

Appeal Decisions

Site visit made on 1 November 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2016

Appeal A

Ref: APP/P1805/W/16/3147475

Former Fire Station and Library Building, Windsor Street, Bromsgrove, Worcestershire B60 2BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by McCarthy & Stone Retirement Lifestyles Ltd against the decision of Bromsgrove District Council.
 - The application Ref 15/0836, dated 28 September 2015, was refused by notice dated 10 December 2015.
 - The development proposed is demolition of existing buildings and erection of retirement living housing for the elderly (category II type accommodation), including communal facilities, landscaping and car parking and affordable housing.
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Appeal B

Ref: APP/P1805/W/16/3153609

Former Fire Station and Library Building, Windsor Street, Bromsgrove, Worcestershire B60 2BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by McCarthy & Stone Retirement Lifestyles Ltd against the decision of Bromsgrove District Council.
 - The application Ref 16/0191, dated 26 February 2016, was refused by notice dated 10 May 2016.
 - The development proposed is demolition of existing buildings and erection of retirement living housing for the elderly (category II type accommodation), including communal facilities, landscaping and car parking and affordable housing. Resubmission of application ref 15/0836.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural matters

3. These two appeals relate to the same site and are alternative designs. The differences between the two schemes relate to the market retirement living
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housing block. These, simply, are differences to the extent of the building that faces Windsor Street, and a number of design differences principally relating to ground floor level. The main issues are the same on both schemes and can be addressed together, although where there are differences between the schemes these will be identified.

4. Two Planning Obligations made by way of Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) to Bromsgrove District Council dated 28 November 2016 have been submitted; one relating to each scheme, The Council was given the opportunity to make comment on these obligations and confirmed it considered them acceptable. I will cover these later.

Main Issues

5. The main issues are:

- the effect on the character and appearance of the area, including on the setting of a number of listed buildings and on the setting of the Bromsgrove Town Conservation Area (the BTCA);
- the effect on highway safety in relation to parking, access and servicing; and
- whether the proposals make appropriate provision for affordable housing and infrastructure.

Reasons

Character and appearance

6. The appeals site lies to the southeast of the pedestrianised Bromsgrove High Street. Windsor Street provides the rear servicing to one side of the High Street. The topography of the appeals site slopes up away from the High Street, with the front (Windsor Street) section being at a slightly higher level. The land to the rear slopes up quite steeply. There is a retaining wall defining part of the rear boundary of the site with a day centre at a higher level. Beyond the site of the day centre is the Grade II listed Wendron House on higher land.
7. The BTCA covers the High Street and roads at either end. In the vicinity of the appeals site the BTCA extends to the opposite side of Windsor Street. However there is a small outlier of the BTCA along Chapel Street adjacent to the south of the appeals site which also rises in level. On the appeals site side of Chapel Street, adjacent to the appeals site, is the Grade II listed Congregational Chapel (also known as the United Reformed Church (URC) Chapel). On the other side of Chapel Street is the Grade II listed Sunday School building. There are a number of other Grade II listed buildings opposite and near to the appeals site fronting the High Street although serviced from Windsor Street. Directly opposite the appeals site are 120 High Street and 126-130 High Street. Opposite the Congregational Chapel and Sunday School are 108 and 110 High Street, and 112 High Street.
8. On the appeals site side of Windsor Street at its junction with Stratford Road is a tyre replacement workshop. In front of part of the appeals site facing

- Stratford Road and further along Stratford Road are a number of two storey dwellings.
9. The appeals site currently features a number of large buildings being the former Bromsgrove library and fire station. The library, with a car park in front, faces Stratford Road and is a part two, part three storey flat roofed building. The fire station is a long, horizontal building, generally three storeys in height, although the central section only has two storeys, but the ground floor level where the fire appliances were parked, is relatively tall. At the Congregational Chapel end of the appeals site is a five storey flat roofed building linked by an enclosed aerial walkway to the main fire station. To the rear of this part of the site is a fire tower. The remaining area of the site is laid to hardstanding. From the Heritage Statement submitted with the applications it can be deduced that the existing buildings were constructed in the late 1960s/early 1970s.
 10. The proposals are to demolish all the buildings on site, undertake some changes in levels, and construct, in each appeal case, two buildings with an access way through the site to the day centre and Wendron House. Both buildings would be occupied by those of 60 years or over (although younger spouses may also occupy them).
 11. On the site of the library building and northern part of the fire station would be a 'J' shaped block, for affordable housing. This would be predominantly three and four storeys in height, although two storeys in height immediately to the rear of 2, 4 and 6 Stratford Road. This building would be the same in both appeals. For nomenclature purposes I will call this 'the Affordable Block'. Access for the car parking for this would be from Stratford Road.
 12. On the remainder of the appeals site would be a three and mostly four storey building. I will call this 'the Market Block'. In each case, the building would predominantly address the proposed new access road with an area of car parking in front. In Appeal A, the section of the building proposed to face Windsor Street would be the width of two flats. In Appeal B this would be wider with a secondary entrance, accessed by steps or a ramp marked by a design feature.
 13. The National Planning Policy Framework (the Framework) defines "significance" as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
 14. The Council published a Bromsgrove Town Conservation Area Appraisal in June 2011. This notes the predominant form of development derives from the mediaeval burgrave plots. The BTCA has been divided into a number of Character Areas with the section opposite the appeals site being in Zone 2: High Street and that to the side in the outlier being in Zone 5: New Road/Chapel Street.
 15. The main parties agree that the current buildings are negative features on the setting of the BTCA and on the settings of the adjoining listed buildings. This derives principally from the size and scale of the buildings and the materials used, and the extent of hardstanding.

16. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) state, respectively, that special regard or attention should be paid to the desirability of preserving or enhancing the setting of any listed building and preserving or enhancing the character or appearance of the conservation area. However, to only preserve the current situation, in the sense of affecting the significance so that its appreciation would be made no worse as a result of the proposed development, would mean that the current negative situation would continue. I therefore, in the circumstances of these cases, give more weight to paragraphs 64 and 131 of the Framework which indicate that permission should be refused for development of poor design that fails to take opportunities for improving the character and quality of an area and the way it functions, and that account should be taken of the desirability of new development making a positive contribution to local character and distinctiveness.
17. Of all the listed buildings in the vicinity of the appeals site the setting of the Congregational Chapel would be the most affected by the proposals. Currently there is a narrow five storey building in close proximity. The proposals, while reducing the height by a single storey, would substantially increase the depth, and bring building slightly closer than at present. This would encroach into the space to the side and rear of the Chapel adversely affecting its setting and the amount of light through the side window at the end of the building away from Windsor Street. This would harm the setting of the listed building, although in terms of the Framework this would lead to less than substantial harm.
18. While there is intervisibility between the appeals site and the other listed buildings in the area there is sufficient separation so that there would be less effect on their settings. In relation to 108, 110 and 112 High Street and the Sunday School the effect would be neutral as the increased depth of the proposed building would be behind the Congregational Chapel. The proposed development would also have a neutral effect on the settings of 120 and 126-130 High Street as the amount of building would not materially change.
19. In both appeals the new access road through the centre of the site would open up views of Waldron House and would allow appreciation of its setting and significance. However, as the access road would be essentially a cul-de-sac it is unlikely that it would encourage those without business to enter into this area to use it and I therefore give this benefit only a small amount of positive weight.
20. Windsor Street provides rear servicing to the properties in the High Street. However, it also remains an important thoroughfare for those visiting the area. The form of development currently provides a backdrop to the BTCA and a sense of enclosure. The proposed development would break up this frontage and would introduce a new access road through the centre of the site. Although the gap between the Affordable Block and the Market Block in Appeal B would be smaller than that in Appeal A, in both cases this gap would be at odds with the more enclosed building form in the area.
21. In addition, due to the level change across the appeals site the ground level of the building would be raised from that at present. This increases the apparent height of the buildings, particularly along Windsor Street, increasing the harmful effect on the street scene and the setting of the BTCA.

22. The development of a new road would, with the car parking at the front of the Market Block, create a large open area of hardstanding. Even with the additional landscaping proposed in Appeal B neither proposal would create a high quality environment. This would be viewed from within the BTCA, would create part of the setting of the BTCA. All this would be harmful to the setting of the BTCA, but, in terms of the Framework, would also be of less than substantial harm.
23. Although the proposed buildings would be more modern, they follow an essentially generic design approach and cannot be said to be a high quality design responding to the challenges of the site to bring forward an enhancement or improvement to the area. The design form of the building facing Windsor Street would not respond to the vertical nature of the designs of buildings in the area. This is because the individual sections would be square being based on a three by three grid.
24. On the other side of the access road the Affordable Block would be only a very short distance from the new access road. This would be four storeys high and would create a massive bulk very close to the access road with insufficient landscaping to ameliorate these harmful effects.
25. The Council has criticised the materials proposed, in particular the 'grey' sections which form part of the designs of both blocks. The appellant has indicated that this is, in part, to break up the extent of building. While precise details of materials to be used could be dealt with by condition, this does show a weakness of the design. The over use of the local red brick can result in a large building appearing very heavy and massive but the use of inappropriate materials, out of keeping with the area, would be as harmful.
26. Viewing the site from Stratford Road the Affordable Block would substantially increase the amount of building. Again this would be emphasised by the level change across the site. However this would be set well back from the road and, given that this area is not part of the BTCA, of itself, would be acceptable.
27. Overall, the proposed developments would have a harmful effect on the character and appearance of the area and on the setting the Congregational Chapel and the setting of the BTCA and would not, overall, provide an improvement on the current negative situations. As such the proposals would be contrary to Policies S35A, S36, S7 and DS13 of the Bromsgrove District Council Local Plan 2004 (the BDLP) in that they would not be sympathetic to the character of the conservation area in terms of design form or built form, the form and layout would not be appropriate to the area, or protect the character of the Bromsgrove settlement. They would also be contrary to paragraphs 64 and 131 of the Framework as set out above.

Highway safety

28. The Council has raised objections based on what it sees as a lack of parking, unsatisfactory servicing arrangements and access to the buildings.
29. In relation to parking the Council has referred to its recently adopted Interim Parking Standards. For flats with communal parking this sets standards of one car space per one-bedroom flat and two spaces for two-bedroom flats. It also sets cycle parking standards at the same ratios.

30. Paragraph 39 of the Framework indicates that in setting local parking standards, local planning authorities should take account of a number of factors. Included within these are the accessibility of the development, the type, mix and use of development and the availability and opportunities for public transport.
31. While the Interim Parking Standards document notes that in town centres it may be appropriate not to provide car parking spaces at all, it does not appear to consider the situation where a site is reasonably accessible and less parking than the standard is appropriate due to that accessibility. The standards also appear not to make a difference according to the nature of the residential development, as here where the occupation would be restricted.
32. The appellant has provided information as to parking at other sites for this type of accommodation. It has also provided information on schemes granted elsewhere, but I give this lesser weight as it does not set out what, if any, standard the provision was made against, or whether, when in operation, there was a surplus or insufficiency of parking provision.
33. Given the location of the development in close proximity to the town centre, that there is public transport nearby and the nature of the development, along with the information from the appellant on the nature of demand from other schemes, I am satisfied that adequate provision for parking would be made. In addition, I note that there are public car parks in relative close proximity to the site so that visitors would be able to park nearby should all the on-site spaces be occupied.
34. Similarly, while appropriate levels of cycle storage should be provided this should also take account of the nature of the use. Given this would be for an age restricted population I consider that the level of cycle storage sought would be excessive, and in any event it would be possible to utilise the buggy stores for bicycle parking.
35. The Highway Authority, through the Council, has also expressed concern about servicing of the development, principally in relation to refuse collections, and this would also apply to other large delivery vehicles. In relation to the Market Block the access road would not have the normal radii at the junction with Windsor Street. The appellant has set out a number of vehicle tracks to show that a refuse freighter could turn into and out from the access road.
36. The proposals require the access gates to be fitted with a movement sensor so that they would open automatically to allow a refuse freighter or other heavy goods vehicle to reverse into the site and thus turn on to the access road. This would be designing in a potential failure should the gates not operate. In this event the vehicles would be required to reverse back into Windsor Street. This would lead to potential conflicts with vehicles travelling on Windsor Street detrimental to highway safety.
37. In relation to Appeal A the access road would only have 1 m wide footways on either side. This is below the normal standard of 2 m. While the distance between Windsor Street and the new access is not a long length it would mean that when those with physical impairments or those utilising buggies, whether for mobility reasons or for infants, met they could not pass on the footway and one would have to move into the carriageway. This is not a satisfactory situation. Furthermore, there is no pedestrian access shown at the gates.

Anyone using the footway would have to step into the carriageway, and given this is part of a turning head this is not a safe situation.

38. In Appeal B, however, there would be a 2 m wide footway on one side and a pedestrian gate at the entrance to the site. However, the vehicle track provided by the Highway Authority shows that due the lack of turning radii to egress the access road onto Windsor Street a refuse freighter would have to swing over the footway. This swept path would also apply to other heavy goods vehicles servicing the Market Block. While this will not be a frequent occurrence it seems to me that this is designing in an unsatisfactory and unsafe situation, and is not good design.
39. The Highway Authority is also concerned about servicing of the Affordable Block from Stratford Road. This only applies to Appeal A as in Appeal B the refuse freighter would access the bin store from the access road, with the unsatisfactory situation I have already described for the Market Block. In Appeal A a refuse collection area is shown adjacent to Stratford Road. Given that collections would only be for a relatively short period of time, I am satisfied, even taking into account the proximity of the location with the junctions of Stratford Road with both Windsor Street and School Drive, that this would not result in an unsafe highway situation.
40. However, while there would be sufficient parking and, in Appeal A servicing arrangements for the Affordable Block, in both appeals due to the lack of appropriate radii at the junction of Windsor Street with the new access road, the lack of appropriate space to allow a refuse freighter or other heavy goods vehicle to turn, and in the case of Appeal A an inadequate width to the footway and access into the site for pedestrians, the proposals would have a harmful effect on highway safety. As such they would be contrary to Policy TR11 of the BDLP which requires that all development incorporates safe means of access and egress appropriate to the nature of the local highway network. They would also be contrary to paragraph 32 of the Framework which requires safe and suitable access to the site for all people.

Affordable housing and infrastructure

41. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the Obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
42. Regulation 123 of the CIL Regulations also states a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure where five or more separate planning obligations provide for the funding or provision of that project or provide for the funding or provision of that type of infrastructure.
43. The Planning Obligations provide for the Affordable Block to be affordable housing. Policy BDP8 of the Bromsgrove District Plan Proposed Submission (the BDPPS) indicates that where there is a net increase of ten or more

dwellings, on brownfield sites such as this accommodating less than 200 dwellings, 30% of the dwellings will be expected to be affordable housing. In making provision for 37 affordable dwellings the proposal would deliver 43% of the total number of dwellings as affordable dwellings. While this is an emerging policy of lesser weight in line with paragraph 216 of the Framework I am satisfied the provision of affordable housing is necessary to make the development acceptable, is directly related to the development and fairly and reasonably related in scale and kind to the development. As affordable housing does not represent infrastructure under the CIL Regulations Regulation 123 is not engaged. The additional provision of affordable housing above the policy requirement will be considered in the planning balance below.

44. The Planning Obligations make a contribution towards outdoor adult gym equipment, improvements to a bandstand and a path round it, and benches around said bandstand. Policy RAT5 of the BDLP seeks the provision of contributions towards public open space, and I am satisfied that the additional population occasioned by the development justifies such a contribution. The Council explains that its Supplementary Planning Guidance 'Outdoor Play Space' provides a formula for calculating provision, but this is not directly applicable due to the age restricted accommodation where children are not present. However, it seems to me that the sums sought and secured in the Planning Obligations are directly related to the development and fairly and reasonably related in scale and kind to the development and are thus appropriate.
45. The Planning Obligations also make provision for a contribution towards the provision of waste facilities on site in line with Policy WCS 17 of the Worcestershire County Waste Core Strategy. I am therefore satisfied that these Obligations are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.

Other matters

46. Under Policy BDP17 of the BDPPS the site is allocated for a retail led mixed use scheme. However, while the plan has been examined and no objections submitted in relation to this allocation, this plan, in line with paragraph 216 of the Framework, does not have full weight. Set against this is Policy BROM11 of the BDLP which allows, in principle, residential development of the site. I am satisfied that the benefits of a residential scheme, had everything else been acceptable, would have been sufficient to outweigh this conflict with that emerging policy.

Planning Balance

47. The Framework indicates in paragraphs 6, 7 and 8 that the purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development has three roles, economic, social and environmental which cannot be undertaken in isolation because they are mutually dependent.
48. The proposals would have economic benefits both during construction and when operational. They would also provide housing, a social benefit, and a level of affordable housing above that required by emerging development plan policy, for a section of the population where there is a particular need thereby releasing under-occupied property into the housing supply, both market and

social, and this adds to the social benefit. I give these benefits significant weight. They would also represent the redevelopment of previously developed land, which in line with paragraph 111 of the Framework, should be re-used provided it is not of high environmental quality, in an accessible location.

49. However, the proposals would be harmful to the setting of the Congregational Chapel and the BTCA, to which special attention should be given, and cause less than substantial harm to both the setting of the Congregational Chapel and the setting of the BTCA. In both cases this harm, in line with paragraph 134 of the Framework, should be weighed against the public benefits of the proposals. In these cases the public benefits are the economic and social benefits set out above.
50. For the reasons set out above the proposals would not provide a safe and suitable access and I give this very significant weight against the proposals. They would also not, overall, improve the current negative effect of the existing development on the environment. I give this failure, for the reasons set out above, also very significant weight against the development. Both of these deficiencies are aspects of good design which would not be exhibited. As paragraph 56 of the Framework makes clear good design is a key aspect of sustainable development. Overall I consider that the public benefits do not outweigh the harms I have identified and the proposal would not comply with the development plan as a whole.

Conclusion

51. For the reasons given above, and taking all other matters into consideration, I conclude that the appeals should be dismissed.

RJ Jackson

INSPECTOR