

Appeal Decision

Site visit made on 3 September 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2024

Appeal Ref: APP/E3715/W/23/3332272

**Binley Woods Service Centre and 64 Rugby Road, Binley Woods,
Coventry CV3 2AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Auto Easy Network against the decision of Rugby Borough Council.
 - The application Ref is R22/0207.
 - The development proposed is the demolition of the existing single and two-storey car sales, workshop and car wash premises, demolition of the existing two storey dwelling for the residential redevelopment of the site consisting of two apartment buildings and associated external works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing single and two-storey car sales, workshop and car wash premises, demolition of the existing two storey dwelling for the residential redevelopment of the site consisting of two apartment buildings and associated external works at Binley Woods Service Centre and 64 Rugby Road, Binley Woods, Coventry CV3 2AX in accordance with the terms of the application, Ref R22/0207, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Auto Easy Network against Rugby Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have taken the address of the appeal proposal from the Council's decision notice rather than the application form as it is a more accurate description of the location. I have omitted 'full planning permission for' from the description of development as that does not describe acts of development.
4. The appeal is supported by a planning obligation in the form of a signed agreement, dated 10 June 2024, made pursuant to section 106 of the Town and Country Planning Act 1990 (the Planning Obligation). The Planning Obligation makes provision for affordable housing, a financial contribution

towards libraries and a sum towards monitoring, which will be addressed later in my decision.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area with particular regard to scale, massing, height and density.

Reasons

6. The appeal site contains single storey buildings, that are in commercial use and extend to a position close to the rear boundary, and an adjoining detached dwelling within a narrow plot. It lies on a busy road within a residential area comprising two storey detached dwellings, interspersed by some semi-detached properties and a small number of bungalows. The dwellings are of varied design and appearance, predominantly within generous plots. They have a broadly consistent building line and are set back from the highway behind enclosed front gardens that include large areas of hard surfacing. Mature trees and grass verges are notable features of Rugby Road giving the area a verdant, spacious and pleasant quality.
7. The proposed buildings would be larger than the buildings they would replace and would have a greater overall footprint, depth and bulk than the other dwellings in the locality. Nonetheless, they would include recessed and lower elements, around a central section, that would acceptably break up, provide relief and add interest to the front elevations.
8. The overall height of the proposed development would reflect that of the neighbouring dwelling, 66 Rugby Road, and others nearby. Whilst the proposed buildings would have a third floor, the accommodation at that level would be within the roof space and, as such, the buildings would be two storeys in appearance. The inclusion of dormer windows distributed around the various roof slopes of the proposed buildings would add further interest to all elevations without appearing dominant. Furthermore, they would not appear as alien or discordant features that would be unexpected within their context given that dormers are features of many other buildings along Rugby Road.
9. The proposed apartment buildings would, in a similar manner to the prevailing character of the area, sit behind the existing wide grass verge and an enclosed frontage. Whilst there is a broad consistency in the building line along Rugby Road, it is by no means uniform and is broken up by articulation within the facades of the existing houses. As such, notwithstanding that the proposed buildings would, in part, extend forward of the front elevations of the adjoining properties, the development would generally complement and accord with the layout and rhythm of the street scene.
10. The proposed large car park would be situated some distance from Rugby Road to the rear of the proposed buildings. Consequently, it would only be glimpsed along the central access drive and would not appear as a prominent component of the streetscape. Whilst the appeal proposal would also include frontage parking, this would not be to a greater extent than many other properties in the area, and, like other plots along Rugby Road, its appearance would be softened by planting. The proposed hedge and tree

planting would also soften the appearance of the modest cycle stores that are also proposed at the front of the buildings.

11. I find, therefore, that the design and appearance of the proposal would sit comfortably with the variety of architectural styles along Rugby Road, and would be of an appropriate scale, height and massing. Accordingly, it would not represent an overdevelopment of the site or be out of place or harmful to the street scene.
12. As the buildings will contain 28 apartments, the proposed development would have a much higher density than that of the wider area. Nevertheless, I have found the proposal to be acceptable in its character and appearance. Furthermore, I have not been presented with any evidence that the proposal is contrary to policy that sets a maximum density of development in this area. There is no basis, therefore, to conclude that the appeal scheme would constitute an overdevelopment of the site regarding density.
13. For the above reasons, the scale, massing, height and density of the proposal would not harm the character and appearance of the area. Consequently, it would comply with the requirements of Policy SDC1 of the Local Plan (LP) which sets out that new development will only be supported where the proposal is of a scale, density and design that responds to the character of the area in which it is situated.

Planning Obligation

14. Consideration of planning obligations is to be undertaken having regard to paragraph 57 of the National Planning Policy Framework (the Framework) and the statutory requirements contained in Regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations, 2010 (the Regulations).
15. One of the matters set out in the Planning Obligation is to provide or procure the provision of 20% of dwellings across the development as affordable housing. This accords with the LP Policy H2 target and the Agreement therefore meet the statutory tests set out in paragraph 57 of the Framework.
16. A financial contribution towards Warwickshire County Council (WCC) libraries is required to improve, enhance and extend the facilities or services at a nearby service point to mitigate the impact from the increased use due to the development. I am satisfied that such a payment, which the Planning Obligation secures, is necessary to make the development acceptable in planning terms and would meet the other tests of paragraph 57 of the Framework.
17. A payment of £3,300 is included towards the Council's cost of its monitoring of the implementation of the Planning Obligation. This sum is based on the Council's latest Fees and Charges, and I consider it to be proportionate and reasonable. Whilst the monitoring costs of WCC is not included as it requested, that does not weigh against the proposal as it has not been demonstrated that it is necessary to make the development acceptable in planning terms.
18. The financial contribution to address an increase in the Highway Authority's maintenance liability as sought by WCC at the application stage, is also not included in the submitted Planning Obligation. Nevertheless, there is no

evidence before me to demonstrate that without such a contribution there would be a harmful effect on the public highway, justifying the amount, or setting out how it would be spent and on what. As such, I am unable to conclude that such a planning obligation would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and that a lack of such contribution weighs against the proposal.

19. Accordingly, the provisions of the Planning Obligation are necessary to make the development acceptable in planning terms, and are directly related to, and fairly and reasonably related in scale and kind to, the development. I am therefore satisfied that the Planning Obligation accords with the Regulations and meet the tests set out in paragraph 57 of the Framework.

Other Matters

20. The proposal would result in the loss of the existing employment uses from the site. Nonetheless, I have been presented with no evidence that such a loss would conflict with policy. In addition, there is nothing before me to support the conclusion that residential redevelopment of the site is only permissible if it has been demonstrated that alternative employment use of it would be unacceptable in planning terms, or that a site for the relocation of the existing uses has been secured.
21. The principle of residential development of the site is accepted by the development plan and is not dependent upon there being an identified need for the proposed housing. In addition, there is no substantive evidence that the proposed development would lead to unacceptable pressure on doctors or schools.
22. Concerns have been raised about congestion, parking and manoeuvring within the site, the adequacy of the proposed access and the movement of emergency vehicles. However, in the absence of any compelling evidence to the contrary, I have no grounds to disagree with the conclusion of the submitted Transport Statement that the proposal would not have a severe adverse effect on highway safety. I note that the Highway Authority and the Council have reached a similar conclusion in this respect.
23. I have had regard to the other matters raised by interested parties, including the absence of open space, adequacy of bin storage provision, loss of privacy, loss of light, contamination, noise and disturbance and risk of flooding. However, I have been presented with no substantive evidence that would lead me to disagree with the Council's conclusions on these matters and determine that the proposal would result in material harm sufficient to justify dismissing this appeal.

Conditions

24. The Council has suggested several conditions which I have considered against the Framework and PPG. As a result, I have made some amendments for clarity and consistency, and to avoid duplication.
25. I have imposed the standard time limit condition, and, in the interests of certainty, a condition that specifies that the development is carried out in accordance with approved plans.

26. I include a condition requiring a Demolition and Construction Management Plan so that the construction process is suitably controlled in the interests of highway safety and to protect the living conditions of nearby residents. This is a pre-commencement condition to ensure that appropriate controls are in place before development commences. A condition securing the noise attenuation measures as recommended in the Noise Assessment is also necessary to protect the living conditions of the occupants of the proposed development.
27. To minimise risks for future occupiers, neighbouring occupiers and the environment, a condition is required to ensure that contamination is appropriately addressed.
28. To ensure the satisfactory appearance of the proposed development, I have considered it necessary to attach conditions relating to the external materials, boundary treatments, the appearance of the bin and cycle stores, and landscaping.
29. I have included, in the interests of highway safety, conditions relating to the provision of a suitable access, car parking and manoeuvring space, the reinstatement as footway of the parts of the existing access made redundant by the development, and improvements to the footway. It is also reasonable to require cycle parking spaces, electric vehicle charging points and refuse stores to promote sustainable forms of transport and to ensure an appropriate level of provision. In addition, to promote sustainable travel, I have included a condition requiring that the developer provides a sustainable travel pack.
30. Cycle parking and charging are also required to ensure air quality neutrality to satisfy LP Policy HS5. For the same reason, I have included a condition relating to ultra-low emission boilers.
31. To provide advanced, high quality and reliable communications in accordance with the Framework, an appropriate broadband connection to the dwellings should be provided.
32. Conditions requiring that the development is carried out in accordance with the Flood Risk Assessment, verification of the installation of the surface water drainage system, and approval and implementation of a maintenance plan are necessary to ensure the site is suitably and correctly drained to prevent flooding. Conditions relating to water and energy efficiency are also necessary to ensure an efficient and sustainable development.
33. In the interests of nature conservation and habitat creation, I have attached conditions requiring details of habitat and species enhancement measures and a lighting plan to be approved and implemented, as well as preventing the removal of vegetation during the nesting season.

Conclusion

34. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

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 4290 BWSS-RA-ZZ-DR-A-101 P03
Site block plan 4290 BWSS-RA-ZZ-DR-A-112 P03
Proposed ground floor plan 4290 BWSS-RA-00-DR-A-113 P07
Proposed first and second floor plan 4290 BWSS-RA-01-DR-A-114 P04
Proposed roof plan 4290 BWSS-RA-03-DR-A-115 P03
Proposed elevations 4290 BWSS-RA-ZZ-DR-A-116 P03
Preliminary Soft Landscape Proposals 1970_050_PL01 Revision A
- 3) Prior to the commencement of any works, a Demolition and Construction Management Plan shall be submitted to and approved in writing by the local planning authority. This shall include details relating to:
 - The control of noise and vibration emissions from demolition and construction activities, including groundworks, and the formation of infrastructure including arrangements to monitor noise emissions from the development site during the demolition and construction phase.
 - The control of dust including arrangements to monitor dust emissions from the development site during the demolition and construction phase.
 - Measures to reduce mud deposition offsite from vehicles leaving the site.
 - An HGV Routeing Plan.
 - Suitable areas for the parking of contractors and visitors vehicles and the unloading and storage of materials.
 - If piling is to be used, a piling specific risk assessment and management plan including for vibration monitoring. Continuous Flight Auger or other methods shall be prioritised for use over driven piling methods.

The development shall be carried out in accordance with the approved Management Plan throughout the demolition and construction phase.

- 4) No development, other than demolition, shall take place until condition (a) to (d) below have been complied with. Reference shall be had to the 'Applied Geology Desk Study Report for Binley Woods Service Centre, Binley Woods, Coventry reference AG3358-21-AN62, status Validated Issue 1, January 2022' as a basis for further site works.
 - (a) An investigation and risk assessment shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be subject to approval in writing by the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report shall be subject to approval in writing by the local planning authority. The report of the findings shall include:

- (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
 - (iii) An appraisal of remedial options, proposal of the preferred option(s) to be conducted in accordance with UK Government and the Environment Agency's Land Contamination Risk Management (LCRM) 8 October 2020.
- (b) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared and subject to approval in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- (c) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared and subject to approval in writing by the local planning authority.
- (d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the local planning authority in accordance with condition (c).
- 5) No above ground development, other than demolition, shall take place until full details of the colour, finish and texture of the materials to be used on all external surfaces, together with samples of the facing bricks and roof tiles have been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved materials.
- 6) No above ground development shall take place until a detailed schedule of enhancement measures (to include all aspects of landscaping including native species planting, details of any habitat creation such as ponds, and

specific enhancements such as hedgehog highways, bird and bat boxes) has been submitted to and approved in writing by the local planning authority. Such enhancement measures shall be implemented in accordance with the approved details prior to the first occupation and shall be retained thereafter for the lifetime of the development.

- 7) No above ground development shall take place until details of all external light fittings and external light columns have been submitted to and approved by the local planning authority. Such details shall ensure that lighting is restricted across the site, does not extend beyond the boundaries and is kept to a minimum at night in order to minimise impact on emerging and foraging bats. This could be achieved in the following ways:
- Lighting shall be directed away from vegetated areas.
 - Lighting should be shielded to avoid spillage onto vegetated areas.
 - The brightness of light should be as low as legally possible.
 - Lighting should be timed to provide some dark periods.
 - Connections to areas important for foraging should contain unlit stretches.

The external lighting shall be implemented in accordance with the approved details prior to the first occupation and shall be retained thereafter for the lifetime of the development.

- 8) No above ground development shall take place until details of the siting, design and materials of the proposed bin and cycle stores have been submitted to and approved by the local planning authority. The bin and cycle stores shall be provided in accordance with the approved details prior to the first occupation and shall be retained thereafter for the lifetime of the development.
- 9) No above ground development shall take place until details of all proposed walls, fences and gates, including elevations, have been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details.
- 10) No above ground development shall take place until an Energy Statement, which shall have regard to the Rugby Borough Council Climate Change and Sustainable Design and Construction Supplementary Planning Document, has been submitted to and approved in writing by the local planning authority. The measures set out in the Statement shall be fully implemented prior to the first occupation and shall be retained thereafter for the lifetime of the development.
- 11) The car parking areas shall not be surfaced until full details of electric vehicle charging points, including the location, make and model, have been submitted to and approved in writing by the local planning authority. The charging points shall be provided in accordance with the approved details before the first occupation and shall be retained and available for use thereafter for the lifetime of the development.
- 12) No removal of vegetation on site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful and detailed check of such vegetation immediately prior to clearance and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds. Any such written confirmation should be submitted to the local planning authority.

13) The development hereby permitted shall be carried out strictly in accordance with the approved Flood Risk Assessment (8133-60-64 Rev P3) and the following;

- Private Drainage Layout 8133-210-P4
- Storm water calculations by Couch Consulting Engineers 8133 7.10.22
- Flow Exceedance Plan 8133-211-P0
- Greenfield Run-off Calculations by HR Wallingford received 15 September 2022
- Severn Trent Developer Enquiry Response dated 18 January 2022
- Severn Trent Water Sewer Record Plan
- Drainage comments by Couch Consulting Engineers October 2022
- CCTV Drainage Survey 38557NGUG-01 Rev A
- CCTV Report by Survey Solutions 38557CCTV-01 dated 12/08/2022
- Storm Water Connections Evidence dated 5/12/22

The mitigation measures shall be fully implemented prior to first occupation, and subsequently in accordance with the timing and phasing arrangements embodied within the scheme.

14) None of the apartments hereby permitted shall be occupied until a Verification Report of the installed surface water drainage system for the site based on the approved Flood Risk Assessment (8133-60-64 Rev P3) has been submitted by a suitably qualified independent drainage engineer and approved in writing by the local planning authority. The details shall include:

- Demonstration that any departure from the agreed design is in keeping with the approved principles.
- Any As-Build Drawings and accompanying photos
- Results of any performance testing undertaken as a part of the application process (if required/necessary)
- Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc
- Confirmation that the system is free from defects, damage and foreign objects.

15) None of the apartments hereby permitted shall be occupied until the recommendations of the 'Noise Consultants Noise Assessment 60-64 Rugby Road, Binley Woods, February 2022 report no J20-13086A-20/F1, date 4 February 2022, status Final' Sections 5.4 and 5.5 for glazing and attenuation ventilation, and section 6 conclusions have been completed. The works that are undertaken to comply with such recommendations shall be maintained thereafter for the lifetime of the development.

16) None of the apartments hereby permitted shall be occupied until the existing vehicular access to the site has been remodelled so as to provide an access of not less than 5.5metres in width for a distance of 15metres as measured from the near edge of the public highway carriageway, in accordance with a scheme that shall have been approved in writing by the local planning authority beforehand.

17) None of the apartments hereby permitted shall be occupied until all parts of the existing accesses within the public highway, that do not form part of the permitted means of access, have been closed and the kerb, footway and verge have been reinstated.

- 18) None of the apartments hereby permitted shall be occupied until the southern footway of the public highway A428 Rugby Road has been improved, through the provision of a shared use footway/cycleway across the frontage of the site and extending to the junction with Oakdale Road, in accordance with a scheme that shall have been approved in writing by the local planning authority beforehand.
- 19) None of the apartments hereby permitted shall be occupied until the new vehicular access has been surfaced with a bound material for a distance of 7.5metres as measured from the near edge of the public highway carriageway.
- 20) None of the apartments hereby permitted shall be occupied until space has been provided within the site for the parking and manoeuvring of vehicles, and the parking of bicycles, in accordance with the Proposed ground floor plan 4290 BWSS-RA-00-DR-A-113 P07.
- 21) None of the apartments hereby permitted shall be occupied until an ultra-low emission boiler has been installed that meets the minimum standard of less than 40mgNOx/kWh, which shall thereafter be retained and maintained for the lifetime of the development.
- 22) No apartment hereby permitted shall be occupied until measures to limit water use to no more than 110 litres per person per day has been implemented within that apartment in accordance with the optional standard 36 (2b) of Approved Document G of the Building Regulations 2010 (as amended).
- 23) No apartment hereby permitted shall be occupied until broadband infrastructure has been provided to that apartment.
- 24) None of the apartments hereby permitted shall be occupied until a detailed, site-specific drainage maintenance plan has been provided to the local planning authority. Such a plan should:
 - Provide the name of the party responsible, including contact name, address, email address and phone number.
 - Include plans showing the locations of features requiring maintenance and how these should be accessed.
 - Provide details on how each relevant feature shall be maintained and managed for the lifetime of the development.
 - Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.
- 25) The approved landscaping scheme shall be implemented no later than the first planting season following first occupation of the development. If within a period of 10 years from the date of planting, any tree/shrub/hedgerow is removed, uprooted, destroyed or dies, (or becomes in the opinion of the local planning authority seriously damaged or defective), another tree/shrub/hedgerow of the same species and size originally planted shall be planted at the same place.
- 26) No apartment shall be occupied until a sustainable travel pack has first been provided within that apartment for the occupiers.