
Appeal Decision

Site visit made on 16 October 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/U4610/W/19/3235115

Land behind 55-77 Stoke Row, Coventry CV2 4JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Stoke Row LLP against the decision of Coventry City Council.
 - The application Ref OUT/2018/3128, dated 12 November 2018, was refused by notice dated 15 February 2019
 - The development proposed is demolition of existing factory premises and erection of 46 residential apartments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description above is taken from the application form but does not inform that the development is in Outline to include Access, Appearance, Layout and Scale, although the appellant has used the form type 'Outline Planning Permission with Some Matters Reserved'. The Council's description of 'Outline application for demolition of existing factory premises and erection of 46 residential apartments (matters of landscaping reserved for future consideration)' more accurately describes the proposal. I have therefore determined the appeal on this basis, notwithstanding the description above.
3. As Landscaping is a reserved matter the submitted Proposed Boundary Treatment drawing PL_604 is illustrative only, as are any landscaping features shown on other submitted plans.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development on highway and public safety, having particular regard to provision of parking and the turning/manoeuvring of vehicles within the site,
 - Whether the proposal makes adequate provision for health care, education, open space and affordable housing,
 - The effect of the proposed development on the living conditions of existing occupiers of properties in Clay Lane, with particular regard to privacy and outlook, and

- Whether the proposed development would prejudice the business in the adjoining industrial premises.

Reasons

5. The appeal site comprises an 'L' shaped general industrial B2 Use Class building. The site and building are bounded by terraced dwellings along Stoke Row; shops and terraced dwellings along Clay Lane to the west, and industrial units to the north and south. The industrial building to the south, currently occupied by a car repair garage, is contiguous with the site's boundary. There is no dispute between the parties that the site is well located with regards local services and facilities along Clay Lane and the nearby Ball Hill District Centre with its shops, services and public transport links.
6. The appeal proposal is for the demolition of the industrial building and erection of two 3-storey blocks for a total of 46 apartments, of which 17 would be 1-bedroom and 29 would be 2-bedroom units. The buildings are shown indicatively to be of a contemporary design. Access would be off Stoke Row leading to landscaped grounds with provision for 46 vehicle parking spaces and 40 cycle parking spaces. Two buildings are shown either side of the site entrance for refuse bins.

Highway and public safety

7. In drawing up the updated parking standards in Appendix 5 of the Coventry Local Plan¹ (the Local Plan) the Council recognises the compact and highly accessible nature of the city and that "*The density, type and accessibility of housing varies greatly across the city, but typically Coventry is made up of large areas of terraced and semi-detached housing, in many cases with little or no off-street car parking. In more suburban lower density areas of the city, levels of car ownership levels are typically higher, but even with an increased availability of off-street parking, levels of on-street parking frequently remain high*" (para 1.7). In recognition of the variances of car ownership and accessibility to the city (paragraph 1.18) two distinct zones have been identified - the city centre and the outer city - and different parking standards apply. The appeal site is located in the outer city zone. In light of this, I find the parking standards are relevant to the appeal site and can be afforded their full weight as part of an up-to-date development plan.
8. The proposals would provide 46 on-site parking spaces, which equates to 1 space per unit. However, the parking standards indicate a requirement for more parking because the 2-bed units would require 2 parking spaces. Furthermore, the standards would require additional unallocated visitor parking spaces. This would equate to over 75 spaces. The proposed parking provision therefore falls significantly short of the parking standards.
9. Whilst the standards are described as a maximum, they are deemed to be what is expected, as the supporting text states that in "exceptional circumstances" there may be occasions when lower or higher levels of parking may be appropriate. Any departures from the parking standards would need to be justified with detailed supporting evidence.

¹ adopted December 2017

10. The appellant has submitted a Transport Statement² to justify parking provision below the maximum parking standards due to the site's accessibility to sustainable transport together with a reduction in the number of commercial vehicles visiting the site, as well as loss of employee parking in the nearby streets, which would offer some improvement to the local area.
11. On my site visit, I observed that the existing industrial site had no meaningful on-site parking provision, apart from a few spaces along the frontage, such that employees and delivery vehicles would have to park on the nearby streets. There were double-yellow lines along part of Stoke Row to prohibit parking, including directly across the site frontage, the adjacent car repair business, and opposite the site. As stated in the appellant's Transport Statement some of the day-time on-street parking is due to employees and other workers in the area. In my experience, in the evening and weekends employee parking is replaced by residents parking when they return home from work. Whilst I acknowledge that my visit was a snap-shot in time, there was a high level of on-street parking on both sides of Stoke Row. Some cars were partially mounted on the pavement to maximise the width of the road, which would impede pedestrians and those with mobility issues including those with pushchairs.
12. The Council refers in its parking standards, that it has found that restricting levels of car parking does not necessarily have a material impact on reducing levels of car ownership. Even though the site is located within walking distance of bus stops and local facilities and there would be provision for car-club vehicles for residents, there is nothing to control car ownership of future occupants and I am not persuaded that the lower level of on-site parking provision would significantly reduce car ownership levels. If future occupants chose to have more than one car, they would have to park on the nearby streets. This would increase the pressure for on-street parking in the area for existing residents and future occupants of the new housing. This would have a detrimental effect on the area and amenities of existing residents in the area who have to rely on on-street parking that would likely lead to congestion and be detrimental to general highway and pedestrian safety in the area. I find there are no exceptional circumstances to justify the significant shortfall of on-site parking provision.
13. With regards turning and manoeuvring of vehicles within the site, it may be the case that large vehicles, including refuse and delivery vehicles, may have to do multi-point turns within the site in order to leave in a forward gear. Furthermore, due to the suggested chevron style car-parking and the position of the parking in relation to the blocks of apartment, it appears that vehicles would be restricted in their ability to easily reverse in or out of a space, in order to leave the site in a forward manner. Even with the under provision of parking, this would indicate to me an unsuitable and impractical layout.
14. The appellant has supplied an amended layout in his Appendix B³ (that shows the 46 spaces that had been omitted from the layout plan submitted to the Council). It demonstrates that most vehicles would not be able to readily turn without making a number of manoeuvres or reversing. Furthermore, the amended indicative layout shows other changes such as relocating the cycle parking on the southern end of the site to within one of the refuse buildings (although it is not clear where this displaced refuse provision would be

² VTC (Highway & Transportation Consultancy) dated 12 November 2018

³ Turning and Access Management Plan drawing PL_300 Rev B

accommodated). It also appears to show the block on the northern part of the site being moved closer to the western boundary to create more space between the parking spaces and the apartment blocks. This would have implications for the living conditions of residents in Clay Lane, as part of the third reason for refusal. In my view, this further illustrates that the site layout is unlikely to be able to adequately provide on-street parking and manoeuvring in a manner that would not be detrimental to highway safety, and create an acceptable design.

15. In any event, I am not aware that this amended layout has been consulted upon or that the Highways Authority has considered it. The Council has not commented on it in its Statement. Therefore, in the interests of fairness, I have not considered it in my determination.
16. For the reasons above, I find the proposed development would have insufficient provision for on-site parking that would increase pressure on already high levels of on-street parking, together with an inappropriate layout for the turning and manoeuvring of vehicles, to the detriment of highway and pedestrian safety. Accordingly, the proposal would be contrary to Policy H3 of the Local Plan, which seeks, amongst other things to ensure that new housing developments have a safe and appropriate access with adequate parking. Local Plan Policy AC1 relates to development that generate additional trips. Whilst the site's location would allow choices of public transport on the existing transport network, there would be no conflict with this policy. However, this does not outweigh the harm already identified relating to the under provision of parking and car-ownership.
17. The appellant cites an example of an apartment scheme in Bournville in Birmingham that also involved the redevelopment of a factory site adjacent to residential streets, and where 1 space per apartment was deemed acceptable. I have not been presented with the full details of the scheme, but as it is located in a different local authority it is not directly relevant to the appeal proposal before me, which I will consider on its own merits.

Adequate provision for health care, education, open space and affordable housing

18. Local Plan Policy IM1 expects new development to provide or contribute towards provision of measures to directly mitigate against the impact of the development or to make it acceptable in planning terms, and physical social and green infrastructure to support the needs associated with the development. Furthermore, under Local Plan Policy H6, residential schemes of 25 dwellings or more will be expected to provide 25% of all dwellings as affordable. Where the required level of affordable housing cannot be provided, including for reasons of viability, robust evidence is required to justify the reduced provision or alternative form of contribution.
19. In addition to the 25% affordable housing, the Council's officer report sets out requested contributions of £24,554 towards health provision for acute intervention at University Hospital Coventry and Warwickshire, £500 per dwelling towards open space and £134,000 towards education.
20. The appellant submitted a viability assessment⁴, which concluded that the scheme would not be viable if any affordable housing was provided. I

⁴ S106 Affordable Housing Ltd dated 16 October 2019

acknowledge that the appellant's viability methodology has been accepted for other appeal decisions and by the District Valuer Service in other instances and the Framework. However, the viability assessment is lacking evidence to demonstrate that the scheme is unviable with the provision of the various required s106 contributions, as well as affordable housing.

21. During the determination of the appeal and late in proceedings, the appellant submitted a signed and dated Unilateral Undertaking (UU) to pay £23,554 as an "Infrastructure Contribution" to be used for local open space, education or healthcare as the Council deems fit, but no affordable housing. The UU is too general in its provision. It is not clear how payment of the Infrastructure Contribution can be paid when other contributions have not been factored in.
22. As the UU does not include all of the contributions required by policy and the viability assessment has not factored in all the required contributions, I give it limited weight. Accordingly, the development would be contrary to Local Plan Policies IM1 and H6, as detailed above.

Living conditions

23. Some of the properties along Clay Lane back onto the western site boundary. The proposed three storey blocks of apartments would be taller than the existing industrial building, but would be set further back from the boundary. The blocks would have an irregular floor plan, animated elevations and a varied roofscape to give visual interest, compared to the windowless utilitarian existing industrial building located in close proximity to the boundary. The appellant indicates a 2.7m high wall along this boundary with a 1.4m high screen trellis on top to add screening and further visual interest as shown in the computer images in his Appendix C.
24. However, I find the resulting taller three storey built development along this western boundary would have an unneighbourly and overbearing effect that would create an unsatisfactory outlook for the occupiers of these properties, despite the visual variation in the elevations and the lack of objections from residents of Clay Lane. The boundary wall and trellis, shown indicatively on the plans, would not adequately mitigate against this, as it would be an overbearing feature itself at approximately 4m high.
25. Furthermore, there would be large windows on this proposed rear elevation where there are currently none. I acknowledge that the saw-tooth plan with windows positioned to look diagonally and obliquely, rather than directly towards the rear of properties and gardens in Clay Lane, would avoid direct overlooking. The appellant's Appendix C shows proposed distances exceeding 23m between the scheme and neighbouring properties when upper floor living rooms are involved, as required by the Council's Design Guidance for New Residential Development Supplementary Planning Guidance (SPG). Notwithstanding this, the size of the windows together with their number would give a significant perception of gardens being overlooked and privacy compromised.
26. As such I find the living conditions of existing occupiers of the adjacent properties along Clay Lane would be unacceptably harmed. Accordingly, the proposal would be contrary to Local Plan Policies DE1 and H3. These collectively seek to ensure development responds to its surroundings and creates a high quality residential environment. It would also be at odds with the National

Planning Policy Framework (the 'Framework') and its promotion of good design with high standards of amenity for existing and future users. Local Plan Policy H5 relates to managing the existing housing stock through demolition and redevelopment of existing housing, or renovation or conversion. It is not directly relevant to this main issue.

Adjoining industrial premises

27. Local Plan Policy JE3 allows the redevelopment, in whole or in part, of employment land for non-employment purposes, subject to various criteria. The appellant submitted an 'exception statement' and the Council is satisfied that the proposal is broadly compliant with the policy in terms of the loss of the employment use on the land.
28. However, criteria 2c) requires developers to demonstrate that the proposal will not have an 'unacceptable adverse impact on the continuing operation of any nearby businesses', which in this case have historic unrestricted industrial uses. Unless demonstrated otherwise, such uses could cause nuisance to new residents. This accords with the Framework paragraph 182 whereby existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. I understand an adjoining business has raised concerns, but I have not been presented with the details of this objection.
29. The Council's Environmental Protection team raise concerns that the submitted noise report does not fully address the potential noise sources from the commercial units to the north and south of the site and advise that further assessments would be required once access is available, as part of pre-commencement conditions. The report would also need to include details of mitigation measures. Whilst there are residential dwellings in close proximity, the demolition of the industrial building would create a different scenario and expose parts of the remaining business that are currently protected by the existing building. In my view this is too fundamental for all of the matters to be left to a condition.
30. In the absence of substantive evidence, I am not persuaded that the presence of the new residential dwellings in closer proximity than at present would not put pressure on the unrestricted operations of the adjacent businesses, with regard matters such as noise, smell, air quality and hours of operation. Accordingly, the proposal would be contrary to Local Plan Policy JE3, whose aims are outlined above.

Other Matters

31. I am aware of a previous lapsed planning consent⁵ granted in 2009 for the demolition of the factory and construction of 13 houses, and the previous refusal⁶ in 2016 for 44 dwellings and the appellant's attempts to address the particular reasons for refusal in the current appeal scheme. I understand these applications were determined under a different development plan and policy framework, but in broad terms the Council found the principle of demolishing the factory acceptable. However, I give these decisions limited weight as I must consider the appeal proposal before me on its own merits.

⁵ R/2008/0876

⁶ OUT/2016/1267

32. I acknowledge the appellant's concerns with the Council's handling of the application, but in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

33. For the reasons given above, I conclude that the proposed development would not accord with the development plan and there are no other material considerations which outweigh this finding. Accordingly, the appeal should be dismissed.

K. Stephens
INSPECTOR