



Appeal Decision

Site visit made on 9 March 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2023

Appeal Ref: APP/K3415/W/22/3308505

**Former Site Of Bridge Cross Garage, Cannock Road, Chase Terrace,
Burntwood WS7 1JY**

- 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 N Sellman of UV Care Burntwood Ltd against the decision of Lichfield District Council.
 - The application Ref 21/00016/FULM, dated 14 December 2020, was refused by notice dated 7 July 2022.
 - The development proposed is a 3 storey, 78 bed care home and associated car parking, and access arrangements.
-

Decision

1. The appeal is dismissed.

Applications for Costs

2. The appellant's evidence makes reference to a potential application for an award of costs against the Council, to be submitted during the course of the appeal. However, no application was subsequently made.

Preliminary Matters

3. The Council's decision notice set out four reasons for refusal. Refusal reason 3 related to concerns that the proposed care home use would conflict with surrounding uses within Burntwood town centre. However, in their appeal statement the Council confirmed that reason 3 is no longer being contested by the Council. I have taken that into account in my determination of this appeal.
4. Refusal reason 4 related to harm from increased traffic. This matter is no longer contested by the Council. In the absence of substantive evidence to the contrary, I see no reason to reach a different conclusion on traffic impacts. I note the Highways Authority also raised no objection on this matter.
5. Three counterpart unilateral undertakings were submitted during the course of the appeal under section 106 of the Town and Country Planning Act 1990 (as amended). These are signed by the appellant, first owner, and second owner, respectively. The obligations commit to a financial contribution for biodiversity enhancement, a travel plan monitoring fee, provision of a community room to be made available for the public in perpetuity, and payment of a primary health care contribution. I return to these matters subsequently.
6. Although not a reason for refusal, the Council's appeal statement finds that the financial contribution requested by Staffordshire and Stoke on Trent Clinical Commissioning Groups (now known as Staffordshire and Stoke on Trent

Integrated Care Board) (the ICB) would meet the relevant tests for planning obligations set out within the National Planning Policy Framework (Framework). The appellant responded to this request in their appeal statement and final comments. Therefore I address this matter as a main issue.

7. The Proposed Floor Plans (Ref AP20023-L02 F) show the proposed ground floor community/café hub (Community Hub) without a kitchen. However, Proposed Site Plan (Ref AP20023-L01 H) is also referenced on the Council's decision notice and shows a kitchenette area within the Community Hub. Therefore I have had regard to the inclusion of a kitchenette within this appeal decision.

Main Issues

8. In light of the above, the main issues are:

- the effect of the proposed development on the character and appearance of Cannock Road;
- whether the proposed layout and mix of uses would be suitable for its location within Burntwood town centre, with particular regard to its effect on the future development of land in the town centre; and
- whether or not it has been demonstrated that the proposal would have an acceptable effect on healthcare infrastructure, with particular regard to the primary care network.

Reasons

Character and Appearance

9. There is considerable variation in building form, design and materials in the locality, albeit red brick and grey roof tiles are common features. There are a limited number of three storey buildings nearby. For example, a three storey block fronts on to Water Street, opposite the appeal site. A substantial three storey building also occupies a corner plot, fronting on to the junction between Rugeley Road and Bridge Cross Road. However the appeal site is located in an area comprising predominantly domestic scale buildings of one and two storeys. The existing appeal site comprises a mix of vegetation and areas of hardstanding behind sections of low brick wall that front on to Cannock Road. It consequently appears as a gap in the built form between the coffee shop and gym on one side, and the church on the other.
10. The proposed building would be positioned to a broadly consistent building line with the adjacent built form. The proposed Community Hub would have the potential to add a degree of active frontage at ground floor level at one end of the site's frontage. The front projecting first floor terrace, and smaller second floor balcony would also add a limited degree of interest on the building's frontage. Nevertheless, aside from one front projecting gable, there would be no articulation of the roof line on Cannock Road, which would extend along most of the plot's width. Although hipped, the roof would consequently appear bland and bulky from Cannock Road.
11. Moreover, much of the proposed front elevation would appear flat, emphasising the substantial width of the building. For example, at second floor level there would be a row of nine identical windows without any variation, relief, or distinguishing features. From Cannock Road, the building would therefore

appear as a solid mass of some considerable height and width. This would be emphasised by the height of the proposal relative to adjacent buildings. Together with the lack of articulation in the front elevation, the proposal would result in an excessively bulky and oppressive appearance. Whereas the proposed design of the building's side and rear elevations are more varied and with greater articulation, for the reasons given I conclude that the proposed front elevation would unacceptably harm the character and appearance of Cannock Road.

12. Whilst there are other examples of three storey buildings within the locality, this does not justify allowing a scheme design that I consider would detract from, rather than enhance, the existing context. In any event, buildings such as Jervis Court as referenced by the appellant, shows considerably greater variation in its roof level and treatment of front facing windows. This has the effect of breaking up the bulk of its three storey façade. Whilst a prominent corner plot building, it consequently appears much less bulky and intrusive in the street than the design of the appeal scheme.
13. I have had regard to the outline planning permission granted for this site in 2018 for a three storey building fronting Cannock Road (Ref 17/00581/OUTM). However that proposal was submitted in outline with appearance reserved for future consideration. Moreover, that permission is said to have comprised ground floor retail with two storeys of residential accommodation above. Consequently, it would likely have resulted in visual distinction between the retail and residential elements, breaking up the bulk of the front façade. In addition, indicative plans for that scheme show greater variation in the Cannock Road roof line than the appeal scheme. As such, whilst the principle of a three storey building in this location could be acceptable, the 2018 permission does not alter my reasoning here.
14. Accordingly, although there is not a strong visual identity in the locality, the proposal would conflict with Policy B5 of the Burntwood Neighbourhood Development Plan (2021) (NDP), which generally seeks to ensure proposals enhance their locality. It would also conflict with Policy B6 of the NDP which seeks to ensure proposals are good quality and integrate with their surroundings. Whilst the proposed use would not conflict with the uses specified in Policy B1 of the NDP, it would not achieve good design. Therefore it would conflict with the policy overall.
15. The proposal would also conflict with Core Policy 3 and Core Policy 14 of the Local Plan Strategy 2008-2029 (2015) (LP Strategy), which generally seek to ensure proposals protect and enhance the character of their surroundings. Growth of Burntwood Town Centre is supported by Core Policy 1 of the LP Strategy which also seeks to prioritise use of previously developed land. However, in light of my concerns in respect of its harm to the character and appearance of its surroundings, it would not make efficient use of the land. As such it would conflict with Core Policy 1 as a whole. It would similarly conflict with Policy BE1 of the LP Strategy which generally seeks to ensure proposals achieve high quality design.
16. Furthermore, it would conflict with paragraph 130 of the National Planning Policy Framework (Framework), which supports proposals that add to the quality of an area. Although the proposed building materials would be consistent with others in the locality, the proposed design of the front façade

would be contrary to principles in the National Design Guide. For example, that proposals should achieve well-designed places that contribute to local distinctiveness, with reference to articulation, detailing and creating a positive and coherent identity (paragraph 56). It would similarly conflict with the requirement in the Sustainable Design Supplementary Planning Document (2015) for proposals to achieve high quality design, through integrating suitably with their surroundings (paragraph 4.15).

Layout and Mix of Uses

17. Policy B1 of the NDP supports mixed use proposals within the town centre in order to support its vibrancy and diversity. Within the list of acceptable uses are community leisure and residential. The appeal site forms a small part of 'Site A' on which Policy B1 supports large format retail and leisure uses, although it does not seek to restrict mixed use developments to only those uses.
18. Policy Burntwood 3 of the Lichfield Allocations Plan 2008-2029 (July 2019) (Allocations Plan) identifies a focus on creating a vibrant and diverse town centre. Most of the appeal site is within the boundary of a site allocated in Policy B2 of the Allocations Plan, under reference Site B13 (Burntwood 13): Bridge Cross Garage, Cannock Road. The site is allocated for mixed residential and retail development and a total of approximately eight dwellings is anticipated. Key considerations for the allocation include integration of retail and residential uses and connectivity to other areas and uses within the town centre.
19. The Council considers that the scale of the proposed building would act as a physical barrier, preventing future expansion of the town centre into the remainder of Site A as identified in the NDP. However, the proposal includes a gap between the appeal building and the coffee shop and gym on the adjacent site. This would provide vehicular access to a limited number of parking spaces towards the rear of the appeal site. The appellant confirms that the proposed vehicular access is also intended to provide future vehicular access to the remainder of Site A. There is no substantive evidence before me to the contrary.
20. Although the gap would be modest in size, the proposed Community Hub positioned at that end of the building would be visible on approach from Cannock Road. In addition, the boundary treatment along the front of the appeal building would not extend in front of the Community Hub. Therefore the boundary would noticeably step in at that end of the site. Furthermore, a patio area is shown in front of the Community Hub. Together, these would help to draw the eye to that end of the site and hint to the potential for further development beyond.
21. In addition, the proposed building footprint is L-shaped. As such, built form would not extend along the full length of its boundary with the access road. On entering the access road, this would create the potential for wider views over the remainder of Site A. Accordingly, the scale of the proposal would not unduly restrict visibility of the remainder of Site A or act as an unacceptable barrier to its future development.
22. The Council also considers that the proposal fails to provide a sufficient mix of uses in light of its location within the town centre. I note that the site is

opposite an existing care home facility, albeit that is located outside of the town centre boundary as most recently defined in the NDP. The proposal includes a range of facilities such as a gym, hairdressers and cinema, however there is no indication that these would be available other than for future residents of the proposal. Aside from the proposed Community Hub, the proposal would otherwise be a private facility.

23. Nevertheless, the proposal would provide circa 60 full time equivalent jobs involved in providing 24 hour care. As such, it is reasonably likely that employees would make use of facilities in Burntwood town centre during breaks or before or after work. There would also likely be visitors coming and going to the site who would be reasonably likely to make use of local facilities. Consequently, whilst the nature of the accommodation is proposed to be limited to an extra care facility rather than providing a range of types of residential accommodation, it would nonetheless bring a range of people into the town centre, helping to boost activity during the day and evenings.
24. The Council considers that the benefit afforded by the Community Hub would be limited given its modest size, lack of a kitchen and limited toilet facilities. Although modest in scale, the proposal would provide purpose built community space within the town centre. As set out in Preliminary Matters above, the space has been shown to include a kitchen area which would broaden the range of activities that it could accommodate. In the event that the appeal were to be allowed, the layout incorporating a kitchen area could form an approved plan. Therefore I afford moderate weight to the benefit of this element of the proposal.
25. Concluding on this matter, the proposed layout and mix of uses would be suitable for its location within Burntwood town centre, with particular regard to its effect on the future development of land in the town centre. Therefore with respect to this main issue it would accord with Policy B1 of the NDP and Policy Burntwood 3 of the Allocations Plan in contributing to the diversity and vibrancy of the town centre. However, for the reasons given above in respect of its contribution to the surrounding character and appearance, the proposal would conflict with Policy B1 of the NDP as a whole.
26. Policy B2 of the NDP which supports certain types of public realm enhancements on key routes is of limited relevance to this matter. The proposal would result in a degree of conflict with Policy B2 of the Allocations Plan in failing to provide retail alongside the residential use on this site. Nevertheless it would retain connectivity with other parts of the town centre in accordance with that policy aspiration. Therefore I afford that policy conflict limited weight.
27. For the reasons given, the proposal would not conflict with the aims of Policy Burntwood 1 of the LP Strategy in enhancing the role of Burntwood as a freestanding community and town. The Council also reference Core Policy 8 of the LP Strategy in relation to this matter. Whilst that policy seeks to focus retail within defined centres such as Burntwood, it does not limit town centre developments only to the uses described. Moreover the Community Hub element of the proposal would provide space for leisure or cultural uses which this policy supports within the town centre.

28. In addition, the proposal would accord with paragraph 86 of the Framework which supports the growth, management and adaptation of town centres, which can include residential development on appropriate sites.

Healthcare Infrastructure

29. Evidence from the ICB indicates that within Burntwood's Primary Care Network (PCN), the available floor space in existing clinical treatment rooms is 2,008sqm, whereas the advised floorspace for the number of patients in catchment is 2,647sqm. That is said to equate to a shortfall of 24 clinical treatment rooms across the five existing PCN buildings. As such, there is a notable existing shortfall in physical PCN treatment space. No robust evidence is before me to indicate otherwise.
30. In addition, the ICB considers that the proposed development would put additional pressure on those existing facilities, particularly in light of higher healthcare demands arising from patients in care homes. Although the proposal is said to provide 24-hour care, it does not follow that staff available to provide care would necessarily be medically trained. In any event, there is no mechanism before me to ensure that staff would be medically trained. Therefore, it is reasonably likely that the proposal would result in additional pressure on the existing PCN, which is already shown to be overstretched. Accordingly, the evidence before me indicates that a healthcare contribution would be necessary to make the development acceptable.
31. A contribution of £37,375 is consequently requested by the ICB. In their response to the application (dated December 2022) the ICB confirms that they are working on a business case for a new health and community facility in Burntwood to address existing and future healthcare needs. The contribution is requested to increase the future clinical treatment room floorspace within that proposed new facility, to address the needs of future occupants of the proposal.
32. Calculations are provided which identify the floor area that would be necessary to accommodate the needs of the 78 future occupants of the proposal. The total contribution amount is then calculated using a cost per square metre figure. The total requested contribution is based on increased demand from all 78 future occupants of the proposal. Both the ICB and the appellant acknowledge that there is uncertainty over whether it is reasonable to assume that the proposal would result in 78 additional patients as some future occupants may be existing residents within this PCN. However in the absence of a reasonable alternative measure, and given the level of care likely to be necessary for occupants of such a facility, I find that it is appropriate to base the contribution on the total number of future occupants in this instance.
33. Nevertheless, the timing of delivery of that facility relative to completion and occupation of the appeal scheme is unknown. As such, there is considerable uncertainty over whether the intended facility would be available to meet the needs of future occupants of the appeal scheme. In the absence of any substantive evidence on the nature and timing of delivery of that facility, I cannot be sufficiently certain that the requested contribution would deliver the necessary increase in healthcare infrastructure.
34. The Council references guidance in their Development Contributions SPD that indicates the use of S106 agreements is required to secure healthcare provision on sites identified as Strategic Development Allocations. However, no robust

evidence is before me to indicate that such agreements should not be used on other sites. Furthermore, in the circumstances of this case, evidence that adequate funding for healthcare could instead be secured through the Community Infrastructure Levy is not sufficiently persuasive.

35. I note that the appellant's signed S106 planning obligation includes a provision to pay the requested contribution. However for the above reasons, I conclude that it has not been demonstrated that the requested contribution would make adequate provision for healthcare infrastructure, with particular regard to the PCN. As such, the proposal would be contrary to Core Policy 4 of the LP Strategy which seeks to ensure developments contribute appropriately to strategic projects that support sustainable development and the community. Policy Burntwood 2 of the LP Strategy which generally supports improvements to the accessibility of the local community to goods and services, is of limited relevance here.
36. I have had regard to the judgment for R (University Hospitals of Leicester NHS Trust) v Harborough DC [2023] EWHV 263 (Admin). In that instance the judgment found that there was a failure to show that the proposed development would result in a gap in funding for NHS services. Whereas the contribution requested for this appeal relates to funding to address an identified shortfall in the capacity of existing NHS premises that would be exacerbated by the appeal scheme. As such, the circumstances of that recent judgment are not sufficiently comparable to this appeal.
37. I note the appeal decision referenced by the appellant at Land to the West of Ivy Lane, Worcestershire (Ref APP/H1840/W/22/3300326). Nevertheless in that instance, the Inspector found that there was no evidence of existing healthcare facilities being oversubscribed. Whereas in the case of this appeal there is evidence of an existing shortfall.
38. The appellant's evidence also makes reference to an appeal decision for Land off (Car Park Site), Bishopthorpe Road, York (Ref APP/C2741/W/21/3289470). However in that instance the Inspector found that there was not enough evidence to demonstrate that the proposal would have an unacceptable impact on local health care infrastructure. Whereas the evidence before me indicates that this appeal scheme would.

Other Matters

39. With respect to the other matters addressed by the submitted planning obligation, I am satisfied that the biodiversity offsetting contribution, the community facilities management plan and the travel plan monitoring contribution would be necessary to make the development acceptable in planning perms, directly related to the appeal scheme and fairly and reasonably related to the proposal in scale and kind. Therefore I attach weight to those elements of the obligation in the determination of this appeal.
40. The proposal would deliver new care home accommodation in an area where there is an identified need. It would provide a modest Community Hub of benefit to the local community. It would make use of a long term vacant, previously developed site in an accessible location. It would enable biodiversity enhancements off site. There would be short term economic benefits during construction, and it would provide employment benefits in the longer term through the employment of staff and associated services. However, whilst

significant, these benefits would not outweigh the considerable and enduring harm to the character and appearance of Cannock Road and the failure to adequately mitigate increased pressure on the primary healthcare network.

41. The appeal site is within 15km of the Cannock Chase Special Area of Conservation, however the Council concluded that there would be no likely significant effects on the integrity of the site as a result of the proposed development. In any event, as the appeal is being dismissed for other reasons there is no need to consider this matter further.

Conclusion

42. Therefore, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR