



Appeal Decision

Site visit made on 5 December 2017

by Mike Worden BA (Hons) DipTP MRTPI

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

Decision date: 15th January 2018

Appeal Ref: APP/J3720/W/17/3180367

White Lion, Evesham Street, Alcester B49 5DS

- 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 Mr Jon Westwood of Lombard Group Developments Ltd against the decision of Stratford on Avon District Council.
 - The application Ref 16/02635, dated 9 August 2016, was refused by notice dated 19 April 2017.
 - The development proposed is the erection of two three bedroomed semi-detached dwellings and one three bedroom detached dwelling with associated works, car parking and access road.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two three bedroomed detached dwellings at White Lion, Evesham Street, Alcester B49 5DS in accordance with the terms of the application, Ref 16/02635, dated 9 August 2016, subject to the conditions on the attached schedule.

Procedural Matters

2. The appellant submitted an amended scheme before the Council determined the application. As a consequence the description of the proposed development as set out on the application form: *erection of two three bedroom semi-detached dwellings and one three bedroom detached dwelling with associated works, car parking and access road*; is not an accurate description of the development proposed. I consider that the description used by the Council in its decision notice: *erection of two three bedroomed detached dwellings*, is more accurate. I have therefore used this description in my decision.
3. The appellant has invited me to consider a revised plan which has been included as an appendix to its statement. This plan shows a revised proposed parking layout and a revised red line boundary. Whilst this plan has been shared with the Town Council, I have no evidence of it being consulted on with other parties. Having regard to the advice in the *Procedural Guide - Planning Appeals - England*, I have decided not to consider that revised plan in determining this appeal and instead rely upon the plans which were before the Council at time it made its decision.
4. Representations have been made which relate to a planning application submitted to the Council since this appeal was made. That application relates

to a further revised scheme for the site. I have not had regard to those representations in reaching my decision.

Main Issues

5. The main issues are the effect of the proposed development on:

- The character and appearance of the Alcester Conservation Area; and,
- the settings of the listed buildings 8 & 10 Seggs Lane and 17 Evesham Street; and,
- highway and pedestrian safety, and car parking provision in the area.

Reasons

Character and appearance

6. The appeal site is the car park and rear garden of a large public house on a main road into the town centre. The building dates from the early 20th Century and is of brick construction with black and white Tudor type boarding at first floor level. It is an imposing building with irregular shaped sides. The public house has closed down and the building is currently vacant. The car park is laid to tarmac and the former public house garden is grass.
7. The rear of the car park adjoins the backs of properties on Seggs Lane including a listed terrace of cottages, 8 & 10 Seggs Lane and a depot also on Seggs Lane. The high brick wall of the depot building is dominant in views across the site. Another listed building, 17 Evesham Street adjoins the site.
8. The appeal site lies within the Alcester Conservation Area which covers much of the town centre and the principal gateways into it including Evesham Street. The public house is not listed. The Council has produced the *Alcester Conservation Area Character Appraisal* (the Character Appraisal). This appraisal highlights the importance of the medieval street pattern of the town and its historic buildings and spaces which still form an essential part of its character.
9. Evesham Street has a mix of house styles, types and sizes and in the vicinity of the site there are cottages fronting right onto the pavement as well as large houses standing in their own grounds behind high walls. This variation gives this part of the Conservation Area its character. The Character Appraisal in defining the character of the Conservation Area refers to the lack of urban symmetry, irregular street patterns opening up intriguing vistas and that the *combination of spatial elements helps to define the quintessential character of the place*.
10. The proposed development is to erect two detached dwellings. Both would have pitched roofs and dormer style gable windows at first floor. They would face out towards the entrance to the site but sit at an angle to it. They would have gaps between them and given the overall site size and the relationship of them to each other, I consider that they would not appear cramped or overdeveloped. Whilst higher than some properties nearby, I consider that they are not unduly high and would not appear out of place especially given their position next to the public house and with the backdrop of the depot behind.
11. The proposed dwellings would form a small courtyard. I consider that such development of spaces behind and between buildings is not untypical of the

town centre area or the Conservation Area given the references set out in the Character Appraisal. I have also been referred to examples of residential development being created behind properties on the High Street.

12. I am also aware from my site visit that small courtyards or housing located at the back of other buildings exist in the area including some close to appeal site. Behind the White Lion the house called Coniston is accessed from Lion Tuery, a small passageway. There is also a small courtyard of houses in Abbey Mews just off Birch Abbey directly opposite the appeal site. Whilst just outside of the Conservation Area, it nevertheless demonstrates that such development is found within the immediate vicinity and that the proposed development would not appear incongruous or out of place in the local townscape.
13. For the reasons set out above, I conclude that the proposed development would not be harmful to the character and appearance of the Alcester Conservation Area and would accord with Policy CS.8 of the *Stratford on Avon Core Strategy* (the Core Strategy) in so far as it seeks to protect and enhance the historic asset of the Conservation Area, and Policy CS.9 of the Core Strategy which requires new development to incorporate local distinctiveness and high quality design. The proposed development would also accord with Policy CS.15 of the Core Strategy which amongst other things, sets out the development strategy for the main rural centres including Alcester, and the provisions of the *Stratford on Avon District Design Guide* which sets out guidance for the design of new development. It would not cause harm to the significance of the heritage asset as referred to in the National Planning Policy Framework (the Framework).
14. Having regard to the statutory duty in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the proposed development would preserve and enhance the character and appearance of the Alcester Conservation Area.

Listed buildings

15. Two listed buildings lie adjacent to the appeal site. These are 8 & 10 Seggs Lane and 17 Evesham Street. Although both buildings face and sit right up to the pavement of their respective streets, I consider that the appeal site has a visual relationship with both buildings.
16. The Seggs Lane building is a single storey pair of cottages with dormer windows and additional accommodation in the roofspace. The cottages have an important visual focus on the Seggs Lane frontage. From the appeal site only the roof and rear gable extension of one of the cottages can be seen over the boundary fence. I consider that the proposed dwellings would not visually compete with, or distract from, the heritage asset when seen from the appeal site.
17. From Seggs Lane, the depot and a modern dwelling sit very close to the listed cottages and severely restrict views through to the appeal site to the rear. I consider that the roofs of the proposed new dwellings would not be prominent in views from Seggs Lane itself.
18. The listed building, 17 Evesham Street is a two storey cottage fronting Evesham Street. It adjoins the site but is separated from it by mature trees, a garden and a garage. Only part of the roof of the cottage is visible from the

appeal site. The proposed dwellings would be located towards the rear of the site and I consider that by virtue of distance, form, orientation and design, the proposed dwellings would not visually compete with, or distract from, the heritage asset both from the appeal site and from Evesham Street.

19. For the reasons above I conclude that the proposed development would not cause harm to the settings of 8 & 10 Seggs Lane or 17 Evesham Street and would accord with Policy CS.8 of the Core Strategy which seeks to protect and enhance historic assets. It would not cause harm to the significance of the heritage asset as referred to in the Framework.
20. Having regard to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the proposed development would preserve the setting of the two listed buildings.

Highway and pedestrian safety, and car parking provision

21. The access to the site would be provided alongside the current public house. This is currently the access to the car park. I have no evidence before me which indicates that such an arrangement would be unsafe either for vehicles or pedestrians. The number of cars using the access would be significantly less than the numbers which would have ordinarily used the pub car park and overall the vehicle and pedestrian movements associated with the residential use would be less than for the car park use. I have no evidence which suggests that emergency vehicles could not access the site and that was not a concern raised by the Council's highway officers in the report to Committee.
22. The proposed development would result in the loss of the car park for the public house. Whilst the public house car park may be informally being used as parking for people visiting the town centre, this is not a matter to which I have placed any significant weight in reaching my decision.
23. For the reasons set out above, I conclude that the proposed development would not cause harm to highway or pedestrian safety and would accord with Policy CS.26 A and B, of the Core Strategy which sets out transport and communications requirements for new developments. Through the imposition of an appropriate condition, I conclude that the proposed development would provide a suitable level of car parking provision and accord with Policy CS.26 C which requires new development to provide sufficient car parking provision so as to avoid an unacceptable impact of local amenity or highway safety.

Other matters

24. The distance between the proposed dwelling no1 and 17 Evesham Street would be around 19m. The Council considers that the configuration and distance between the two properties is sufficient to minimise the potential for overlooking and overshadowing and is consistent with Policy CS.9 of the Core Strategy which sets out design requirements for new development. I have no evidence to suggest this would not be the case.
25. The distance between the proposed dwelling no2 would have a side to back relationship to 8 & 10 Seggs Lane. There would be a separation distance of around 13.5m from the main body of the cottages and around 10m from the rear extension of 8 Seggs Lane. The Council consider that this configuration and separation distance accords with the Council's Supplementary Planning Guidance, *Extending your home, A planning guide for householders*, which sets

out guidance in relation to separation distances between developments in order to protect residential amenity.

26. A number of representations have been made about the relationship of the Seggs Lane depot and the proposed development. The depot has been in operation for many years and is already located and functions within this residential area. Houses on Seggs Lane directly adjoin it and are closer to it than the proposed dwellings would be. I have no evidence before me that the proposed development would constrain the ability of the depot to operate in the future and the Council's Environmental Health officer has not expressed concerns on this issue. Access to the depot wall for maintenance purposes would be a private matter between the respective owners and not one which I can take account of in reaching my decision.
27. The appeal site consists of a car park and a small beer garden which is laid to grass. No trees are proposed to be felled. The County Council ecologist has not objected to the proposal and I have no evidence that there would be any harmful effect on ecology as a result of the proposed development.

Conditions

28. I have considered the conditions suggested by the Council in accordance with Planning Practice Guidance and the Framework. Where necessary, I have amended the suggested conditions in order to comply with the tests. In addition to the standard condition relating to the time period for implementation, there is a need for a condition specifying the plans to which the permission hereby granted relates to, in the interests of certainty and clarity.
29. There is also a condition required for the submission of materials samples in the interests of the character and appearance of the area. There is a need for conditions relating to a construction management plan and to control the times and days when construction work will be allowed, in the interests of the amenity of local residents. However, on the basis of the evidence before me, I am not persuaded that all of the suggested elements of the construction management plan are necessary.
30. There is a need for a condition requiring the submission of a contaminated land report and to secure measures for the remediation of possible contamination given the history of the site as a car park. There is also a need for a condition requiring details of hard and soft landscaping in the interests of the character and appearance of the area.
31. It is necessary to impose a condition which would ensure that the appeal site was no longer required for use as car park in association with the public house. The Council and the appellant have agreed that such a condition is necessary and have suggested that the condition could require that once the development hereby permitted has commenced, the use of the building as a public house shall cease. However, I consider that such a requirement is not precise or clear enough and would not meet the necessary tests in Planning Practice Guidance and the Framework. I consider that it is not appropriate to use a condition to extinguish a planning permission. I have therefore imposed a condition, which I have shared with the Council and the appellant, which restricts the commencement of the permission hereby granted until the conversion of the public house, which is subject to a separate approval, has commenced.

32. I have not imposed those conditions suggested by the Council which would require the provision of water butts and refuse bins, as I have not been provided with sufficient evidence to justify why they are necessary to make the scheme acceptable in planning terms.
33. The Council has not suggested a condition relating to archaeological investigations. However, given the advice in the desk based assessment of the site and that the report to Committee referred to the need for a condition, I consider that it is necessary to impose a condition requiring a written scheme of investigation.

Conclusion

34. I have found that the proposed development would not harm the character and appearance of the Alcester Conservation Area or cause harm to the settings of the adjacent listed buildings. I have also found that the proposed development would not result in harm to highway or pedestrian safety or provide unacceptable car parking provision, subject to a condition relating the commencement of development of this site to the conversion works for the public house.
35. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be allowed.

Mike Worden

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: Alternative site plan 3132 338 Rev D; Plans Plot 1 Plot 2 Scheme 7 (3b) 3132 339 Rev B; Plans Plot 1 Plot 2 Scheme 7 (3b) 3132 340
- 3) The development to which this permission relates shall not commence until the development for which planning permission was granted by the Secretary of State on 15 January 2018 under appeal reference APP/J3720/W/17/3180369 and pursuant to planning application 16/02722/FUL has commenced.
- 4) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) Demolition or construction works shall take place only between 8:00 to 18:00 on Mondays to Fridays, and 8:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to

remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

- 8) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall:
- i) a statement setting out the design objectives and how these will be delivered;
 - ii) earthworks showing existing and proposed finished levels or contours;
 - iii) means of enclosure and retaining structures;
 - iv) boundary treatments;
 - v) vehicle parking layouts;
 - vi) other vehicle and pedestrian access and circulation areas;
 - vii) hard surfacing materials;
 - viii) a schedule of plants noting species, plant sizes and proposed numbers and densities.
 - ix) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 9) No demolition/development shall take place on the site until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions - and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.