
Appeal Decisions

Site visit made on 2 May 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 18th May 2017

Appeal A: Ref: APP/H1840/W/17/3167909

Liberty Leisure Centre, Saxon Way, Wychbold WR9 7TB

- 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 Liberty Holdings against the decision of Wychavon District Council.
 - The application Ref W/16/01208/PN, dated 9 May 2016, was refused by notice dated 8 August 2016.
 - The development proposed is for an enlarged car park.
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Appeal B: Ref: APP/H1840/W/17/3167911

Liberty Leisure Centre, Saxon Way, Wychbold WR9 7TB

- 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 Liberty Holdings against the decision of Wychavon District Council.
 - The application Ref W/16/02216/PN, dated 12 September 2016, was refused by notice dated 22 December 2016.
 - The development proposed is for car parking for 50 cars using a terram 85 cellular pavers allowing area to be grassed.
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Procedural Matters

1. As set out above there are two appeals on this site. Appeal A relates to a development described in the Council's decision notice as an extension to existing car park. Appeal B is described by the Council as extended car parks for 83 additional parking spaces to include Option A (47 spaces) and Option B (36 spaces) in association with Liberty Leisure Centre with addition of new footpath links. The Council's descriptions of both appeal proposals are preferred as they accurately describe what are proposed.
 2. The appeals differ only in the size of the parking proposals and the fact that Appeal B contains other elements comprising the addition of new internal footpath links. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
 3. In relation to Appeal B, the proposed extended car parks would consist of two separate parking areas. Given firstly, that the car parks comprising the two options are located in two separate distinct parcels of land and secondly, that the plans accompanying the appeal include common elements including the provision of footpath links within the site, the options are considered severable
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both physically and functionally. In addition, although the appellant indicates that its preference is for 83 additional spaces I consider that the individual merits of Options A and B within Appeal B can be considered separately. In accordance with Section 79(1)(b) of the Town & Country Planning Act 1990, I have chosen to consider the two options separately in this case.

4. From my site visit, it was noted that the existing car park on the eastern approach road to the leisure centre does not appear to have been implemented in accordance with the drawings submitted as part of either Appeal A or B. The layout is different in both sets of plans and the materials used differs from the drawing Reference GLA-770-002B. Notwithstanding this uncertainty, I am required to have regard to the plans that are before me and I am satisfied that the car parks depicted in the plans accompanying both appeals are capable of being built out as shown even if this requires alterations to the existing car park as built.

Decisions

Appeal A:

5. The appeal is dismissed.

Appeal B:

6. The appeal is allowed in respect of Option B and planning permission is granted for an extension to existing car park comprising 36 spaces in total together with the addition of new internal footpath links at Liberty Leisure Centre, Saxon Way, Wychbold WR9 7TB in accordance with the terms of the application, Ref W/16/01208/PN, dated 9 May 2016, subject to the conditions set out in the Schedule to this decision.
7. The appeal relating to the extended parking area comprising 47 parking spaces and described as Option A is dismissed and planning permission is refused for this element.

Main Issues

8. The main issue in both appeals is whether the loss of designated Green Space that would result from the provision of car parking and associated development would be justified having regard to policies designed to protect such areas, including the character and appearance of the area and landscape setting.
9. In addition, in relation to Option A in Appeal B only, a second main issue is whether the location of the 47 bay car park would have a significantly harmful effect on the living conditions of occupiers of properties on Saxon Way and Amphlett Way.

Background

10. The appeals sites comprise part of extensive grounds once associated with the former Wychbold Hall that was demolished in the 1970s. The site lies to the east of Junction 5 of the M5 some 5 miles south of Bromsgrove and 3 miles north of Droitwich. Within the grounds are substantial trees that are covered by a Tree Preservation Order. The Council granted planning permission for a mixed use development comprising a privately run leisure centre and some 29 dwellings within the parkland setting in 2012. The contemporary designed leisure centre has very recently been completed and is positioned centrally

within the grounds with the location of residential development concentrated to the north and west. Access to the complex is via a single access leading from Stoke Lane that passes the site's southern boundary.

11. Following the opening of the leisure centre, the appellant has found that the approved parking provision is wholly inadequate with the centre aiming for a membership of some 2500 from its current opening base of around 500. The original parking area consisted of just 37 spaces in total. The appellant has calculated that the County Council standards would require a minimum of 125 spaces. The Council has not disputed this calculation.
12. Policy SWDP 38 of the South Worcestershire Development Plan (SWDP) states that Green Space as identified on the Proposals Map includes a range of private and public open spaces and associated community facilities. The policy goes on to state that development of Green Spaces will not be permitted unless exceptional circumstances are demonstrated. Exceptional circumstances are defined in the policy, including where the proposal is for a community/recreational use that does not compromise the essential quality and character of the Green Space; or where an assessment of community and technical need clearly demonstrates that the Green Space is surplus to requirements; or alternative/replacement Green Space of at least equivalent value to the community has been secured in a suitable location.

Reasons

Appeal A

13. The proposal would see the existing car park extended to form an additional 13 spaces. The Council measures this additional area as 372m² of hardstanding space that would replace a designated area of Green Space. The approved layout and landscaping of the area to the south-east comprised a footpath link running from Stoke Lane through an area depicted as rough grassland and scrub containing perimeter trees on the originally approved drawings.
14. The appeal scheme would result in the loss of a substantial part of this landscaping area and urbanise what was intended to comprise a semi-rural buffer at a prominent location as the land rises towards the main road. The layout would also result in the loss of the footpath link leading from Stoke Lane which was proposed to continue through the car park.
15. Although it is clear that the proposed car park extension would serve a community/recreational facility, the laying of additional hardsurfacing resulting in the loss of rough grassland and scrub together with removing future opportunities for tree planting and the provision of an informal footpath as required by the approved scheme would seriously and unacceptably erode the designated Green Space contrary to Policy SWDP 38.
16. By virtue of its prominent location having a semi-rural character, it would also cause significant harm to the character and appearance of the area contrary to Policies SWDP 21 and SWDP 25, which together seek to ensure that developments are built to a high design quality including the provision of effective landscaping that are appropriate to and integrate with, the character of the landscape setting.

Conclusion – Appeal A

17. For the above reasons and having regard to all other matters raised, **Appeal A is dismissed.**

Appeal B

Green Space

18. The proposal comprising Option A would see the construction of 47 spaces within the parkland setting and curving between groups of trees to the south-west of the leisure centre. Access to the car park would be taken from an existing area of parking located to the rear of the leisure centre building. This small parking area is served from the roadway that provides access to the housing scheme at Saxon Way and would extend in an arc to within some 8m of Stoke Lane. Beyond to the north lie existing residential properties at Amphlett Way. The access would be constructed in a gravel finish and parking bays created by installing a grass-grid system that would allow grass to grow through the hardsurfacing material.
19. The proposal comprising Option B would see the construction of 36 spaces as an extension to the existing car park located off the roadway leading to the leisure centre and residential development off Stoke Lane. The car park would be constructed using the same materials as described above. Pedestrians would be able to walk freely through the car park, which would provide the desired connections to the footpath link beyond as required by the approved layout. Moreover, the scheme would enable the planting of trees that was also depicted in the approved details.
20. Common to both Options is the creation of footpath links through the Green Space linking the Leisure Centre and residential area with Stoke Lane. The Council does not object to these links and I agree with this assessment and that they would create attractive walkways through the pleasant grounds.
21. In both options, the Council acknowledges that the car parks would serve a community/recreational facility, which would comply with criterion B(i) of Policy SWDP 38. The appellant makes a compelling case that existing parking arrangements are wholly inadequate. In addition, both schemes would enable pedestrian movement and would make provision for further planting of trees. The use of materials as proposed would also help create a semi-rural appearance.
22. In these regards, the proposal would not be harmful to either the aims of the Green Space designation or the character and appearance of the area, including the landscape setting. The areas would continue to function as grassed areas when not in regular use and thereby protect the sense of openness. Accordingly, I am satisfied that in both Options A and B there would be no conflict with Policy SWDP 38. Given the high quality design, the proposed extended parking areas would not cause significant harm to the character and appearance of the area thus complying with Policy SWDP 21 and would satisfactorily integrate with the surrounding landscape setting in accordance with Policy SWDP 25.

Living conditions – Option A

23. Although the proposed parking facility would be located alongside a block of landscaping, it would be located in close proximity to residential properties along Amphlett Way. Given the anticipated membership figures presented by the appellant I have no doubt that this car park would be extensively used. There would be opportunities for customers to congregate in the vicinity of the car park for longer periods. Given the close proximity of neighbouring properties, this would inevitably result in significant levels of noise and disturbance for local residents. This would often be at a time in the evening and at weekends when nearby residents might reasonably expect a quieter environment.
24. In addition, the increase in customers visiting the leisure centre by car during the evening and weekends, together with their comings and goings, including the slamming of car doors and revving of engines, would result in significant levels of noise and disturbance particularly for the occupiers of the immediate neighbouring properties who would be living cheek by jowl to this potentially intensive activity. Moreover the proposal would result in cars passing close to residential properties that have hitherto enjoyed a cul de sac environment. I concur with the Council that this would be likely to lead to unacceptable reduction in living conditions associated with cars passing along the relatively narrow Saxon Way causing noise and disturbance as well as associated light pollution.
25. Accordingly, I conclude that Option A would result in significant harm to the living conditions of nearby residents with particular regard to noise and disturbance. This would be contrary to Policy SWDP 21 and Policy SWDP 31 that seek to ensure developments satisfactorily integrate with their surroundings thus preventing pollution arising from disparate neighbouring land uses.

Other matters

26. Local residents have raised the prospect of the car park at Option B being used as a commuter's car park by car sharers using the nearby motorway. Whilst this is a very real prospect, this is essentially a management issue for the operators of the Leisure Centre and is something that cannot be controlled under this appeal.
27. The appellant makes the point that Option A in Appeal B is previously developed land. While this is not disputed, it has not weighed heavily in my determination as this car park is refused for reasons associated with living conditions.

Conditions

28. The Council has suggested conditions in relation to Appeal A only. I have had regard to the use of conditions as set out in the Planning Practice Guidance. The standard time period for commencement and a requirement for accordance with the approved plans to provide certainty are attached. In addition a condition is included that defines what is not being permitted to provide certainty. In the interests of character and appearance a condition is included that requires the submission, approval and implementation of landscaping. To

protect living conditions, a condition is attached to ensure that the water management statement shall be fully implemented and remain thereafter.

Conclusion – Appeal B

29. Given that the principal components of Option A and Option B are clearly severable, both physically and functionally, a split decision is hereby made. For the above reasons and having regard to all other matters raised, I have concluded that Option A is unacceptable and the appeal in relation to Option A is dismissed. However, I have found that Option B is acceptable as are the common elements of both Options comprising the internal footpath links. Accordingly, the appeal against Option B and the internal footpath links shown in both Options is thereby allowed.

Gareth W Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GLA-770-001 but only in so far as the internal footpath links and GLA-770-02.
- 3) Nothing in this permission shall be construed as to granting planning permission for the extended parking area described as Option A and depicted in the Drawing No. GLA-770-001.
- 4) Before the first use/occupation of the development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:-
 - (i) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 - (ii) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - (iii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
 - (iv) a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - (v) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the first use/occupation of the development hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and remain thereafter.

END OF SCHEDULE