landscape Plan drawing no.558.01B). There would be more than 6 metres from the window of the bedroom to Unit F to the boundary wall. Although there would be less distance from the window in Unit B to the bin store wall (2 metres), both bedrooms would be reasonably well-lit and be of a good size and the small courtyard could be planted as indicated in the Landscape Plan. In this respect the planning officer commented as follows in the Committee report:

“One of the bedrooms in Apartment B has outlook over the waste storage area. However, the other bedroom and the shared living area benefit from outlook onto the front courtyard. This is considered to be acceptable in this instance.”

- 5.34 The bedroom in Unit C that looks onto this courtyard was the second bedroom to Unit F in the previous scheme, but as noted at paragraph 19 of the previous appeal decision, as long as the bin store is positioned away from this window (as it now has been in the drawings), then the outlook from this window and that from Unit A looking onto the same space would be acceptable. There is now only proposed to be one bedroom to Unit F, and this would look directly on to the landscaped area around the edge of the site and the open aspect toward Meadowside Avenue.
- 5.35 Unit C (previously Unit B in the February 2021 decision) would have an improved south-westerly aspect, with good levels of natural light and improved outlook with the repositioned doorway and lounge area directly positioned away from the entrance and benefitting from two full windows. The internal bedroom could be converted to a home office, instead of a bedroom if so required, although it would benefit from good natural light due to the proposed skylight, and such a change would not compromise the delivery of at least 50% of units being 2-bedroom dwellings on the site if this did take place. In this respect the planning officer commented as follows in the Committee report:

“Apartment C has two bedrooms, one with outlook onto the waste storage area and the other served by a rooflight with no window. Nevertheless, Apartment C also has the largest floor space of the apartments, and due to its configuration has sufficient room for compartmentalisation of its dining and living areas, which benefits from outlook onto the front courtyard. Overall, the quality of accommodation is considered to be acceptable in this instance.”

- 5.36 In the Publication version of the Local Plan, in Draft Policy D5, the Council indicates that it will normally apply a standard of 9 metres from bedroom or other habitable room windows to nearby walls of similar height., subject to whether *“an appropriate level of amenity for occupiers would be achieved”*, which with regard to the planning officer’s comments at Committee and the decision of the Inspector in February 2021, has proven to be the case. Where a separate room is used as a home office, draft Policy D2 does not regard the room as a ‘habitable room’ for the purposes of this policy and therefore these standards will not apply in any event.

5.37 Therefore, it is clear that the proposed layout would comply with Policy DES7 of the adopted Local Plan and the policies of the draft Local Plan, in particular draft Policy D5.

5.38 In the Publication Local Plan (January 2020) at Chapter 11: Housing, the Council acknowledges that:

“Salford’s population has grown by around 17% since 2001, whilst a 12% increase is forecast over the plan period”. (at paragraph 11.1)

5.39 In terms of future accommodation supply, the LPA has calculated that, “Of the total estimated supply of £38,055 dwellings, 32% are in City Centre Salford, 26% in Salford Quays, and 28% in the rest of Central Salford. Ordsall ward has the highest level of potential housing with 23,324 dwellings (i.e. 61% of the total citywide supply). In terms of the type of dwellings that will be provided, it is estimated that 17% will be in the form of houses and 83% apartments” (para.3.17 of *Housing and Economic Land Availability Assessment – Main Report (1st April 2019-31st March 2037)*).

5.40 This strengthens the argument for the fact the future housing trajectory for the city is one of flatted developments. Further, the creation of the flatted accommodation is important in order to provide accommodation for a better mix and balance of households in this part of Salford. Starter flats generally tend to attract young people. The existence of a large student population means that a high number of young professionals will require the type of accommodation being proposed by the appellant in the City of Salford.

Other Planning Considerations

5.41 No other issues were raised by the Council in its reasons for refusal.

5.42 In respect of other matters raised by third parties, these comprised:

- a) Low quality standard of accommodation: *addressed above.*
- b) Failure to comply with national space standards and the proposed layout would hinder the movement of these units: *addressed above.*
- c) Inadequate natural light, poor ventilation and means of escape: *means of escape is not a material planning consideration and is covered by other legislation. Natural light and ventilation is addressed above and in the officer’s report.*

- d) Failure to meet local need for 2- and 3-bedroom dwelling sizes: *see officer's report and below.*
- e) Congestion to highways, especially in conflict with local school-related traffic: *see officer's report.*
- f) No soft landscaping or perimeter fence proposed: *see officer's report. It is recommended that this be secured via condition prior to first occupation of the units, if this application is approved.*
- g) Speculation of future intentions of use of the building as a hostel or hotel: *see officer's report. The application must be considered as submitted. Any changes may require a further planning permission.*
- h) Concerns over the capacity for bin storage: *see officer's report. The proposed amendment would reduce the bin storage capacity from 3 x 1100 ltr general bins and 3 x 1100 ltr recycling bins to 2 x 1100 ltr general bins and 2 x 1100 ltr recycling bins. Advice from the Council's highways team indicates that the six 1,100 Euro Bins originally proposed exceeded the Council's standards - "As per the Environmental Services Policy Document, for an apartment of this size a total of 4no 1,100 Euro bins would be required, based on SCC standard refuse collections.*

5.43 As noted by the officer in the Committee report regarding the proposed dwelling mix:

Saved Policy H1 of the UDP states that all new housing development should contribute towards the provision of a balanced mix of dwellings within a local area. While the majority of new dwellings in this part of the city should generally be houses, alternative approaches on individual sites may be permitted. The principle of providing apartments on this site has previously been accepted by the Council and the Planning Inspectorate in this instance.

Where apartments are proposed, they should provide a broad mix of dwelling sizes, both in terms of the number of bedrooms and the net residential floor space of the apartments. Small dwellings (i.e. studios and one bedroom apartments) should not predominate and a significant proportion of three bedroom apartments should be provided where practicable. Nevertheless, as identified by the Planning Inspectorate "Although there would be no three-bedroom apartments, the proposed scheme would contribute to the range of dwelling types in the surrounding area, which is

characterised by terraced and semi-detached dwellings.” Additionally, in this instance over 50% of the proposed units would have two-bedrooms.

5.44 The 50% threshold noted above has already been referenced above in respect of Draft Policy H2, and thus the proposals comply.

5.45 In respect of parking and highways, the officers had no objection and this was not a reason for refusal. The officer’s report to Committee states as follows:

“The Council’s highways team has been consulted on the application, who raised no objection in principle but recommend that the car-parking spaces be formally marked out and that at least one disabled bay be provided. Cycle parking is also recommended. Details of both car parking and cycle parking will be secured via condition, to be submitted prior to first occupation of the dwellings.”

5.46 All relevant matters raised by objectors have been addressed and these proposals are fully policy compliant.

5.47 In addition, as noted and given weight by the Inspector in the February 2021 decision: *“The proposed development would provide additional housing, contribute to the mix of accommodation in the area and bring a vacant building back into use.”*

5.48 Therefore, taking all of these matters into account, this appeal should be allowed.

6.0 PLANNING CONDITIONS

6.1 The appellant accepts the following conditions, requested by the Council officer who originally considered the proposal and recommended it for approval, as updated by Members of the Planning and Transportation Panel, who also recommended the proposal for approval, should the Inspector allow the appeal:

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

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans: - 'Proposed - Elevations' P571_301 Rev C received by the Local Planning Authority on 30th May 2022. - 'Proposed - Floor Plans' P571_220 Rev B; and 'Proposed - Site Plan' P571_210 Rev B received by the Local Planning Authority on 10th May 2022.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. The external materials used shall be in strict accordance with those in the application form and drawing 'Proposed - Elevations' P571_301 Rev C.

Reason: In order to ensure a satisfactory appearance in the interests of visual amenity in accordance with Policies DES1 and DES8 of the City of Salford Unitary Development Plan and the requirements of the National Planning Policy Framework.

4. No development shall take place, including any works of excavation or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include:

- (i) the times of construction activities on site which, unless agreed otherwise as part of the approved Statement, shall be limited to between 8am-6pm Monday to Friday and 9am-2pm Saturday only (no working on Sundays or Bank Holidays). Quieter activities which are carried out inside buildings such as electrical works,

- plumbing and plastering may take place outside of agreed working times so long as they do not result in significant disturbance to neighbouring occupiers;
- (ii) the spaces for and management of the parking of site operatives and visitors vehicles;
 - (iii) the storage and management of plant and materials (including loading and unloading activities);
 - (iv) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;
 - (v) measures to prevent the deposition of dirt on the public highway;
 - (vi) measures to control the emission of dust and dirt during demolition/construction;
 - (vii) a scheme for recycling/disposing of waste resulting from demolition/construction works;
 - (viii) measures to minimise disturbance to any neighbouring occupiers from noise and vibration, including from any piling activity;
 - (ix) measures to prevent the pollution of watercourses;
 - (x) a community engagement strategy which explains how local neighbours will be kept updated on the construction process, key milestones, and how they can report to the site manager or other appropriate representative of the developer, instances of unneighbourly behaviour from construction operatives. The statement shall also detail the steps that will be taken when unneighbourly behaviour has been reported. A log of all reported instances shall be kept on record and made available for inspection by the local a planning authority upon request; and
 - (xi) an intended date for the commencement of development and, following commencement, evidence of the material start on site.

Reason: In the interests of the amenity of neighbours in accordance with policies DES7 and EN17 of the Salford Unitary Development Plan and the NPPF.

Reason for pre-commencement condition: Any works on site could harm the amenity of neighbouring occupiers if not properly managed so details of the matters set out above must be submitted and agreed in advance of works starting.

5. No development shall commence until;
 - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure the site is appropriately remediated to enable safe use of the site in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
Reason for pre-commencement condition: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and scheduled before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

6. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the site is appropriately remediated to enable safe use of the site in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

7. Notwithstanding any information submitted with the application, no development shall take place until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The submitted report shall include:
- i) a Preliminary Risk Assessment report (phase 1), including a conceptual model and a site walk over survey;
 - ii) where potential risks are identified by the Preliminary Risk Assessment, a Phase 2 Site Investigation report shall also be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The

investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health, groundwater and the wider environment; and

- iii)** Should unacceptable risks be identified the applicant shall also submit and agree with the Local Planning Authority in writing a contaminated land remediation strategy prior to commencement of development. The development shall thereafter be carried out in full accordance with the duly approved remediation strategy or such varied remediation strategy as may be agreed in writing with the Local Planning Authority.

Reason: To prevent pollution of the water environment and to ensure the safe development of the site in the interests of the amenity of future occupiers in accordance with Policy EN17 of the City of Salford Unitary Development Plan and the National Planning Policy Framework.

Reason for pre-commencement condition: Any works on site could affect any contamination which may be present, and hinder the effective remediation of any contamination causing a risk to the health of future occupiers and harm to the environment, hence the initial investigation must be carried out before works commence.

- 8.** Pursuant to condition 7 and prior to first use or occupation a verification report, which validates that all remedial works undertaken on site were completed in accordance with those agreed with the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent pollution of the water environment and to ensure the safe development of the site in the interests of the amenity of future occupiers in accordance with Policy EN17 of the City of Salford Unitary Development Plan and the National Planning Policy Framework.

- 9.** (a) Notwithstanding the details shown on the approved plans, the development hereby permitted shall not be occupied until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. The details shall include the formation of any banks, terraces or other earthworks, hard surfaced areas and materials, boundary treatments, external lighting, planting plans, specifications and schedules (including planting size, species and numbers/densities),

existing plants / trees to be retained and a scheme for the timing / phasing of implementation works.

(b) The landscaping works shall be carried out in accordance with the approved scheme for timing / phasing of implementation or within 18 months of first occupation of the development hereby permitted, whichever is the later.

(c) 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 in accordance with Policies DES1 and DES9 of the City of Salford Unitary Development Plan and the National Planning Policy Framework.

- 10.** Notwithstanding the details shown on drawing 'Proposed - Site Plan' P571_210 Rev B, prior to first occupation of the development hereby permitted full details of the cycle parking provision shall be submitted to and approved by the Local Planning Authority. This should include quantity, type, location and size of the provision. The agreed facility shall be implemented prior to first use of the development.

Reason: To encourage more sustainable modes of travel in accordance with policies ST14, A2 and A10 of the City of Salford Unitary Development Plan and the National Planning Policy Framework.

- 11.** Prior to first occupation of the development hereby approved, the vehicle parking arrangements to serve the development hereby permitted shall be laid out as shown on drawing 'Proposed - Site Plan' P571_210 Rev B received by the Local Planning Authority on 10th May 2022 and made available for use. Thereafter, the vehicular parking shall be retained for its intended purpose.

Reason: In the interest of highway safety and the free flow of traffic and in accordance with policies A2, A8 and A10 of the City of Salford Unitary Development Plan and the National Planning Policy Framework.

7.0 CONCLUSION

- 7.1 This planning appeal follows the dismissal of an earlier, similar scheme at appeal in February 2021. In that appeal, the Inspector endorsed the scheme in almost all respects, with the exception of one unit, Unit E, due its size.
- 7.2 The current proposals remedy the previous size deficiency and have been demonstrated (as supported by officers at the Planning Committee) to comply with adopted Local Plan policy in all material respects.
- 7.3 The Committee, in refusing planning permission, sought to undermine the weight to be given to the previous Inspector's findings by drawing distinctions between the appeal scheme then and the revised layout. However, this approach does not stand up to scrutiny as the layout and standard of the accommodation of every single apartment proposed is either unchanged or improved in some material respect from the previous appeal scheme. We have further demonstrated with regard to the BRE Sunlight and Daylight Guidance of June 2022 that the proposed development would meet those standards.
- 7.4 Reference at Committee was also made to emerging local plan policies, in particular regarding the possible incorporation of the NDSS into local plan policy. However, the significant weight given to this policy in the circumstances is premature as this policy is subject to significant objection and its timescale and likelihood of adoption is uncertain. In the meantime, greater weight should be given to the adopted Local Plan policies with regard to the primacy of the adopted development plan in law over other material considerations.
- 7.5 In the alternative, if the Inspector was minded to attach greater weight to the emerging local plan policies, then as shown above, there is sufficient flexibility in the drafting and application of Draft Policy H2 and Draft Policy D5 such as to be applied favourably to this scheme. This is reflected in the comments of the last appeal Inspector in February 2021 when considering the proposed layout and internal space of the proposed apartments with regards to the NDSS.
- 7.6 In the further alternative, if ultimately considered necessary to make the proposed layout policy compliant and as suggested in Draft Policy H2, the Inspector may impose a planning condition requiring that the development provide fully-furnished layouts, such that the development would then be exempt from meeting the NDSS and in compliance with draft Policy H2.

- 7.7 Therefore, the proposed scheme in this appeal would comply with Policy DES7 of the adopted Local Plan, Policy HOU2 of the Housing SPG, the NPPF and the Publication Draft of the Local Plan, Policies H2 and D5, in all material respects.
- 7.8 All other issues as raised by the third parties in the application were found with good reason by officers to be without merit and did not warrant planning reasons for refusal.
- 7.9 The proposed development would provide additional housing, contribute to the mix of accommodation in the area and bring a vacant building back into use.
- 7.10 Therefore, with regard to all the above, we respectfully invite the Inspector to allow this appeal.