

Appeal Decision

Inquiry opened on 29 November 2016

Site visit carried out on the same day

by Jennifer A Vyse DipTP MRTPI

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

Decision date: 17 January 2017

Appeal Ref: APP/D4635/W/16/3150728

Tettenhall College, Wood Road, Wolverhampton WV6 8QX

- 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 Yourlife Management Services Limited against the decision of the Wolverhampton City Council.
 - The application, No 15/00518/FUL, dated 15 May 2015, was refused by a notice dated 3 December 2015.
 - The development proposed comprises the erection of extra care accommodation (30 one bedroom and 28 two bedroom apartments) for the elderly, communal facilities, landscaping and car parking; provision of new parking area and two multi-use games areas.
-

Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for the erection of extra care accommodation (30 one bedroom and 28 two bedroom apartments) for the elderly, communal facilities, landscaping and car parking; provision of new parking area and two multi-use games areas at Tettenhall College, Wood Road, Wolverhampton, in accordance with the terms of the application, No 15/00518/FUL, dated 15 May 2015, subject to the conditions set out in the attached schedule.

Preliminary and Procedural Matters

2. The description of development set out above is a slightly amended version of that set out on the application form. It was used by the Council in consulting on the application and is the description used on the Decision Notice. Whilst the agreement of the appellant to the amended wording was not sought at that time, it was confirmed at the Inquiry that no objection was raised in this regard.
 3. The Council's Decision Notice set out a single reason for refusal, based on the absence of any affordable housing provision pursuant to policy HOU3 of the Black Country Core Strategy (adopted February 2011). However, shortly before the Inquiry, having given careful consideration to the evidence produced by the appellant, the Council confirmed that it was satisfied that the development scheme comprised development that did fall within Use Class C2, as opposed to C3 and thus, policy HOU3 was not engaged. On that basis, the Council did not pursue the reason for refusal at the Inquiry and its evidence was withdrawn.
 4. As a consequence of the above, the main business of the Inquiry was concluded on 29 November, including hearing from those local residents who
-

were present, who also asked questions of the appellant's witnesses and took part in the discussion on possible conditions, were the appeal to succeed. However, it transpired that there was potential ambiguity in the Inquiry Notification letter sent out by the Council in terms of the Inquiry arrangements. In the interest of fairness, I adjourned the Inquiry at the end of proceedings on 29 November, and made arrangements to allow for any further submissions in writing from any interested parties. No additional letters were received within the prescribed period and the Inquiry was closed in writing on 12 December 2016.

5. On the day the Inquiry was closed, the Government issued a Written Ministerial Statement in relation to Neighbourhood Planning.¹ However, the Statement relates largely to major housing proposals. The appeal scheme does not directly relate to such. In any event, as sNeighbourhood Plan for the Tettenhall Wards 2014-2026, which was made by the City Council on 17 September 2014.

Proposal

5. The appeal site lies within the grounds of Tettenhall College and is currently occupied by a tarmac car park and tennis courts, both of which are floodlit. It is proposed to redevelop the site to provide a part three, part four storey L-shaped building, comprising 30 one-bedroom and 28 two-bedroom extra care apartments with communal facilities (including residents' lounge, dining room and function room, staff accommodation, refuse store, laundry, mobility scooter charging points and guest suite) plus outdoor space. Some 27 car parking spaces are shown in connection with the residential accommodation, located to the side and rear of the proposed building, access to which would be via the existing car park access off Wood Road. The scheme also includes two multi-use games areas (MUGAs) between the proposed accommodation and existing school buildings to the north-east, in lieu of the existing tennis courts. A total of 36 parking spaces is proposed in connection with that element of the appeal scheme, located to the front of the games areas. Access to that parking would be via the existing school access.

Reasons for the Decision

6. No evidence was before me to suggest a view contrary to that agreed by the main parties, as set out in the Statement of Common Ground, that what is proposed is Class C2 accommodation. On that basis, the main issue in this case, namely whether the scheme should make provision for a contribution towards affordable housing, has fallen away. Nevertheless, I have a statutory duty consider the effect of the development proposed on the special interest of nearby listed buildings and whether it would preserve or enhance the character or appearance of the Conservation Area within which the site lies, a matter about which local residents were particularly concerned. Local residents also raised concerns in relation to parking and highway safety, the need for the scheme proposed, living conditions in relation to noise, disturbance and floodlighting associated with use of the proposed MUGAs, and flooding.

Heritage Assets/Character and Appearance

7. The appeal site lies within Tettenhall Greens Conservation Area. The character,

¹ Neighbourhood Planning: Written Statement - HCWS346 12 December 2016

appearance and heritage significance of this leafy, now largely residential Conservation Area derives in no small part from the historic settlement centre of Tettenhall that developed on the hilltop around the large open space of Upper Green. However, the Conservation Area Review² notes that, in addition to its historic buildings, the visual and historic interest of the many surviving old site boundaries, a significant number of which comprise distinctive stone walls such as that fronting the appeal site, together with much mature ornamental tree planting, also makes a significant contribution to the character and appearance of the Conservation Area.

8. On the eastern side of Wood Road, the grounds of large Victorian mansions have been converted to new uses, including Tettenhall College, an independent school with grounds running down the ridge to Henwood Road. The appeal site lies within and at the south-western end of the college grounds. The college developed within the grounds of the Old House, a Georgian gentleman's residence. Its early buildings are close to the centre of Tettenhall, along College Road. The college subsequently extended through the purchase of the grade II* listed Tettenhall Towers, with a range of different buildings erected over the ensuing years within its grounds.
9. Tettenhall Towers, and the grade II listed stables and lodge behind, are separated from the appeal site by modern school buildings. It was originally constructed in the late C18 but was extensively altered and extended in the C19. Its special interest and heritage significance derive from its architectural and historic interest. The development proposed would have no direct impact on the listed building itself. The setting of the listed building includes its surviving grounds, which have been extensively developed with school buildings, and Wood Road itself. The attributes of its setting that contribute to the significance of Tettenhall Towers are, primarily, its relationship with the lodge and former stables, and the boundary wall to Wood Road, together with a small garden area to the south and the mature trees within its grounds. There are no significant views of Tettenhall Towers across the appeal site, with the only elements of the appeal site that make some contribution to the significance of the listed Towers being the trees along the road frontage and the stone boundary wall.
10. The proposed development would involve the construction of a substantial building but, as a result of its distance from Tettenhall Towers and the intervening school buildings, it would not be seen in any key view to or from the listed building. Moreover, none of the attributes of setting that contribute positively to the significance of the listed building would be altered or lost. There would be no harm to the special interest or heritage significance of Tettenhall Towers.
11. The high stone boundary wall that runs along the length of the site frontage, together with its associated stone gate posts, is grade II listed. The wall and gateposts date from the early C19 and, I understand, are a legacy of the construction of Wood Road following enclosure of the common in 1809 and of the extent of the old Woodhouse Hall Estate. Notwithstanding that the south-western end of the wall and associated gate posts appears to have been rebuilt on a new alignment to provide a visibility splay for the site entrance at some time in the past, I consider that its special interest and heritage significance

² Tettenhall Greens Conservation Area Review (2003)

derives from its architectural and historic interest. Those aspects of the setting of the listed wall that contribute to its heritage significance primarily comprise its relationship with Tettenhall Towers, the lodge and former stables, together with the trees close to the wall and the line of Wood Road. The elements of the appeal site that make some contribution to the significance of the wall are the trees alongside the wall, all but a couple of which would be retained.

12. Vehicular access to the proposed residential accommodation would utilise the existing access from Wood Road. The existing stone wall and gate piers at the entrance would be retained unaltered, although the width of the present vehicular gates themselves would be reduced and a separate pedestrian access gate provided. The new building would be sited approximately 14 metres away from the boundary wall. The closest part of the wall to the new building would be that section which has been rebuilt, with the remainder screened by intervening trees and vegetation. I recognise, notwithstanding existing planting along the road frontage, together with the additional planting proposed, that the new building would be seen in views from Wood Road, particularly the southern end, adjacent to the site entrance and car park. However, the wall was clearly intended to screen private grounds in which there would be buildings. I am satisfied, in this regard, that none of the attributes of setting that make a positive contribution to the special architectural or historic interest of the listed wall and gate posts, or their heritage significance, would be adversely affected by the development proposed.
13. Nearly all the trees on the site, including those along the site frontage and the rear boundary, and those between the car park and the tennis courts, together with those to the rear of the car park, are included within an extensive woodland Tree Preservation Order, with the trees to the rear of the site also comprising Ancient Woodland. The vast majority of the trees on the site are to be retained, with the few shown as being felled categorised as C1, ie specimens of low quality. Importantly, within the belt of trees that runs along the site frontage, behind the boundary walling, only two are shown to be removed: one is noted as having an etiolated stem with a small crown, the other being rather poor with a bias to the south-east. I am satisfied that, in combination with a robust landscaping scheme, including new trees between the proposed building and the stone boundary wall along the Wood Road frontage, which could be secured by condition, there would be no material harm to the character or appearance of the Conservation Area as a consequence of the very small number of trees that would be lost.
14. The existing car park and tennis courts on the appeal site do not make any positive contribution to the character, appearance or heritage significance of the Conservation Area. That is in part due to their location behind the boundary wall. I also saw that whilst the pattern of development on this side of Wood Road is mixed, in the vicinity of the appeal site it comprises large buildings related to the college and the adjacent Nuffield hospital (which lies to the south of the appeal site, outwith the Conservation Area) which are generally set well back from the road, with privacy provided by high walls, fences or hedges. These strong defined boundaries also create a distinctive sense of enclosure along the road.
15. As noted earlier, the building proposed would be set back roughly 14 metres or so behind the boundary wall. Even so, notwithstanding the tree belt along the

site frontage, behind the boundary wall, the building, particularly the southern end, would be seen from the street. Whilst the Council took no issue in terms of the design of the building proposed, this was a matter of considerable concern to local residents.

16. The building would be seen in the context of other 'set piece' buildings that sit within their own grounds – the Nuffield Hospital to one side (largely three storeys with a flat roof) and Tettenhall College to the other, the nearest buildings of which are one/two storey. In plan form, whilst the development proposed would comprise a single large block, it would not be viewed from above. Rather, it is its elevations that would be viewed, particularly the elevation to Wood Road and that facing the MUGAs. I find the elevations to be carefully articulated, comprising a number of distinct elements, including projecting bays of height, a central recessed section and glazed balconies, set below a low pitched roof. The treatment of the elevations, including the mix of brickwork and rendered sections, would break up the overall composition into smaller scale sections, giving the appearance more of a series of linked buildings.
17. The limited fourth storey of accommodation is located to the rear of the building and would not be visible from the road frontage or other semi-public views. As such, I find the scale of development proposed, including its footprint, to be compatible with its setting. All in all, I am satisfied that the three storey form proposed along the site frontage, returning alongside the proposed MUGAs, is an appropriate response to its context.
18. Local residents at the Inquiry referred to the appeal scheme intruding into views of the Conservation Area from the far side of the Smestow Valley. I note, in this regard, that policy TNP12 Part B of the Neighbourhood Plan requires that new development should take account of and protect important views. However, the belt of Ancient Woodland along the rear of the site would be untouched by the development proposed and would screen the proposed building in those longer range views. I find no harm in this regard.
19. To my mind, the design, architectural detailing and three dimensional modelling to the elevations would provide a harmonious composition that is respectful of its setting and surroundings. Whilst I recognise that the southern end of the building would be more visible from Wood Road than the rest of the scheme, I am satisfied that, in its particular context, the building takes account of the spacing between existing buildings and that it would not unduly intrude or impose itself into the street scene. I find that there would be no harm therefore, to the character or appearance of the Conservation Area as a consequence of the scheme proposed. In particular, there would be no conflict with policy TNP12Part A of the Neighbourhood Plan, which requires that new development should respect and reinforce the established character of the area, or with policy TNP12Part D, which seeks to sustain, reinforce and conserve the historic aspects and special character of the area,

Parking and highway safety

20. The evidence of the appellant, as set out in the transport statement submitted with the planning application, which is based on traffic surveys of other assisted living schemes which are directly comparable to the appeal scheme, is that parking demand (including visitors, staff and cars owned by apartment residents) is approximately 0.37 per apartment. That suggests a total

provision of some 22 spaces for the 58 apartments proposed. The appeal scheme includes 27 spaces.

21. Whilst local residents contested that figure, maintaining that demand for parking would be higher, particularly at staff changeover times, no substantiated evidence was before me to challenge or undermine the appellant's figures. As argued by the appellant at the Inquiry, it is not in the best interest of the facility to underprovide parking. The site is reasonably well located for at least some staff to walk or travel by bus. Moreover, occupation of the accommodation would be restricted to residents aged 70 or over, with care needs, which may imply lower car ownership than might otherwise be the case. Furthermore, the site is in close proximity to facilities on Tettenhall High Street, which would be accessible to more mobile future residents. I note, in this regard, that it is proposed to install a zebra crossing adjacent to the appeal site to facilitate crossing of Wood Road to access the footway on the other side of the road, which links directly to the High Street.
22. In terms of trip generation, the evidence of the appellant, again based on surveys of existing sites, is that six additional trips are likely to be generated during the morning peak (08.00-09.00 hours) with eight additional trips during the evening peak (17.00-18.00 hours). A total of 104 additional trips is likely over a twelve hour day (07.00-19.00). Due to the central location of the site, the transport statement concludes that it is unlikely that these additional trips would be noticed behind the daily fluctuations of traffic flow on Wood Road.
23. In the absence of any technical or cogent evidence to the contrary, I have no reason to suppose that the parking provision shown for the extra care accommodation is likely to be insufficient, such that there would be increased demand for on-street parking in the area. Similarly, whilst traffic may well be heavy along Wood Road, particularly at peak times, the evidence before me does not suggest that the additional trips generated by the development proposed would be likely to result in a material increase in congestion, or would result in highway safety issues. I am mindful, in this regard, that the Council, having considered the transport statement, was satisfied that the development would not result in any serious highways issues.

Need

24. I was advised that there are a number of homes for the elderly in the Tettenhall area, with local residents questioning the need for the development proposed. Concerns were also raised about increased demand on social services.
25. There is no requirement for the appellant to demonstrate a need for the development proposed. Nevertheless, I am mindful that, under the umbrella of national policies and guidance on such matters, the Council has adopted a raft of documents³ that together and among other things identify the needs of Wolverhampton's ageing population as a concern, with an expected 26% increase of people over 65 by 2030, with a 59% increase in those aged 85 and

³ Including Neighbourhoods, Homes and People: Wolverhampton Housing Strategy 2013-2018; Market Position Statement for Care and Support for Older People in Wolverhampton 2015-2017; Housing Strategy for Older People; Wolverhampton Housing Futures Plan 2009-2026: Vision, Strategy and Action Plan; and Every Adult Matters: a strategy to promote independence, well-being and choice. Delivering today prepared for tomorrow (April 2006).

over.⁴ I was advised that support services are usually only available to older people who are tenants, on a social rented basis, resulting in the majority, who are owner occupiers, being less able to access such services. I understand, in this regard, that there is very limited provision for those who wish to retain some degree of control over their own way of life, including maintenance of tenure of home ownership, whilst moving in to extra care accommodation. To that end, the Council identifies a need to broaden out the support service, currently only available in sheltered schemes, to provide a service to older people in the wider community, the policies and strategies of the Council embracing the extra care model as an alternative to traditional residential care. The planning officer's report also comments that the Tettenhall Neighbourhood Plan identifies a need for smaller housing and apartments for the elderly.

26. The accommodation proposed resonates with the key characteristics identified by the Council in describing the model of extra care accommodation that it recognises as a successful alternative to traditional residential care, but which is provided in the context of private sector provision for which there is presently a local deficit. As to demand on social services, it seems to me entirely possible that some existing elderly Wolverhampton residents might move into the development proposed, were the appeal to succeed, with no consequential increase in demand in services. Whilst other future residents might hail from further afield, there is no evidence before me that the appeal scheme would have a material impact on social services provision locally. I note, in this regard that there was no objection from any statutory consultee or health provider in this regard.

Multi Use Games Areas

27. Concerns were raised about the potential for noise and disturbance arising from use of the MUGAs, and also the effect of associated floodlighting. Some of those concerns were shared by the Council who suggested conditions restricting use of the games areas and their illumination to between 09.00-19.00 hours Monday-Sunday, with no use at any time on public holidays, and with use only by school students under the supervision of the College.
28. Those most likely to be affected by noise, disturbance and lighting would be the occupiers of the adjacent extra care accommodation, with a number of apartments looking directly over the games areas separated by a distance of roughly 13-15 metres. In addition, there are private dwellings on the opposite side of Wood Road, although they are located further away and are separated from the proposed MUGAs by the frontage tree belt on the site, the high stone boundary wall, and the main road.
29. Looking firstly at noise and disturbance, it was agreed during the discussion on conditions at the Inquiry, that the games areas should have lockable gates to help prevent unauthorised use of the facility. In relation to authorised use, I was advised that the areas are intended mainly for netball and tennis use, although they could also be used for football and hockey. The Council's concerns about use by non-school groups related to the potential difference in the nature of pitch activity, particularly in conjunction with the appellant's proposed hours of use (09.00-21.00 hours Monday- Sunday and not at any time on public holidays⁵). It was argued that the absence of any condition

⁴ Figures taken from page A1/23 attached to the proof of Mr Appleton

⁵ As set out in the Statement of Common Ground (paragraph 7.4)

controlling the nature of the users would allow for use by individuals, adult groups, teams or amateur leagues who would be more prone to verbal communication such as shouting and swearing etc which could cause distress or disturbance to residents.⁶

30. I understand those concerns. However, I am mindful that the scheme the subject of this appeal has evolved as a joint effort involving both the care accommodation provider and the school. The care provider is very experienced in this field and raises no objection in relation to the proximity of the games areas to the residential accommodation, or the hours of use sought. Moreover, future residents would have a choice, whether or not to purchase accommodation on the elevation that would look out across the MUGAs. It is also material that the MUGAs would be within the school grounds, with the school taking boarders whose interests and safety would be of paramount importance for the school. That is quite different, for example, from games areas within schools that have no overnight residential presence, or games areas within public open space where there may be much less natural supervision. In the circumstances, and as confirmed by Mr Way, the bursar of the college who gave evidence to the Inquiry, it seems to me that it would be in the interest of the college to manage and 'police' use of the games areas so that there was no disturbance or threat to its students, including boarders, at any time. That would also afford protection in relation to the living conditions of occupiers both of the accommodation proposed and other residents nearby. On that basis, and in conjunction with a condition to secure a management plan for the use of the games areas to minimise noise and disturbance, I am satisfied that there is no need to restrict use of the games areas just to students of the college, or to restrict hours of use to those suggested by the Council.
31. In relation to floodlighting, I saw that the existing car park and tennis courts are floodlit and note that the appeal site is in an urban/suburban location. Floodlighting of the new games areas proposed would not, therefore, introduce lighting into an area which is currently dark. Moreover, modern floodlighting can be designed such that light pollution, light intrusion and glare are minimised. Subject to the submission of a detailed scheme, I see no reason why the living conditions of nearby residents would be materially affected by the floodlighting of the games areas during the hours of use sought. Again, I am mindful that the care provider, whose clients would occupy the accommodation closest to the games areas, is content with the arrangements proposed. Existing residents on the opposite side of the main road would be much further away from the games areas, separated by the stone boundary wall and a belt of mature trees and vegetation, which would diffuse light.

Flooding

32. Local residents spoke of localised flooding issues on Wood Road in the vicinity of the appeal site, raising concerns that the development proposed would exacerbate existing problems in this regard.
33. However, I am advised that Severn Trent Water raises no objection to the proposal. Moreover, as confirmed at the Inquiry the appeal scheme, as a

⁶ The Council's concerns in this particular regard were explained in a note submitted shortly before the Inquiry opened, comprising a statement by Chris Kemp, Senior Environmental Health Officer with the Council

major development⁷, is required to ensure that sustainable drainage systems for the management of surface water run-off are put in place, unless demonstrated to be inappropriate.⁸ This is a matter that can properly be secured by condition. On that basis, whilst the development proposed could not be required to resolve any existing flooding problems, I have no reason to suppose, subject to provision of a suitable scheme, that the appeal scheme would exacerbate existing problems or increase the risk of flooding elsewhere.

Other Matters

34. Local residents referred to the possibility of badger setts within the site and use of the site by bats. I note, in this regard that bat and badger surveys were undertaken prior to the Council's determination of the application, with nothing to suggest that planning permission should be withheld in this regard. Bats and badgers are, in any event, protected species. Should such be encountered during the development process, their protection is secured by other legislation.

Conclusion

35. Paragraph 14 of the National Planning Policy Framework sets out a presumption in favour of sustainable development. For decision taking this means, among other things, approving development proposals that accord with the development plan. I have found, in this regard, that there would be no conflict with the development plan, including the Tettenhall Neighbourhood Plan. I consider therefore, that the proposal would represent a sustainable form of development and conclude that the appeal should be allowed.
36. I recognise this decision will be disappointing for those opposing the scheme. I am particularly mindful, in this regard, of the role that local people have to play in shaping their surroundings. However, the views of local residents and local groups and associations, very important though they are, must be balanced against other considerations. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan and the National Planning Policy Framework. For the reasons set out above however, the evidence in this case leads me to conclude, on balance, that the appeal should be allowed.

Conditions

37. Possible conditions were discussed in detail at the Inquiry, in the light of related advice in the National Planning Policy Framework and the Government's Planning Practice Guidance. The conditions and wording used set out in the attached schedule reflect that discussion.
38. In addition to the standard time limit on the commencement of development (1), it is necessary to ensure that the scheme is carried out in accordance with the approved plans, as this provides certainty. (2)
39. Conditions for the protection of retained trees within the site, and requiring details of a hard and soft landscaping scheme, are necessary in the interest of visual amenity, particularly given the location of the site within a Conservation

⁷ The accommodation proposed would have a floor area of almost 6,000 square metres

⁸ House of Commons Written Ministerial Statement (HCWS161)

- Area. (3, 4) To protect and enhance the wildlife resources of the site and in the interest of biodiversity, conditions are imposed relating to nesting bird surveys during the construction period and to the provision of bat and bird boxes. (5,6)
40. In order to prevent increased risk of flooding elsewhere and to minimise risk of pollution, it is necessary to secure a scheme of sustainable drainage on the site, together with details for on-going management which is essential to ensure that the scheme continues to perform as intended. (7)
41. There is reference on some of the submitted plans to a proposed pumping station to be located at the site entrance. However, no details are before me in terms of any details relating to such. Absent those details, it is not possible to judge if the suggested location is appropriate. In the interest of visual amenity, a condition is necessary to secure details of its siting design and appearance. (8) Also in the interest of visual amenity, details of external materials for the building are required (9)
42. It is necessary to ensure that the multi-use games areas proposed are provided, together with associated parking, since they are intended as a replacement facility for the tennis courts that would be lost as a consequence of the development proposed.⁹ (10, 12) Details of the design and construction of the games areas, and scheme of fencing around each is necessary to protect the visual amenity of the area and to help mitigate potential noise and disturbance. (11) Any floodlighting of the games areas would also need to be the subject of a detailed scheme to be approved by the local planning authority in the interest of visual amenity and to protect the living conditions of adjoining residents within both the extra care accommodation and those in nearby private dwellings in terms of light intrusion. (13)
43. As discussed earlier, there is a need to secure the submission and compliance with a scheme of mitigation to minimise noise and disturbance and to restrict the hours of use and associated floodlighting, in the interest of protecting the living conditions of adjoining residents within both the extra care accommodation and those in nearby private dwellings, as well as boarders at the school, although not to the extent suggested by the Council. (15, 14)
44. In the joint interests of protecting the living conditions of local residents during construction and of highway safety, it is necessary in this instance, to ensure the provision of on-site parking for operatives, as well as arrangements for on-site loading/unloading and storage of materials etc, to employ dust and noise suppression measures and control hours of working. (16, 17)
45. In order to facilitate safe pedestrian access to the adjacent bus stop and to nearby services and facilities on Tettenhall High Street, it is necessary to ensure that development is not brought into use until the zebra crossing and footway link shown on plans within the Transport Statement submitted with the planning application are installed. (18) In the interest of highway safety, the parking spaces for the extra care accommodation need to be provided before the building is brought in to use.¹⁰ (19)
46. A condition is necessary to ensure that job opportunities are made available to local people during both the construction process and operation of the extra

⁹ Submission of details of the materials for the parking areas is secured by condition 4.

¹⁰ Submission of details of the materials for the parking areas is secured by condition 4.

care home accommodation pursuant to the provisions of policy B12 of the Unitary Development Plan. (20)

47. The need to face up to climate change and promote sustainable development are key principles which underpin the vision of the Black Country Core Strategy. The use of renewable and low carbon energy has an increasingly important part to play in meeting those key principles. To that end, as required by policy ENV7 of the Core Strategy, a condition is required to ensure the generation of energy from renewable sources. (21) To mitigate the impact of the development on the environment (Core Strategy policy DEL1) and to minimise unacceptable air quality impacts through mitigation as required by the Black Country Air Quality SPD (October 2016) electric car charging points should be provided within the scheme. (22)
48. It is necessary to prevent any intensification of use through subdivision of the accommodation, given that the car parking and amenity space provision is designed for the quantum of development proposed. (23) Similarly, it is necessary place a minimum age limit on future residents of the accommodation, since it has been specifically designed to accommodate such persons in need of care and may not have sufficient facilities, such as parking or amenity space, to support other C2 uses. It was agreed at the Inquiry that a tail piece to the condition was appropriate in this instance, since it would provide some flexibility without materially affecting the nature of the scheme. (24)
49. Withdrawal of the Council's evidence in relation to the only reason for refusal was based on the very specific nature of the accommodation proposed not engaging policy HOU3 of the Core Strategy. It is necessary, therefore, to define the permission as being for that stated purpose and no other. (25)

Jennifer A Vyse
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss R Stockley, of Counsel

She called
Mr P Lester

Instructed by Mr K O'Keefe, Director of
Governance and solicitor to the Council

Planning Officer with the Council. Mr Lester did
not give evidence but participated in the
discussion on possible conditions.

FOR THE APPELLANT:

Mr P Tucker, of Queen's Counsel
Assisted by Mr A Gill

He called
Mr A Child
BA(Hons), MRTPI
Mr N Appleton
MA(Cantab)
Ms M Pennicott*

Instructed by Peter Graham, Planning Director,
The Planning Bureau Limited

Planning Director, The Planning Bureau Limited

Executive Chairman, Contact Consulting
(Oxford) Limited
Peripatetic Manager, Yourlife Management
Services Limited

* Although Ms Pennicott provided a written proof, she was not called, in the event, to give evidence to the Inquiry.
Her proof was taken as read.

INTERESTED PERSONS:

Councillor Mrs Thompson
Mrs C Ager

On behalf of Tettenhall and District Community
Council. Also a member of the Neighbourhood Plan
Steering Group and local resident

Mrs P Powell

On behalf of Tettenhall and District Community
Council. Also a member of the Neighbourhood Plan
Steering Group and local resident

Mr C Randalls

Member of the Neighbourhood Plan Steering Group
and local resident

Mr C Williams

Local resident

Mrs V Williams

Local resident

Mr C Way

Bursar of Tettenhall College

DOCUMENTS HANDED UP DURING THE INQUIRY

Doc 1 Appearances for the appellant

Doc 2 Appellant's outline submissions including a summary note on need and
transcript of the judgement in *Burdle v Secretary of State for the
Environmental* [1972] 3 All ER 240

Doc 3 Appellant's closing submissions

Doc 4 Copy of the Site notice and press notice

Doc 5 Copy of Black Country Air Quality SPD (October 2016)

Doc 6 Copy of policy DEL1 of the Black Country Core Strategy

**Schedule of Conditions in relation to Appeal APP/D4635/W/16/3150728
Tettenhall College, Wood Road, Wolverhampton**

Commencement of Development

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.

Plans

- 2) Unless required otherwise by the conditions set out below, the development hereby permitted shall be carried out in accordance with the following approved plans:

MI_2048_03_AC_001	Location and Context Plan
MI_2048_03_AC_004B	Site Plan
MI_2048_03_AC_006	Elevations
MI_2048_03_AC_007	Floor Plans (ground and first floors)
MI_2048_03_AC_008	Floor Plans (second and third floors)
8482/02 1/2	Tree Protection Plan
8482/02 2/2	Tree Protection Plan
MI_2048_03_DE_150	Drainage Strategy
MI_2048_03_AC_0092det	Typical Window Detail

Trees/Landscaping/ Ecology

- 3) Prior to the commencement of development, including works of site clearance, all the trees to be retained, as shown on plan Nos 8482/02 1/2 and 8482/02 2/2, shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made or fires lit within the protected areas.
- 4) No development shall commence until full details of hard and soft landscaping have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and timetable for implementation. The details to be submitted shall include, but are not confined to: materials for all external hardsurfacing, including both car parking areas; the position, design and materials of boundary treatments around the site as a whole; planting plans including a written specification clearly describing the species, sizes, planting numbers /densities where appropriate and giving details of cultivation and other operations associated with plant and grass establishment; a scheme for the ongoing management and maintenance of all landscaped areas; and a timetable for implementation.
- 5) No development, including any works of site clearance and tree removal, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted to and approved in writing by the local planning authority, that nesting birds can be adequately protected. Development shall be carried out only in accordance with the approved method statement, the details of which shall include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.
- 6) Prior to first occupation of the extra care accommodation hereby permitted, six bat boxes and six bird boxes shall be installed within the site in accordance with

details, including siting and a specification for the boxes, which shall previously have been submitted to and approved in writing by the local planning authority. Thereafter, the bat and bird boxes shall be retained in perpetuity.

Drainage

- 7) Notwithstanding details shown on plan No MI_2048_03_DE_150 Drainage Strategy, no development shall take place, including works of site clearance, until details of a sustainable surface water drainage scheme, based on an assessment of the hydrological and hydrogeological context of the development site, have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:
 - i) demonstrate the ability for on-site accommodation of surface water run-off up to the critical 1 in 100 year event plus 30% allowance for climate change, based upon the submission of drainage calculations;
 - ii) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - iii) include a timetable for implementation; and,
 - iv) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) Notwithstanding references on various of the approved plans to a pumping station, details of such, including siting, design and appearance shall be submitted to and approved in writing by the local planning authority prior to commencements of development. Development shall be carried out only in accordance with the approved details.

Materials

- 9) Prior to commencement of above ground works for the extra care accommodation hereby permitted, details of the materials to be used in the construction of the external walls and roofs shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Multi-Use Games Areas

- 10) Prior to first occupation of the extra care accommodation hereby permitted, the two multi-use games areas shown on plan No MI_2048_03_AC_004B shall be provided and made available for use.
- 11) The multi-use games areas hereby permitted shall not be brought into use unless and until details of the following have been submitted and approved in writing by the local planning authority, with development to be carried out in accordance with the approved details:
 - i) the design and construction of the areas;
 - ii) a scheme of fencing for each area, including siting, design, height and colour, as well as lockable gates.
- 12) Prior to first use of the of the multi-use games areas hereby permitted, the adjacent 36 parking spaces shall be provided and thereafter be kept available for the parking of vehicles at all times.

- 13) The multi-use games areas hereby permitted shall not be floodlit other than in accordance with a scheme for such, the details of which shall have previously been submitted to and approved in writing by the local planning authority.
- 14) The multi-use games areas hereby permitted shall only be used and shall only be illuminated between 09:00 – 21:00 hours Monday to Sunday and not at all on bank/public holidays.
- 15) Prior to first use of the of the multi-use games areas hereby permitted, a management plan for the use of those areas to minimise noise and disturbance for nearby residents shall be submitted to and approved in writing by the local planning authority. The multi-use games areas shall be operated in accordance with the approved management plan thereafter. The details to be submitted shall include, but are not confined to:
 - i) measures to ensure that participants and spectators using the areas are made aware of potential noise and disturbance issues associated with use of the facilities and their responsibilities arising from the use thereof;
 - ii) contact details to enable local residents to bring related problems to the attention of the college;
 - iii) details of how any complaints will be dealt with and sanctions to be employed in the event of consistent issues arising from use by a specific user/group.

Construction Management

- 16) Development shall not commence, including any works of site clearance, unless and until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall thereafter be adhered to throughout the construction period. The Construction Management Plan shall include, but is not limited to, the following:
 - i) site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
 - ii) dust prevention and suppression measures;
 - iii) noise prevention and suppression measures.
- 17) No construction operations, including works of site clearance, the delivery of building materials and the removal of waste, shall take place other than between the hours of 08:00 – 18:00 on Monday to Friday inclusive and 08:00 – 13:00 hours on Saturday. No such construction work shall take place on Sundays or bank/public holidays.

Highways/Parking

- 18) The extra care accommodation hereby permitted shall not be occupied unless and until the pedestrian crossing across Wood Road and new footway from the pedestrian crossing to the access to the development, as shown on drawing No 050.0023.002 (P2) within the Transport Statement produced by Paul Basham Associates (May 2015) have been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 19) Prior to first occupation of the extra care accommodation hereby permitted, the 27 parking spaces and associated vehicle maneuvering areas adjacent to the

building shall be provided and thereafter kept available for the parking of vehicles at all times.

Employment

- 20) Development of the extra care accommodation hereby permitted shall not commence unless and until:
- a) a strategy for recruitment and training, including a construction training and employment methods statement containing measures to maximise local job and training opportunities during construction, has been submitted to and approved in writing by the local planning authority. The measures contained within the construction training and employment methods statement shall be implemented throughout the construction of the development.
- and,
- (b) a strategy for recruitment and training, including a training and employment methods statement containing measures to maximise local job and training opportunities during operation of the extra care accommodation hereby permitted, has been submitted to and approved in writing by the local planning authority. The measures contained within the extra care accommodation training and employment methods statement shall be implemented throughout the operation of the development.

Energy/Air Quality

- 21) Development of the extra care accommodation hereby permitted shall not begin until details of a scheme to incorporate generation of energy from renewable and low carbon sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion, have been submitted to and approved in writing by the local planning authority. The development shall generate energy in accordance with the approved details thereafter.
- 22) Three electric car charging points shall be provided in a readily accessible location within the site prior to first occupation of the extra care accommodation hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The said charging points shall be retained in working order in perpetuity thereafter.

Extra Care Accommodation

- 23) There shall be no subdivision of apartments, and communal areas shown on the approved plans shall be provided and retained as such for the lifetime of the extra care accommodation hereby permitted.
- 24) The extra care accommodation hereby permitted (excluding staff and guest accommodation) shall only be occupied by persons aged 70 years or older, unless otherwise agreed in writing with the local planning authority.
- 25) The extra care accommodation hereby permitted shall only be used for the provision of residential accommodation and care to people in need of care, being a use within Class C2 of the Town and Country Planning (Use Classes) Order 1987, as amended, and for no other purpose.

[END OF SCHEDULE]