
Appeal Decision

Site visit made on 2 October 2023

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2023

Appeal Ref: APP/V4630/W/23/3316356

Aaina Community Hub, Bath Road, Walsall WS1 3BS

- 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 Aaina Community Hub against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 21/1789, dated 9 December 2021, was refused by notice dated 10 August 2022.
 - The development proposed is demolition of an existing community hub and construction of a new community hub.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing community hub and construction of a new community hub in accordance with the terms of the application Ref 21/1789, dated 9 December 2021, subject to the attached schedule of conditions.

Preliminary matter

2. I understand that another application for a similar development is currently with the Council. I have not been informed of the full details of that alternative proposal, or of any decision.

Main issue

3. The main issue in this appeal is the effect of the proposal on local character and appearance including the setting of the Grade II listed Church of St Michael's and All Angels and the settings of the nearby Highgate and Caldmore Green Conservation Areas.

Reasons

4. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas, listed buildings and their settings. Paragraph 199 of the National Planning Policy Framework (the Framework) confirms that great weight should be given to the conservation of heritage assets.

5. The appeal site sits within an urban area of housing mixed with occasional commercial uses and some large scale community facilities. The community hub is a nondescript, mainly single storey, flat roofed building with some lower floor accommodation at the back, taking advantage of the steep downward slope of the site. The listed church sits to one side, within the Highgate Conservation Area which bounds the site on that side. The Caldmore Green Conservation Area is farther away, separated from the site by a row of houses so that there is little intervisibility.
6. Despite some old and some more recent 3 storey development nearby, the listed church remains the pre-eminent building in the local area due to its scale, its attractive 19th Century architecture and its status as a historic community building. Most of the local terraced houses also appear to be 19th or early 20th Century and are of good quality though modest design. Some of these have been locally listed. The addition over time of more modern development has been part of the natural evolution of the area, resulting in an urban mix in which traditional and modern sit side by side. The character and heritage significance of the area chiefly stem from this diversity, from the vibrancy added by the community uses and from the primacy of the church.
7. The proposal is to replace the existing building with a new 1.5 to 2.5 storey pitched roof building, built into the slope and with solar panels on the roof, new boundary enclosures and rearranged gardens and parking. The Council is particularly concerned about the proposed building obscuring views of the church looking north along Bath Road. At present a small part of the front section of the church can be seen in these views, to the front of the community hub building, and the church's upper reaches can be seen above the hub.
8. On one hand the new building would be taller so would block out more views of the church roof and on the other hand it would be set a bit farther back from the street, opening up more views of the front of the church and giving it a slightly more spacious setting. The new building would be well below the level of the church in height and much smaller in depth so that it would be very much a secondary building within the street scene. The church would remain the dominant building in a range of views from local streets.
9. An 1870s Ordnance Survey plan indicates that at that time there was a frontage building and trees on and adjoining the appeal site. Although that building was set farther away from the church, it would in combination with the trees presumably have blocked views from Bath Road. I therefore do not find any clear evidence that the church was designed to have a fully open setting with unobstructed views along that street.
10. The appeal building is intended to provide increased space and its scale is appropriate for a community building. Although bulky, it has been designed to make good use of the sloping site to minimise its scale and height, especially as seen from Bath Road. The proposed combination of contemporary design with traditional materials would sit well within this mixed area.
11. There are also concerns about the proposed high wall and railings at the front of the site. These would give the property an unwelcoming and defensive appearance. I see no overriding justification for this. As suggested by the appellant, however, this minor matter could be dealt with by a condition requiring a revised scheme of site enclosures.

12. Weighing up these various factors I conclude that, subject to appropriate conditions and taking the existing building as a baseline, the proposal would be a higher quality development which would preserve the character and appearance of the local area including the settings of the listed church, the conservation areas and the nearby locally listed houses. It therefore accords with the saved policies GP2, ENV27 and ENV32 of the Walsall Unitary Development Plan, policies ENV2, ENV3 and CSP4 of the Black Country Core Strategy, policies DW1, DW2, DW3 and DW9 of the Designing Walsall Supplementary Planning Document and Sections 12 and 16 of the Framework, which seek to secure high quality design that protects and promotes heritage assets and the special qualities, historic character and local distinctiveness of the Black Country.
13. Even if I had assessed a minor degree of 'less than substantial' harm to the heritage assets, such a harm would have been clearly outweighed by the public benefits of the improved community facilities the new building could offer (with reference to Framework paragraphs 199, 200 and 202). The Council says that the application fails to demonstrate that the proposal would comprise the most optimum viable use for the site, but it seems to me that the proposed community use is an optimum use here.
14. I have considered the comments made by neighbours and others. The building would be set well away from the houses opposite and would not be particularly tall in relation to them, so that it would not be overbearing on their outlook. They would retain a largely open outlook to the west, across parts of the site and the adjoining road, Carless Street. The site is in a sustainable location so that people can get there without relying on the private car. Traffic speeds generally appear to be low here. Safe access and car parking could be provided and I note that the Highway Authority raises no objection.
15. I impose a condition specifying the relevant plans to provide certainty. As agreed by the appellant, details of construction management and land contamination investigation are needed before development commences to protect the local environment and the health of future users of the site. A further condition regarding unexpected contamination found during the development is needed for the same reason.
16. Drainage details for the disposal of surface water and sewage are needed in the interest of public health. A condition requiring details of access, parking and turning is necessary for highway safety and to avoid undue congestion. Conditions regarding levels, external materials, site enclosures and landscaping are all required to protect the character and appearance of the area. I have amended the suggested conditions in places in the interest of clarity and to set appropriate trigger points.
17. The Council has suggested a few other conditions which I find to be unnecessary. Extra control of external lighting is not justified within this street lit urban area. Tree survey and protection details are not needed given that I saw only one significant tree at the site, which is within the proposed parking area on the approved plans so will presumably need to be felled in any case. Finally, the Coal Authority advises that this is a Development Low Risk Area so that no condition is required but it wishes it to be noted that if any coal mining

feature is encountered during development this should be reported immediately to the Coal Authority.

18. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR

SCHEDULE OF CONDITIONS (11)

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.
2. Except as otherwise required by conditions of this permission, the development hereby permitted shall not be carried out other than in accordance with the following approved plans: location plan, PCHA-ACH-0904-21, S01B, P02, P03K, P04K, P05F, P06P, P10E, P11E and P12A.
3. Prior to the commencement of the development hereby permitted a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. This Statement shall include:
 - i) Construction working hours
 - ii) Parking and turning facilities for vehicles of site operatives and visitors
 - iii) Loading and unloading of materials
 - iv) Storage of plant and materials used in constructing the development
 - v) A scheme for recycling/disposing of waste resulting from demolition and construction works
 - vi) Temporary portacabins and welfare facilities for site operatives
 - vii) Site security arrangements including hoardings
 - viii) Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
 - ix) Measures to prevent flying debris
 - x) Dust mitigation measures
 - xi) Noise and vibration mitigation measures (if piling and/or ground stabilisation is to be conducted).

The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement which shall be maintained throughout the construction period.

4. Prior to the commencement of the development hereby permitted a land contamination site investigation shall be carried out and an assessment of identified and/or potential hazards arising from any land contamination, together with a Remediation Statement setting out details of any remedial measures necessary to deal with the identified and potential hazards of any land contamination present on the site with a timetable for their implementation shall be submitted in writing to and agreed in writing by the Local Planning Authority. The remedial measures as set out in the Remediation

Statement shall be fully implemented in accordance with the agreed timetable and confirmed in a validation report setting out and confirming the details of the remedial measures implemented, cross referencing those measures with the approved Remediation Statement, together with substantiating information and justification of any changes from the agreed remedial arrangements which shall be submitted in writing to and agreed in writing by the Local Planning Authority prior to the development being brought into use.

5. If unexpected ground contamination is encountered upon demolition of the existing building, site clearance and construction activities then, having regard to current best practice, the Applicant shall investigate the nature of contamination and a revised Remediation Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. Any mitigation measures set out in the approved Statement shall be implemented and reported in accordance with the requirements of condition 4.
6. Prior to the start of any development operations other than demolitions and site clearance as part of the development hereby permitted details of the proposed finished site levels and floor levels, ridge and eaves heights of the building hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.
7. Prior to the start of any building operations above the damp proof course of the development hereby permitted details of drainage for the discharge of surface water and disposal of foul water, noting all existing underground services, shall be submitted in writing to and approved in writing by the Local Planning Authority. The approved drainage shall be installed prior to first occupation of the development and shall thereafter be retained as installed for the lifetime of the development.
8. Prior to the start of any building operations above the damp proof course of the development hereby permitted details of vehicular and pedestrian accesses, turning area and parking facilities shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate how the surfaces are to be surfaced and drained and/or permeable surfaced to prevent surface water run off on to the highway or into any highway drain. The approved accesses, turning area and parking facilities shall be provided fully in accordance with the approved details prior to first occupation of the development, shall be retained thereafter and shall not be used for any purpose other than for access, turning and parking respectively.
9. Prior to the start of any building operations above the damp-proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of any bricks, render, roof tiles/materials, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

10. Notwithstanding the details shown on the application form and approved plans, prior to the start of any building operations above damp-proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates, or other means of enclosure shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a public highway. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved details and these treatments shall thereafter be retained for the lifetime of the development.
11. Prior to the start of any building operations above the damp proof course of the development hereby permitted details of hard and soft landscape works including any earthworks and a timetable for implementation shall be submitted in writing to and approved in writing by the Local Planning Authority. The approved landscaping shall be carried out in accordance with the approved details and timetable. If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.