



Appeal Decision

Site visit made on 8 March 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2022.

Appeal Ref: APP/U4610/W/21/3282721

30 and land at the South end of Regent Street, Coventry CV1 3EP

- 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 Regent Street Partnership against the decision of Coventry City Council.
- The application Ref FUL/2020/2101, dated 7 September 2020, was refused by notice dated 10 May 2021.
- The development proposed was originally described as "Erection of student accommodation (sui generis use class) 281 studio rooms including change of use of and alterations to No.30 with associated ancillary and management facilities, landscaped and access courtyards and roof terraces."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description above is taken from the application form. During determination of the application, the proposal was amended to reduce part of the scheme in height and reduce the number of studio rooms to 254. A revised description to reflect this change appears on the Council's decision notice, which the appellant agrees to on the appeal form. The Council dealt with the proposal on this basis and so shall I.
3. During the course of the appeal, the appellant has submitted a completed and dated Planning Obligation¹ by way of a Unilateral Undertaking (the 'UU'). This would provide financial contributions of £104,701.96 for primary healthcare; £172,725 towards acute healthcare; £54,687.50 towards cycle route improvements, and that occupation of the residential units is restricted to students enrolled in full-time higher education. I shall discuss this later.

Main Issues

4. The main issues in this case are:
 - The effect of the proposed development on the character and appearance of the area,
 - The effect of the proposed development on the living conditions of neighbouring residents with particular regard to noise and disturbance including parking, and
 - The effect of the proposed development on the living conditions of neighbouring residents with particular regard to privacy and outlook.

¹ under Section 106 of the Town and Country Planning Act 1990

Reasons

Character and appearance

5. The appeal site is a former commercial site located at the end of the cul-de-sac at the southern end of Regent Street, with part of the site extending along a Private Road to the west. Regent Street is a residential street of two-storey terraced period properties in a mixed residential and commercial area, with a loose grid pattern of similar terraced streets. The area is popular with students as it is located on the edge of the city centre within easy walking and cycling distance of Coventry University and other Higher Education facilities, the train station and bus links. As a result there are a number of large purpose-built 5-6 storey blocks of student accommodation nearby, and some residential properties are occupied by students. The large blocks of the Central Six Retail Park (the 'Retail Park') on former railway sidings, lie along the site's southern boundary. Nonetheless, Regent Street retains a small-scale domestic character and appearance. The Private Road is a transition between the two-storey residential development of Regent Street and the taller contemporary 3-5 storey blocks of flats and houses to the west in Poppleton Close, the other side of the Private Road.
6. The proposed development would involve the demolition of the existing commercial buildings on the site and the erection of a large multi-faceted block of student accommodation accessed off the cul-de-sac at the end of Regent Street with an off-highway, private turning/servicing forecourt area. The building is broadly a square formation arranged around a central landscaped courtyard, with a linear block of accommodation extending along the Private Road.
7. The building would have a contemporary design with blocks of varying heights. A 2.5 storey modern terrace would be attached to the last property of Regent Street (No.30) to continue the terrace and create the entrance to the building. Along the Private Road, the blocks have also been designed as a terrace, but one that progresses in height at street level from 2.5 storeys up to 4.5 storeys towards the Retail Park at the southern edge of the site. The elevations are articulated and broken into different elements with varying roof lines, fenestration detailing and some of the roof floors set back. These measures successfully reduce the overall massing and bulk of what is a large building, whilst adding visual interest of a domestic scale to the street scene. The reduction in height of parts of the building would also create a better transition of built form across the site and the resulting building would respond better to the scale and height of the blocks of flats in Poppleton Close. Taking these various factors into account, the design of the proposal overall would positively respond to the character and appearance of the area.
8. Accordingly, the development would be in accordance with Policy DE1 of the Coventry Local Plan (the 'Local Plan') which expects new development, amongst other things, to respond to the context of the site, have regard to opportunities to enhance the local built environment and be of high quality. Whilst the Council did not cite Local Plan Policy H10 (Student Accommodation) in the third reason for refusal, I find it relevant as the proposed purpose-built student accommodation would, amongst other things, support and enhance the appearance and character of the area.

Noise and disturbance

9. Access to the proposed building for all students, staff, visitors and deliveries would be through a single entrance off a small private forecourt at the end of Regent Street, whether that be on foot, bicycle, car, van or other vehicle.
10. It is not uncommon for students to be high-spirited and for there to be some anti-social behaviour. The proposed accommodation block would be managed by a management team and the updated Management Plan sets out how this would operate. Outside of office hours Monday to Friday a security team would deal with any incidents relating to anti-social behaviour and other emergencies. In addition, there would be volunteer student residents wardens who would carry out certain duties. There would be CCTV coverage of the Regent Street approach, and students would be told at the start of their tenancy to ensure they behave in a neighbourly manner when passing homes along Regent Street and Westminster Road. Whilst it may be the case that a number of existing properties may be occupied by students, the properties are residential and could be occupied by families with children and non-students. Students can be encouraged to act in a respectful and neighbourly manner, and inappropriate behaviour could retrospectively result in penalties. However, this would not necessarily prevent events taking place and noise and disturbance occurring before remediation measures are taken, by which time the living conditions of nearby residents have already been adversely impacted upon.
11. Food and parcel deliveries, pick-up and drop-off activity, taxis, service and other vehicles would have to drive along Regent Street and converge and manoeuvre at its end or in the forecourt, or pull up and stop in Regent Street. Due to the nature of the development this activity would likely continue into the evenings every day as students come and go, especially late at night. There would likely be engines running, car radios and music, voices and car doors banging, which could go on into the night. This would amount to an unpredictable and potentially significant number of pedestrian and vehicle comings and goings, concentrated into a small area at the end of a residential street, all trying to manoeuvre, reverse or turn round. The previous commercial use of the site would have brought its own vehicle movements including heavy goods vehicles. However, this would have been a more predictable pattern during more conventional business operating hours. The proposed development would bring unpredictable pedestrian and vehicle movements of a different character, frequency and nature. These activities have the potential to cause noise and disturbance at unsociable hours to residents living in this tight knit area.
12. The proposed development does not make provision for any on-site parking and the Management Plan would make this clear to students. There is space within the site entrance for vehicle drop-off/pick-up and some limited pre-arranged parking would be made available when students move in/move out twice in the academic year. As already mentioned, the site is within walking distance of Coventry railway station and bus stops and is close to the city centre and to the University. Cycling is possible and the proposed development would provide covered and secured cycle parking within the building, as well as cycle stands outside. Therefore, students would not need to rely on a car for day-to-day requirements, and there would be genuine choices of transport other than the car for this residential development in an accessible location.

13. These measures, however, would not prevent students owning cars. I am advised that as a condition of their lease, students will be precluded from keeping a car in the proximity of the site, although it is unclear what would be classed as 'in the proximity'. Therefore any students with cars would have to look elsewhere to park them. There is limited on-street parking in the nearby streets and I saw on my visit that much of it is for resident permit holders only, including along Regent Street. There are some short-term public car parks nearby. I have not been provided with any substantive evidence that parking is a particular problem in the area. The Highway Authority has not objected, but seeks a financial contribution towards improvements to cycling infrastructure. With the proposal being for students only and the site's accessible location, I am satisfied that a lack of on-site parking provision itself would not cause parking problems for the area and associated disturbance to existing residents.
14. The amenity facilities for students include an outdoor central landscaped courtyard which is described as being the 'main focal point for student life' and an open-air roof terrace that would offer 'additional outdoor space for study, relaxation and exercise'. The updated Management Plan states these areas would be subject to a curfew at night and managed by a security team, although there is no mention what time this would be.
15. The numbers using the roof terrace would be limited in accordance with the plans that show seating areas arranged on the roof terrace annotated with maximum numbers of people allowed in each. In the Management Plan, rules for the roof terrace would preclude noisy gatherings or amplified sound. However, it is unclear how this would be actively enforced without the area being under constant security scrutiny, or who would decide how noisy a 'noisy gathering' would have to be before it was precluded from the roof terrace, and who would measure noise levels and how.
16. I acknowledge that the site is located in an urban area where ambient noise levels and tolerances of them are generally higher. However, noise would likely be more noticeable to residents in the evenings and weekends when ambient noise levels are generally lower, and when they are more likely to be at home or in their gardens, particularly in the summer and longer evenings. Whilst the extent of the roof terrace has been reduced, some of the roof terrace seating areas would still be as close as 22 metres from the adjacent rear garden areas of Regent Street. The sounds from multiple groups simply sitting, chatting and laughing would carry from this significantly elevated position in close proximity to neighbouring residential properties, particularly those in Regent Street. This has the potential to cause significant noise and disturbance to existing residents. I am not satisfied that the proposed Management Plan measures and rules could be adequately relied upon, managed and enforced to ensure there would be no noise and disturbance from these amenity areas, particularly the roof terrace.
17. The submitted Noise Survey focusses more on how future occupiers of the building would be affected by external noise in the area, such as plant at the neighbouring Retail Park. I am satisfied that adequate sound attenuation measures can be installed in the building to protect students. I am also satisfied that adequate internal sound attenuation measures can be installed to prevent noise transfer into the existing property on Regent Street it would join onto. However, I am not satisfied that there is adequate evidence to demonstrate that the type and levels of noise that would emanate from the

amenity spaces, particularly the roof terrace, would have no significant adverse effect on existing occupiers of nearby properties.

18. It would not be appropriate to impose a condition requiring amendments to the scheme to reduce or relocate amenity areas when there is no certainty as to what amendments would be necessary, and whether they could indeed be achieved, and there would be no opportunity to seek the views of interested parties. Removing the roof terrace may overcome concerns about unacceptable noise and disturbance, but it would not mitigate against the harm from the other noise and disturbances I have identified.
19. To conclude, the proposed development with its associated outdoor amenity area and roof terrace, student activity, comings and goings, including pedestrian and vehicular, would cause undue noise and disturbance to neighbouring residents, particularly those on Regent Street, and harm their living conditions. Accordingly, the development would be contrary to Local Plan Policies DE1 and H10 that collectively seek to ensure, amongst other things, that new development is of a high quality design in terms of its function and impact (as student accommodation) and that purpose-built student accommodation will not harm the amenities of occupiers of nearby properties.
20. Policy AC3 relates to 'Demand Management'. The proposal has not been refused for lack of a Travel Plan or that the proposal does not comply with parking standards, or that changes to the highway network would be required to integrate with Urban Traffic Management Control. Therefore this policy is not directly relevant to the main issue.

Privacy and Outlook

21. Whilst the Council has not specified, I concur with the appellant that the most affected gardens belong to properties at 18-28 Regent Street (Nos.18-28). whose rear gardens abut the 2.5 to 3.5 storey blocks along the Private Road, and the 2 storey building along the entire length of the southern garden boundary of No.28.
22. The submitted floor plans show that student rooms look over the Private Road, and that along the elevation closest to the gardens would be communal corridors leading to student rooms. The plans show this elevation would be mainly blank, apart from a number of fixed non-opening, narrow slit windows with translucent glazing, spaced well apart. A similar arrangement would exist for the elevation of the block running parallel to the side garden boundary of No.28. There may be some silhouetting of people standing against these windows to give the impression of overlooking. However, taking account of the limited number of narrow translucent glazed windows, I am satisfied there would be no significant overlooking and loss of privacy, or sense of being overlooked, of the rear gardens from these blocks.
23. The roof terrace has been amended so that the seating areas are set further away from the edge of the terrace to reduce overlooking. Coupled with 2m high screening around the nearest edge, which could be conditioned, I am satisfied that there would not be significant overlooking of the rear gardens of Nos.18-28 to cause overlooking and loss of privacy to users of these gardens.
24. With regards outlook, residents of Regent Street would look directly at the lowest blocks on the Private Road from their gardens. These blocks would be

slightly taller and sited closer to the rear garden boundaries than the current commercial buildings. However the gardens are long and the articulated design of the buildings would mean the development would not have an unduly dominant and overbearing effect. Hence the development would not create an unsatisfactory outlook for most of the existing garden occupiers.

25. However No.28 would have a much taller building at the rear of the garden where the building on the Private Road steps up to 3.5 storeys in height. In addition, the block along the central courtyard would present a 2 storey building that would extend along the entire length of the southern garden boundary. Even though this would be set about 3.5m away from the boundary with No.28 it would nonetheless be a substantial length of continuous solid built development. Coupled with the views towards the highest parts of the building along the Private Road, the garden would be effectively enclosed on two sides. Even with some views of the sky, this would still result in an unneighbourly, dominant and overbearing form of development that would create an unduly enclosing and oppressive living environment for occupiers of No.28 Regent Street and harm their living conditions, whether the property is a single unit or is split into smaller units and the garden is communal.
26. In conclusion, there would be no loss of privacy to users of the rear gardens of Nos.18-28 Regent Street, but there would be an unacceptable loss of outlook to users of the garden of No.28, which would harm their living conditions. Accordingly, the proposal would be contrary to Local Plan Policies DE1 and H10 whose aims have already been outlined above.

Other Matters

27. acknowledge the appellant has had pre-application discussions with the Council and I can see from the submitted evidence that some teams offered different advice. Any concerns the appellant has with the Council's handling of the pre-application advice and the application is a matter between the appellant and the Council. In reaching my decision I have been concerned only with the planning merits of the case.
28. A planning obligation in the form of a UU has been submitted. However, as the appeal is being dismissed for other substantive reasons, it is not necessary for me to comment.

Conclusion

29. There is no dispute between the parties that redevelopment of this previously developed land for student accommodation is acceptable in principle. Whilst there would be no harm to the character and appearance of the area and to the living conditions of existing occupiers with regard to privacy, these are neutral factors in my considerations. They do not diminish the harm I have identified to the living conditions of neighbouring occupiers from noise and disturbance and an unacceptable outlook for users of the garden of No.28 Regent Street.
30. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. For the reasons given above I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR