

# Appeal Decision

Site visit made on 21 June 2022

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 September 2022**

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**Appeal Ref: APP/H1840/W/21/3285056**

**Rear of Fernhill Heath War Memorial Club, 73 Droitwich Road, Fernhill Heath WR3 8RJ**

- 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 Ian O’Gorman of Lockley Homes against the decision of Wychavon District Council.
  - The application Ref 21/00125/FUL, dated 14 January 2021, was refused by notice dated 17 August 2021.
  - The development proposed is 6 residential dwellings with associated landscaping and infrastructure.
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## Decision

1. The appeal is allowed and planning permission is granted for 6 residential dwellings with associated landscaping and infrastructure at the rear of Fernhill Heath War Memorial Club, 73 Droitwich Road, Fernhill Heath WR3 8RJ in accordance with the application 21/00125/FUL, dated 14 January 2021, subject to the schedule of conditions at the end of this decision.

## Procedural Matter

2. The Council advise that they no longer wish to defend the second reason for refusal in respect of protected species. I therefore have not addressed this matter in the reasoning below.

## Main Issue

3. The main issue is the effect of the proposed development upon highway and pedestrian safety.

## Reasons

4. The appeal site comprises former allotments that neighbour the car park of the Fernhill Heath War Memorial Club. The club accommodates a number of daytime and evening activities and events. The car park is formally laid out with spaces wrapping around the building. Vehicular access is from Droitwich Road.
5. It is apparent that the club plays an important role within the community hosting a nursery during the day and providing an events space in addition to club activities. The club also permits parents of the nearby school to use the car park at pick up and drop off times.

6. The Council contend that the proposed development would further intensify the use of the access and result in increased vehicle movements through the car park.
7. Whilst there would be more vehicles using the access with Droitwich Road there is no credible evidence before me to indicate that it is unsafe for highway users or that adequate visibility in either direction cannot be achieved. In any event the appellant is proposing improvements to the junction to provide priority for pedestrians and to reduce the speed of traffic entering and exiting the site.
8. I acknowledge that the proposed development would result in 'through traffic' through the car park. Based on the appellant's evidence the proposed development would generate 40 additional vehicle trips per day, with 19 arrivals and 21 departures and 15 additional pedestrian trips per day, with 7 arrivals and 8 departures. The Council do not dispute the traffic generation figures or the appellant's assertion that the forecasted increase in trips would be low.
9. I acknowledge the Council's comments in respect of conflict between pedestrians, cyclists and vehicles. However, it is proposed to install a 2-metre wide raised footpath leading from Droitwich Road to the edge of the proposed shared drive. This would also provide a pedestrian route to the side entrance of the club.
10. The footpath would provide a dedicated pedestrian route through the site. The footpath would be well defined and a sufficient width to allow users to pass one another including those pushing a pram or bicycle. It would be long and relatively straight providing a legible route with good visibility. I am satisfied that the footpath would prioritise pedestrian movement improving the safety of users of the club and future occupiers of the development.
11. The appellant states that it is not unusual for pedestrians to co-exist in car parks without dedicated footways and have presented supermarket car parks as one such example. I acknowledge that there would be instances of people walking through the car park to the club or the school, but this is the existing situation. In my view the proposed footpath would likely take a number of these pedestrian movements off the car park and on to the footpath resulting in a betterment for pedestrians and drivers.
12. There would be limited overlap between nursery and school drop off and pick up and events at the club at their peak hours and it is unlikely that all residents or visitors would navigate through the car park at peak times and could opt for quieter times. As such, it is unlikely that future occupiers would be driving through the car park when it is at capacity or near capacity. Subsequently, the additional traffic associated with the proposed development could be satisfactorily accommodated without compromising highway and pedestrian safety.
13. Furthermore, future occupants would not be solely reliant upon vehicles to access shops and services as these are available within the local area. There are also public transport links within easy walking distance. This would serve to minimise the need to travel by car for day-to-day needs thus reducing vehicular traffic through the car park.

14. Future occupiers and visitors would be well aware that they would be driving through a car park and would likely adjust their driving style accordingly. Visitors that do not have knowledge of the road layout or area are likely to drive more carefully and consciously.
15. I acknowledge that vehicles would have to cross the footway in front of spaces 13-18. However, the appellant is proposing the use of tactile paving at this point to indicate a crossing point and change in its form. In my view this is an acceptable approach and would be similar to a crossing point along a road. There is no credible evidence to indicate that this arrangement is unusual so that it would result in confusion or give pedestrians a false sense of security.
16. I have considered the swept path diagrams and I am satisfied that two vehicles would be able to pass safely, including service and emergency vehicles, and enter and exit the site in forward gear. It is likely that vehicles travelling through the car park are likely to be travelling at low speeds. As such, it is unlikely that users would be unduly inconvenienced or endangered by through traffic or those looking for a car parking space. In addition, the appellant has confirmed that the parking spaces would meet the required size standards.
17. The Council contend that two car parking spaces would be removed due to the reconfiguration of the car park. However, the appellant advises that this is not the case. From the evidence before me the number of parking spaces including disabled spaces would remain unchanged. As such, I give this aspect of the Council's argument negligible weight in coming to my decision.
18. I note the Council's comments regarding construction vehicles, however, in this instance a planning condition would manage such matters to ensure adequate arrangements for the duration of the works.
19. The Council contend that there would be further traffic through the car park due to the activities taking place at the 'Old Post Office' building. The appellant has advised that occupiers have no legal right to cross the appeal site to access the building. They state that this consent would not be forthcoming. Therefore, I give this aspect limited weight in coming to my decision.
20. Within the shared drive area future occupiers would have to travel only a short distance without a footpath, given this short distance and that vehicles are likely to be travelling at low speeds in this area, either pulling into or off their driveways, it is unlikely that users including, any children playing in the street, would be unduly inconvenienced or endangered by vehicles.
21. Local residents submit that there have been collisions on the A38, including serious accidents, close to the appeal site. However, there is no credible evidence before me to substantiate these comments. Nor is there any substantive evidence that the proposal would make crossing Droitwich Road more challenging or that children would no longer continue to be supervised within the car park. Consequently, I give limited weight to these arguments.
22. Paragraph 111 of the National Planning Policy Framework (the Framework) advises that development proposals should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative effects on the road network would be severe.
23. Based on the evidence before me the vehicular movements associated with the development would not, in my judgement, result in an unacceptable highway

impact on highway safety or that the residual cumulative effects would be severe, particularly when taking into consideration the limited increase in traffic resulting from the proposal and the improvements to pedestrian safety in the form of the footpath and works at the road junction.

24. I conclude that the proposed development would not result in harm to highway safety. Therefore, there would be no conflict with Policy SWDP 4, Part ix of SWDP 21 of the South Worcestershire Development Plan (2016) and the Worcestershire Streetscape Design Guide which, amongst other things, seek satisfactory access and developments to be capable of being safely accessed from the local road network without undue local environmental impacts and for layouts to maximise opportunities for pedestrian and cycle linkages to the surrounding area.
25. It would also accord with paragraphs 111 and 112 of the Framework which, amongst other things, seek to create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

### **Other Matters**

26. Representations have been received regarding the loss of the allotments as a community facility. The Council have not raised this as a matter of concern and there is no compelling evidence before me to come to a different conclusion.
27. The actions of the developer or the War Memorial Club are not matters for me in determination of this appeal. I have not therefore taken this into account when making my decision.
28. Despite the comments received, there is no credible evidence to suggest that the proposal would result in the demise of the school or nursery.

### **Conditions**

29. I have considered the imposition of conditions in relation to the contents of both the Framework and Planning Practice Guidance. In the interests of precision, clarity and brevity I have undertaken some rationalisation of the conditions suggested by the Council.
30. In addition to the standard three-year time limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty. A condition relating to obscure glazing has been imposed to safeguard the living conditions of future occupiers.
31. Conditions requiring at least 10% of the energy supply of the development to be from renewable or low carbon energy sources, and for submission of a foul and surface water drainage scheme have been imposed in the interests of achieving sustainable development.
32. A condition relating to the access, turning, parking areas for cars is relevant in the interests of highway safety. A further condition requiring details of electric vehicle charging points to be approved is necessary in the interests of sustainable travel.
33. A condition for a Written Scheme of Investigation for the identification, treatment and preservation of significant archaeological features within the site is necessary in the interests of preserving the historic environment.

34. A condition for contamination identification and remediation of any potential contamination within the site is necessary in the interests of the health and safety of future occupants.
35. Conditions requiring the protection of retained trees during construction, details of any external lighting and for an ecological mitigation and enhancement strategy to be submitted are necessary in the interest of safeguarding the natural environment. The Council has suggested that upon completion of the development the ecological measures are to be inspected by a qualified ecologist. However, I find that this request is not reasonable nor necessary.
36. The Council has suggested a condition for a scheme of soft landscaping. However, sufficient information is shown on the submitted plans and thus has not been imposed. I have still found it necessary to ensure that dead or diseased plants are replaced for 5 years following completion of the development. I also find it necessary for details of the management and maintenance of the communal areas to be submitted in order to achieve a satisfactory appearance and relevant conditions have been imposed.
37. A condition for sheltered and secure cycle parking has been suggested by the Council. However, as the development is for market housing it is likely that residents would store their bicycles within their houses or garden sheds. As such, I find that the condition is not necessary.

### **Conclusion**

38. For the reasons set out above the appeal succeeds.

*B Thandi*

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: Site Location Plan Drawing Number PL001 Rev B; Proposed Site Plan Drawing Number PL002 Rev D; Plot 01 – Type B GA Plans & Elevations Drawing Number PL100 Rev A; Plot 02 – Type A GA Plans & Elevations Drawing Number PL105 Rev A; Plot 03&06 – Type D GA Plans & Elevations Drawing Number PL110 Rev D; Plot 04-05 – Type C GA Plans & Elevations Drawing Number PL115 Rev C; Plot 01 – Garage GA Plans & Elevations Drawing Number PL120; Street Scene Drawing Number PL125 Rev A and Detailed Soft Landscape Drawing Number L-200 Rev A; Access Arrangements – Visibility Splay Assessment Drawing Number SK01 Revision B; Internal Site Arrangements Drawing Number SK03 Revision A; Preliminary Engineering Design Drawing Number P\_ENG\_010; Swept-Path Analysis Drawing Number SP01 Revision A; Swept-Path Analysis – Fire Tender Drawing Number SP02 Revision A; Swept-Path Analysis and Inter-visibility - Refuse Vehicle and Estate Car Drawing Number SP03 Revision A and Swept-Path Analysis and Inter-visibility - Delivery Vehicle and Estate Car Drawing Number SP04 Revision A.
- 3) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be maintained throughout the construction period.
- 4) Prior to the commencement of any vegetation clearance, an ecological mitigation and enhancement strategy based on the recommendations contained within the Preliminary Ecological Appraisal shall be submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 5) No development shall commence until an assessment of the risks outlined in the submitted Desk Based Contaminated Land Assessment, 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.
- 6) No development shall take place until an Archaeological Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority.
- 7) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the Written Scheme of Investigation approved under condition 6 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 8) The development shall not be occupied until the foul and surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 9) The development shall not be occupied until details of the responsibility for and maintenance for all landscape areas (excluding domestic gardens) has been submitted to and approved in writing by the local planning authority. Development shall be undertaken in accordance with the approved details.
- 10) The development shall not be occupied until details of renewable and/or low carbon energy generation measures shall be submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development.
- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 12) The development shall not be occupied until the proposed development has been fitted with electric vehicle charging points. The electric vehicle charging points shall be retained for the lifetime of the development.
- 13) The development shall not be occupied until the access, turning and parking areas have been laid out within the site in accordance with Proposed Site Plan Drawing Number PL002 Rev D for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and the spaces shall thereafter be kept available at all times for those purposes.
- 14) All trees and hedges shown to be retained shall be protected by fencing in accordance with British Standard BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) for the duration of the construction work. No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 15) All planting, seeding or turfing comprised in the approved landscape details shown on Detailed Soft Landscape Drawing Number L-200 Rev A Plan shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 16) The windows in the side elevations shown on Plot 02 – Type A GA Plans & Elevations Drawing Number PL105 Rev A; Plot 03&06 – Type D GA Plans & Elevations Drawing Number PL110 Rev D and Plot 04-05 – Type C GA Plans & Elevations Drawing Number PL115 Rev C shall be fitted with obscure glazing (minimum of Level 4) prior to occupation of the dwellings and shall then be retained thereafter for the lifetime of the development.