



Appeal Decision

Site visit made on 2 January 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/M3455/W/23/3319204

Land on West Side of Bedford Road, Shelton, Stoke on Trent ST1 4PL

- 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 Practical Construction against the decision of Stoke-on-Trent City Council.
 - The application Ref 66778/FUL, dated 26 May 2021, was refused by notice dated 27 September 2022.
 - The development proposed is residential development of 7 No. houses and 2 No. apartments and associated external works including access road and car port.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted to the Council during its consideration of the application. The set of revised plans now also include the revised site plan reference 1490-AL-216 Rev B. The amended drawings have not altered the substance of the scheme and I shall take these into consideration which would not cause prejudice to any party.
3. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 19 December 2023. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.
4. Planning permission was granted¹ in 2017 for the erection of 38 dwellings, in three blocks, to the east of the appeal site (the Approved Scheme). This development has been completed and appears to be fully occupied. The scheme was subject to a financial viability appraisal that demonstrated that any affordable housing provision would render the scheme unviable.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area,

¹ Planning Application Reference: 60894/FUL

- The effect of the proposal on the living conditions of future occupiers with particular regard to the size of gardens, privacy and outlook, and
- Whether or not the proposal would make a suitable provision of affordable housing.

Reasons

Character and appearance

6. The appeal site is an area of previously developed land, where all previous buildings were demolished sometime around 2014. It is a relatively flat, cleared site and shares boundaries with adjacent commercial and residential uses. It also partially shares a boundary with Caldon Canal and the curved boundary of a development site marked as 'phase three' on the layout plan. The surrounding area consists of a combination of flatted contemporary development and traditional Victorian housing and other traditional forms of development, all mostly two-storey. Local residential areas predominantly consist of terraced and semi-detached housing in regimented linear rows set close together. The area is therefore of varied character with the vacant site conveying a neutral contribution to the character and appearance of the area.
7. Policy CSP1 of the Core Strategy [2009](CS) requires development to be well designed and to respect the character, identity and context of Stoke-on-Trent's unique townscape. Further, policy R3 of the Council's Urban Design Guide (UDG) requires development to relate well to its surroundings and the existing character.
8. The proposed scheme consists of a series of two-storey residential buildings following a roadway that would extend Revanth Place through the site. Some housing would address the new street directly, whilst others would present a gable end to the street. The gable end of plot 1 would be at the terminus of a key view when entering Revanth Place and this fails to add interest to the proposed estate. Furthermore, the general absence of a clear linear frontage would form haphazard gaps between buildings and fail to create a strong streetscene. As such, the proposed layout results in a rather disjointed form of development which is also constrained by 'phase 3'. The absence of a continuous building line would result in an uninspiring frontage, that landscaping would not adequately address. The layout would not be reflective of the pattern of local residential development and would make a poor contribution to the street scene.
9. The design of the proposed dwellings would include brick walls and concrete roof tiled pitched roofs that would replicate the general vernacular of built form in the local area. The addition of soldier course brick detailing around the windows would also add interest to the design. However, the absence of bay windows, projecting gables, porches/canopies or other similar elevational articulation would result in a design of dwelling that is relatively flat and uninspiring.
10. The site is alongside a historic waterway within the inner urban core of the city. Also, the northwestern section of the site is within the Caldon Canal Conservation Area (CCCA). The Council identifies that the area has an historical heritage that new development should respect and respond favourably to. However, there is limited evidence of such industrial character in local built

form, other than the canal itself, and whilst the waterway has historic interest most of the scheme would be set away from the canal providing a sense of separation. Accordingly, the proposal would preserve the significance of the CCCA, a matter undisputed by the Council's conservation officer.

11. The National Design Guide (NDG) requires new development to integrate well with an area, create a sense of place and exhibit high-quality, beautiful design. The proposed development would not reflect the local traditional pattern of residential development and is of poor design.
12. The proposal would not complement the form of development in the area and would fail to integrate well with the character and appearance of the site, and its surroundings. Consequently, the proposal would conflict with CS policy CSP1, UDG policy R3, the NDG and the Framework. These seek, among other matters, for development to contribute positively to an area's identity in terms of layout and to be sympathetic to local character.

Living conditions

13. Policy R15, of the Council's UDG, relates to relationships between dwellings. This states that buildings must be designed to provide reasonable levels of visual privacy to habitable rooms. UDG Policy R16 requires shared space and gardens to be useable and relate well to the house type and its occupiers. The site is relatively constrained and close to existing built form. Most notable is the two-storey industrial building adjacent to the northern edge of the site. This includes first floor windows that would overlook the gardens and rear elevations of 3-7.
14. The apartments, at plots 6 and 7, would be placed closest to the industrial building. At its rear, this block would have a kitchen at ground floor and bedrooms above. The main living space would be at the front of the site, preventing views into main habitable internal space and limiting overlooking. Furthermore, the outlook from the rear windows of these plots would not be so compromised for this impact to be materially adverse.
15. The outlook to the rear of dwellings 3-5 would look towards the adjacent industrial building. However, the proposed garden lengths are around 17 metres, creating a sense of space between these buildings. The Council has no separation standards for residential to commercial uses. Nonetheless, it is noted by way of comparison, that the Council support separation distances of 12 metres in a front-to-front relationship as illustrated by table 7.20 of its UDG. As a result, the proximity of the industrial building, which substantially exceeds this distance, would not result in a harmful impact on the outlook of occupiers of these dwellings.
16. In terms of overlooking of these plots, the industrial building would be unlikely to be occupied at weekends and evenings, at times that future occupiers would most likely seek to use their gardens. Furthermore, the separation distance between windowed elevations would be around 17 metres, which is a relatively generous distance in an urban context. As such, the extent of overlooking anticipated from the industrial building would be limited, and insubstantial.
17. The Council does not employ amenity space standards. The Appellant has illustrated that plots 3-5 (for three bedroom dwellings) would have garden areas that range from 94 sqm to 134 sqm. As such, these would be generous

in depth and size. It is also stated that the apartments, plots 6-7, would have access to amenity spaces of 57 sqm and 31 sqm respectively. Plot 7 would have access to relatively small pockets of private amenity space. However, as this plot is a small two bedroom unit, requirements for a private external space would be reduced. Also, access to local public open space is within a short walk of the site, bolstering on site provision of amenity space. Accordingly, the provision of external space for the proposed dwellings would be acceptable in terms of size and function.

18. The front elevations of plots 3-7 would be south facing. As a result, the dwellings would receive most of their daylight to the fronts of the buildings with the industrial building to the rear having a limited effect on sunlight and daylight levels within the rear gardens and rear windows. The proposed dwellings would receive good levels of sunlight and daylight, due to their orientation and separation from surrounding buildings, and would not be demonstrably overshadowed by the industrial building to the rear.
19. Consequently, the proposed dwellings would not suffer demonstrable harm to each occupier's living conditions with respect to privacy, daylight, sunlight and outlook. Accordingly, the proposal would comply with CS policy CSP1, the Council's UDG and the Framework with respect to the effect on living conditions. These seek, *inter alia*, for development to include private space that is safe, attractive and accessible and promotes a high standard of amenity for future users.

Affordable housing

20. CS Policy CSP6 relates to the provision of affordable housing. This states that new residential development in urban areas (of which the appeal site is within), of 15 dwellings or more, will be required to contribute towards affordable housing at a rate of 25% of the total dwellings provided. However, the Framework has reduced this threshold to 10 dwellings² or more. Also, the Framework states that it is for the applicant to demonstrate whether particular circumstances justify the need for a financial viability assessment at the application stage, with the weight given to it a matter for the decision maker.
21. The proposed scheme for 9 dwellings does not, alone, trigger the need for an affordable housing provision. However, the Council suggests that the site should be considered as being part of a wider site, incorporating the Approved Scheme. I have considered case law³ that establishes three criteria to explore characteristics of disaggregated development. These criteria include the ownership of the site; whether the site could be considered as a single site for planning purposes; and whether the development should be treated as a single development. I am also mindful of more recent case law⁴ that ratified this approach but noted that the criteria should not be considered determinative by itself when informing decision makers in coming to a planning judgement.
22. The Appellant is the owner of the site and owned the adjacent site subject to the Approved Scheme at the time the first application was made. However, I also understand that the approved site has not been owned by the appellant since 2021. Therefore, the ownership link between sites is relatively tenuous.

² NPPF Paragraph 65

³ Brandlord judgement - R (Westminster City Council) v First Secretary of State and Brandlord Limited [2003]

⁴ New Dawn Homes Ltd v SSCLG [2016] EWHC 3314 (Admin)

23. The proposed scheme would be served by the extended Revanth Place, as is the Approved Scheme. Nonetheless, although sharing access, the appeal site is not dependant on the approved scheme for access. Also, the Approved Scheme is enclosed by a wall and railings and is therefore self-enclosed and therefore independent of the appeal site. As a result, the approved site and the proposed scheme are not presented as a single unit of land and should not be considered as a single site for planning purposes.
24. The Approved Scheme was given planning permission in 2017. Construction began in 2018 and completed in 2019. I understand that the site was occupied in 2021, before the application for the appeal site was submitted. There is therefore limited reason to find that these sites are contiguous or a single development site. As the proposed development on its own would not meet the Council's policy threshold, or the reduced threshold of the Framework, no affordable housing provision would be required.
25. The Council refers to an appeal decision⁵ for 7 dwellings in Halton. In that case the Inspector found that despite the small number of units the scheme was contiguous as the appeal proposal was within the site of a larger scheme that had been previously approved and was incomplete. Consequently, the appeal decision refers to a scheme with substantially different characteristics that are not comparable to the appeal site and scheme. Furthermore, even if both sites were considered as a single unit, a viability assessment would be unlikely to find an affordable housing contribution could be made, given the viability conclusions of the Approved Scheme.
26. Consequently, as the scheme is not required to make an affordable housing contribution it would comply with CS policies CPS6 and CPS10 and the Framework. These seek, among other matters, for development to provide affordable housing in accordance with the prescribed thresholds.

Planning balance and conclusion

27. The Framework seeks to boost the supply of housing. The scheme would deliver 9 new homes on previously developed land. Furthermore, the proposal would not result in an adverse effect on the living conditions of future occupiers and is not required to contribute towards affordable housing.
28. However, the scheme would be of poor design in terms of layout and elevational treatment. It would not reflect the character and appearance of existing residential development in the area and would not reflect good design. As a result it would conflict with the development plan when taken as a whole and the National Design Guide.
29. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

⁵ Appeal Decision Reference: APP/A2335/W/21/3285794