

Appeal Decision

Site visit made on 16 November 2021

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 20 December 2021

Appeal Ref: APP/K3415/W/21/3278714

Shire House, Birmingham Road, Lichfield WS14 9BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class ZA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Shire House Development Ltd against the decision of Lichfield District Council.
 - The application Ref 21/00466/PNDD, dated 8 February 2021, was refused by notice dated 27 April 2021.
 - The development proposed is for the replacement of existing building with a block of 33 apartments (17no. x 1 bed and 16no. x 2 bed) plus ancillary accommodation including reception area, communal recreational space, bin and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description used in the header above has been taken from the Council's decision notice as no specific description of the works is included in the application form. I note that the Appellant has also used this description in their appeal form.
3. As a prior approval there are two stages to assessment, the first being eligibility. The Council conclude that the proposal is eligible to be considered under the prior approval process and have not raised any conflict with the requirements of ZA.1 (a)-(m) as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). I have no evidence before me to conclude differently so, in that regard, the focus of this appeal will be the second stage of assessment – the prior approval merits assessment.
4. The GPDO under Schedule 2, Part 20, Paragraph B (15) (b) requires that I have regard to the National Planning Policy Framework (the Framework) as far as it is relevant to the subject matter of the prior approval, as if the application were a planning application.

Main Issues

5. Paragraph ZA.2 (2) (a)-(m) sets out those matters which the developer must seek prior approval for under Class ZA. The Council consider the scheme would conflict with points (c), (d), (e), (g) and (l). Therefore, the main issues are whether the new building would be appropriate with regard to:

- Its design and external appearance in its context,
- Its provision of amenity, with particular regard to outdoor amenity space,
- The proposed landscaping; and,
- Flood risk.

Reasons

External Appearance

6. The appeal site forms part of a small group of warehouses and commercial properties within a predominantly residential area along Birmingham Road, a main thoroughfare. The buildings along this road are primarily two-storeys tall, and although I noted a limited number of taller buildings within the street scene these do not materially affect the prevailing character of the street. The existing building is a linear two-storey building which runs parallel with the road and it is within the context of this street scene that the appeal building is read. Therefore, while I did also note taller buildings serving other streets nearby, they were clearly separate from the context of the appeal site.
7. Given its surroundings the height of the proposed building, at four storeys, would be a significant and incongruous feature in a prominent position immediately adjacent to the road. Although the buildings closest to the appeal site are somewhat boxy buildings associated with the commercial estate, the additional height of the proposal would result in a massing which is out of keeping with the street scene. Whilst the GPDO does allow for the increase of up to two floors over the old building, it also requires the assessment of the design and external appearance of the new building and, therefore, given the above, I find that in this instance, when making this assessment, the additional height would not be appropriate.
8. My attention has been drawn to two listed buildings close to the site, namely the Sandfields Pumping Station (Grade II*) and the Malt House (Grade II). However, they are some distance away and are clearly discrete from the proposal. I am therefore satisfied that the relationship of the appeal proposal to these heritage assets would have a neutral effect upon their setting and harm to their significance would not occur. Moreover, I find that the proposed palette of materials would also be sympathetic to the surroundings and context of the appeal site. However, I do not find these matters outweigh the harm identified above.
9. In this case, the design and external appearance of the building, resulting from its height, would be incongruous and therefore harmful to its context and would not comply with the design aims of the Framework, including Paragraphs 124, 126, 130, 134 which require, amongst other things, that development results in high-quality buildings which are sympathetic to local character and maintain a strong sense of place. Given the above, the proposal would fail the assessments required under points ZA.2 (2) (d) and (e) of Class ZA regarding the design of the new building and its external appearance (respectively).

Amenity

10. The proposal would provide private gardens for the ground floor flats while the upper floor flats would have access to communal outdoor areas to the front and

rear of the property. I find that it is common for blocks of flats to have limited private outdoor amenity space and that their external spaces are rarely truly private given the presence of upper floor windows which allow overlooking. The gardens and communal spaces to the front of the site would be set within a partial sunken area separated from the pavement by a small verge and retaining wall with railings on top. Cumulatively, I find that these would result in a sense of privacy sufficient to make the gardens and communal areas attractive and useable.

11. Moreover, as the flats would only provide one and two-bed accommodation I find it less likely that future occupiers would include many families with small children. There would therefore be less of a need for play space to be provided, and the appellant has brought my attention to Shortbutts Park which is close to the appeal site and provides a space suitable for play in an easily accessible location. Moreover, the private and communal outdoor spaces would be sufficient in size to accommodate future occupiers sitting out in a useable and attractive space.
12. Therefore, the proposal would result in a suitable standard of amenity for future occupiers by way of the external amenity space, in this regard the proposal would comply with Paragraph 130 (f) of the Framework which requires that developments create places that have a high standard of amenity for existing and future users.

Landscaping

13. I understand that additional plans and details were submitted by the appellant on the day that the planning application was determined, but after the decision was made, and so they were not taken into account. However, details were provided during the application, that would have been considered by the Council and which I have before me. These documents demonstrate the protection of existing trees, a landscaping scheme and the maintenance of this scheme.
14. I find that cumulatively these documents and plans are sufficient to demonstrate that a suitable landscaping scheme, commensurate with the site and the character of its surroundings, would be carried out as part of the development and would be subsequently maintained. Given the very limited level of existing landscaping present on site I find the proposal would be an improvement on this.
15. In light of the above the proposal would result in suitable landscaping accompanied by an appropriate maintenance scheme and as such, would meet the landscaping aims in the Framework including under Paragraph 130 (b) which requires development to be visually attractive as a result of, amongst other things, effective landscaping.

Flood Risk

16. The appeal site is within flood zone 1 where the risk of flooding from water sources, such as rivers, is at its lowest. Moreover, whilst it appeared during my observations that the site has very little permeable surfacing, I have not been provided with any substantive evidence to demonstrate that it suffers from surface water flooding. I therefore find that the site as existing has a very low risk of flooding.

17. The Planning Practice Guidance states that within Flood Zone 1 both more vulnerable and less vulnerable development is appropriate. Therefore, while the proposal would result in a more vulnerable use replacing a less vulnerable use, this is not unacceptable.
18. The proposed new building while taller, would be no larger than the footprint of the existing building and so I find that it would be unlikely to result in any greater level of surface water run-off. Moreover, the proposal would result in a greater area of soft landscaping and planting which I find would cumulatively likely be of benefit to the permeability of the site, further reducing the already limited flood risk.
19. In light of the above the proposal would not result in an unacceptable increase in flood risk by way of the vulnerability of the new use or from surface water flooding. Therefore, I find it would comply with the aims of Part 14 of the Framework with regard to flood risk.

Other Matters

20. The appellant has referred to a number of public benefits, including to the provision of housing, the economy, and employment, and that the appeal site is within an accessible location. However, these matters do not outweigh the harm identified above in terms of the proposed development's design and external appearance which, I find, is the overriding issue in this appeal. Moreover, Class ZA does not provide an opportunity to weigh such matters against an identified harm.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR