



Appeal Decision

Site visit made on 20 April 2021 by A J Sutton BA (Hons) DipTP MRTPI

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2021

Appeal Ref: APP/V4630/W/21/3266355 17 - 18 Norton Road, Pelsall, WS3 4AY

- 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 Steve Hayward against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/0113, dated 27 January 2020, was refused by notice dated 21 August 2020.
 - The development proposed is demolition of existing public convenience and rear ground floor extensions to 17 and 18 Norton Road for the erection of 3 terraced houses on the site and the conversion of the existing offices to residential houses.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by Mr Steve Hayward against Walsall Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

4. The decision notice repeats several local plan policies against each reason for refusal cited, not all of which are relevant to the issue raised. To avoid unnecessary duplication I have, in this recommendation, addressed the policies which are relevant to the particular matter in dispute.

Main Issues

5. The principle of converting Nos 17 and 18 and the development of the appeal site for housing are not matters of dispute between the parties. These aspects of the proposal would not conflict with Policy HOU1 of the Black Country Core Strategy (BCCS) which guides the location of housing and use of previously developed land, or Policy SLC2 of the Walsall Sites Allocation Document (SAD), which identifies the appeal site as suitable for residential uses.

6. Therefore, the main issues in this case are:

- i) the effect of the proposed development on the character and appearance of the Pelsall Common Conservation Area (CA) and the surrounding area;
- ii) whether the proposed development would provide satisfactory living conditions for future occupants of all proposed dwellings with regard to outlook and garden space, and for future occupants of Plots 1-3 with regard to daylight;
- iii) the effect of the proposed development on the living conditions of occupants of Nos 14 and 26 Millennium Close and future occupants of Plot 3 and Nos 17 and 18 Norton Road in respect of noise and light disturbance; and
- iv) whether the proposed development would provide suitable parking, with regard to convenience and security.

Reasons for Recommendation

Character and Appearance

- 7. The appeal site has a prominent position within the CA, near the High Street, and overlooking the pleasant open space of the Common and the grade II listed War Memorial. The Common in this part of the CA is lined by close-knit, mixed-use, mainly period properties with limited space at the rear. Whilst properties to the rear of the appeal site are of an equally close grain, the character differs considerably from that of the front, with relatively modern housing development forming Millennium Close.
- 8. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. At paragraph 192, the National Planning Policy Framework (Framework), sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 9. The CA covers the historic settlement which has expanded over centuries as a result of the industrial expansion of the West Midlands whilst retaining a significant extent of the Common, which is now an important historic focal point. The visual and historic relationship between the Common and the settlement and the unity in architectural style of the built form around it make a considerable contribution to the significance of the CA. In particular, the development constructed in the late 19th Century, provides a coherency, particularly by use of materials, in the character of buildings surrounding the Common near the appeal site.
- 10. Nos 17 and 18 are examples of 19th Century development characteristic of the area. Their interiors have been much altered, and a modern rear extension is unsympathetic, and they would be improved by general maintenance. However, their facades retain period features and as such the properties

contribute positively to the historic character and significance of the CA. The derelict public convenience is a negative feature in the street scene and the CA, although the size of the structure and maintenance of the adjacent undeveloped parcel of land minimises the harmful impact.

11. The Framework highlights that good design is a key aspect of sustainable development and goes on to state that decisions should ensure that developments add to the overall quality of the area, are visually attractive and sympathetic to local character and history.
12. The tight grain and layout of the three proposed new dwellings (Plots 1-3), with narrow plots and small rear gardens, would be in keeping with the surrounding pattern of development. The proposed front elevation of the terrace would take cues from the local vernacular, including materials, front doors and front boundary features which would complement the area. The submitted plans also show that Plots 1 – 3 would align with the building line of existing properties on Norton Road, contrary to the Council's reason for refusal.
13. However, whilst noting the conservation officer's comments, the narrow apertures proposed at first floor would not be reflective of the traditional style of fenestration evident in surrounding properties, which generally have equal size windows at first-floor level. This uncharacteristic feature would be a detracting design detail and would fail to harmonise with the appearance of surrounding properties.
14. There are a variety of roof heights in the area, and terraces generally have a consistent ridge line. Therefore, in principle a lower ridge height would not necessarily be out of place between two taller groups of buildings. However, the depth of the proposed new terrace would be shallow in comparison with its neighbours, resulting in a significantly lower ridge and small roof in proportion to the front wall. This would contrast harmfully with the proportionally much larger roofs characteristic of the traditional 19th/ early 20th century architectural style which provides coherency in built form in the CA and sets the context in which the development would be viewed. As a result, the proportions of the proposed terrace would not visually harmonise with either group of properties which flank the proposed regenerated plot and would draw attention to the development as an oddity in the area.
15. The introduction of a non-traditional roof form and elevations on the rear of the proposed terrace would not be out of character with the existing mixed appearance of the rear of properties on Norton Road or the modern dwellings on Millennium Close. As identified by the Council, these rear elevations are less important to the character and appearance of the CA than the front elevations. Therefore, although they would be partly visible from Millennium Close, the design of the rear elevations would not harmfully affect features which contribute to the significance of the CA or the appearance of the surrounding area.
16. The development would remove the existing toilet block, which as a small modern building is an anomaly in the street scene. Nevertheless, due to the proportions and window detail the eye would be drawn to the incongruously proportioned terrace of dwellings which visually would relate poorly to the prevailing character of the surrounding neighbourhood. Consequently, when viewed as a whole in its immediate setting, the new built form would appear

out of scale with neighbouring dwellings and would harm the character and appearance of the CA and the surrounding area.

17. The proposed terrace would be visible from the common, which is an important feature in the CA, however as it would only affect a small part of the CA, the harm to the CA as a whole would be less than substantial. In accordance with the Framework this harm needs to be weighed against the public benefits of the proposal.
18. The proposal would regenerate derelict land and demolish a building which is currently a detracting feature in the CA. It would deliver 5 dwellings on previously developed land in a local centre, well related to services, on a site allocated for residential uses in the SAD. The dwellings would add to the mix of housing to serve local need. The small site could be developed at speed and would result in benefits to the local economy during construction. Future occupants of the units would also contribute to the vitality of the area. The development would therefore contribute to the Framework objectives of boosting the supply of housing and using land efficiently in built up areas. As such I attach significant weight to these public benefits.
19. The renovation of Nos 17 and 18 would bring these currently vacant buildings back into a viable use, which would enhance the CA. However, the appellant identifies that this benefit could be realised by means of permitted development rights, and there is no compelling evidence before me that the proposed terrace is also needed in order to achieve this benefit. Therefore, the public benefit of this renovation attracts only limited weight.
20. Biodiversity gains and landscape benefits would be limited given the size of the development. Energy efficiency measures and management of waste during construction would also be of small benefit. High quality of build is to be expected and therefore I attach neutral weight to this matter.
21. I have found for the reasons outlined above that the development of the proposed terrace would fail to preserve or enhance the character or appearance of the CA. Whilst this harm would be limited and localised it is a matter of considerable weight and importance, and in accordance with the Framework I attach great weight to the asset's conservation. The public benefits of the proposal include some enhancements to aspects of the CA, however overall, I conclude that the significant public benefits identified would be outweighed by the harm that would arise to the designated heritage asset.
22. Accordingly, although it would incorporate some positive features, overall, the proposed development would neither preserve or enhance the character or appearance of the Pelsall Common Conservation Area and would harm the character of the surrounding area. In this regard it would be contrary to Policies HOU2, ENV2 and ENV3 of the BCCS, Policies GP2, ENV14 and ENV32 of the Walsall Unitary Development Plan (UDP), Policies HC2 and EN5 of the SAD and guidance set out in the Designing Walsall Supplementary Planning Document (SPD). These collectively state that development needs to achieve high quality design, should protect the historic character and local distinctiveness of the Black Country, make a positive contribution to the quality of the environment, including visual appearance and encourage the development of derelict land where this is in accordance with other policies of the Plan.

23. The proposal would also be inconsistent with policies of the Framework which seek to ensure well-designed places and to conserve the historic environment.

Living Conditions - Outlook and Daylight

24. The windows of bedroom 1 in Plots 1-3 are shown on the submitted plans as obscured glazing, which would provide these rooms with very limited outlook. Even if clear glazing was used the outlook for future occupants from these windows would be of a solid wall at only a few metres distance, which would not provide a satisfactory outlook for future occupiers. While the proposed skylights would provide reasonable levels of daylight to these rooms, they would only provide a view of the sky, and no outlook. As such, these bedrooms would have a cell-like quality and would be unpleasant spaces for future occupants to use. As the main bedroom for each dwelling, they would not provide satisfactory living conditions for future occupants of Plots 1 – 3 in respect of outlook.
25. I recognise that this window arrangement seeks to address guidance in the SPD in respect of separation distances. However, compliance with guidelines designed to avoid harm to the living conditions of neighbours does not justify poor design which would lead to unsatisfactory living conditions for future occupants.
26. The rear outlook of Nos 17 and 18 whilst not of a particular aesthetic quality, is not unusual for an urban setting and is characteristic of properties in this area. It would be to some extent off-set by the attractive outlook to the front over the Common, and as such would provide satisfactory living conditions for future occupiers of those dwellings.
27. In summary, the proposed development would not provide satisfactory living conditions for future occupants of Plot 1 – 3 in respect of outlook but would in terms of daylight. Nevertheless, it would conflict with Policy HOU2 of the BCCS, Policy HC2 of the SAD, Policies GP2 and ENV14 of the UPD and guidance of the SPD which, amongst other matters, require all developments to provide a satisfactory residential environment, make a positive contribution to the quality of the environment and minimise amenity impacts. In this respect the proposal would also be inconsistent with policies of the Framework which seek a high standard of amenity for existing and future users.

Living Conditions - Garden Space

28. The exact measurements of the gardens are disputed between the main parties, nevertheless the rear garden space for all proposed dwellings would be small and may fall slightly below the guidelines for outside space in the SPD. However, the SPD states that it may be possible to achieve shorter distances through creative design in order to protect an area's character.
29. The space would be proportionate to the small dwellings they would serve and would be reflective of the character of the area. Although small, the areas would be adequate as a safe play space, outdoor seating area, and for other day-to-day needs such as hanging out washing and would provide for the general enjoyment of future occupants of the dwellings. I therefore find that the proposed development would provide satisfactory living conditions for future occupants in respect to garden space, and would not be inconsistent

with guidance of the SPD in this regard, which seeks to ensure that all occupants have a satisfactory level of amenity.

Living Conditions – Noise and Light Disturbance

30. The appeal site is within a mixed commercial and residential environment where a degree of disturbance from traffic, parking and other noise and associated light sources is to be expected. It is evident from the markings on the hardstanding that the proposed rear off-street parking area has been historically used for parking. I see nothing before me to indicate that currently there are any restrictions on this area in respect to parking vehicles, including those associated with the existing commercial use of Nos 17 and 18. As such, it has not been demonstrated that the proposal would result in more noise disturbance from use of this parking area than could already lawfully take place. Other similar rear parking arrangements are also found at the junction of Millennium Close and Stackhouse Drive so this is not an unusual arrangement in the area. Low level lighting is proposed in the parking area, which could be controlled by condition to avoid light disturbance to neighbours.
31. The side elevation of No 26, which bounds the parking area, is screened by a boundary fence and has no windows overlooking the parking area, which would minimise any light disturbance for its occupants. Whilst No 14 has a first-floor window in the side elevation, the dwelling itself is separated from the proposed parking area by an area of garden, which would reduce the effect of any increased activity in this part of the appeal site. Moreover, the proposed dwellings forming Plot 1 – 3 would provide improved screening of No 14 from traffic noise and other activities on the busy Norton Road, and their gardens would provide a buffer between the proposed dwelling at Plot 3 and the parking area.
32. As such, the use of this part of the site for parking at the scale proposed would not result in a substantial increase in noise or disturbance by headlights or external lighting beyond that which would be expected in this mixed use, built-up location. Therefore, the development would not have an unacceptable effect on the living conditions of occupants of Nos 14 and 26 Millennium Close or the future occupants of Plot 3 and Nos 17 – 18 Norton Road, in respect to noise and light disturbance. The proposal would not conflict, in this regard, with Policies ENV10 and GP2 of the UPD and Policy HOU2 of the BCCS which, amongst other matters, state development will not be permitted if the health, safety and amenity of its occupants would be unacceptably affected and require all developments to minimise amenity impacts.

Suitable Parking

33. On-street parking provision is restricted in the area; however, each property would benefit from an off-street parking space. Whereas occupants of No 17 and 18 would have direct access, future occupants of Plot 1 - 3 would have to walk from Norton Road via Stackhouse Drive to access the parking area. Although this is a relatively short distance it would not be ideal, particularly for those with young families or mobility issues. However, this feature would be evident to potential future occupants and whilst not ideal for some, it would be an acceptable compromise for others given the central location of the properties.

34. There is no substantive evidence before me to indicate that a rear parking area would likely give rise to anti-social behaviour, particularly as it would be secured by a gate with low level external lighting and overlooked by existing and proposed properties. This natural surveillance and measures proposed would discourage such activity and could be secured by condition.
35. Therefore, the proposed development would provide suitable parking with regards to convenience and security. It would in this respect comply with Policy ENV3 of the BCCS and Policies GP2 and ENV32 of the UDP which require the consideration of crime prevention measures, community safety and the adequacy of parking facilities. It would also be consistent with policies of the Framework which seek to create safe places.

Other Matters

36. The decision notice cites Policy ENV33 of the UDP which seeks good landscape design and Policy DEL1 of the BCCS which requires all new developments should be supported by necessary on-site infrastructure to serve development. Both matters are not at issue in this appeal and therefore these policies have not been determinative in this recommendation.
37. A listed war memorial is located at the apex of the open space close to the site, where it is appreciated as part of the Common, an important part of its setting. Whilst the appeal site is close by, it is separated from the designated heritage asset by the road, and does not form part of its immediate setting. Therefore, I conclude the development would not affect the setting, and thereby significance, of the listed building.

Planning Balance, Conclusion and Recommendation

38. There is no evidence that the Council is unable to demonstrate a 5 year housing land supply, and even if it were unable to do so, the harm to the CA provides a clear reason for refusing the proposal. Therefore the proposal falls within the exceptions listed in Framework footnote 6 Framework and the presumption in favour of sustainable development set out in paragraph 11d is not engaged.
39. The proposal would not preserve the character or appearance of the CA, to which I attach great weight. The proposed development would also not provide satisfactory living conditions for future occupants of Plots 1-3 with regards to outlook, which further weighs against the proposal. It would conflict with policies of the development plan and the Framework in these respects. Although there would be significant benefits from the development, including some heritage benefits, these would not outweigh the harm identified for the reasons outlined above.
40. Therefore, there are no material considerations, including the Framework and the benefits of the proposal, that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

41. I have considered all the submitted evidence and agree with the recommendation. The appeal is therefore dismissed.

L McKay

INSPECTOR