



Appeal Decision

Site visit made on 13 November 2024

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/V4630/W/24/3343105

Pelsall Villa Football Club, Walsall Road, Pelsall, WS3 4BP

- 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 LNT Care Developments Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application Ref is 22/1721.
 - The development proposed is erection of a 66 bedroom Care Home (Use Class C2) for the elderly with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the appeal site address from the Council's decision notice and the appellant's appeal form as this more accurately describes the location of the development than that on the application form.
3. As the appeal site is within a Conservation Area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - Whether the proposal makes acceptable provision for sports pitches;
 - Whether the provision of a travel plan is necessary to make the development acceptable;
 - The effect of the development on the character and appearance of the area having regard to the Pelsall Common Conservation Area and the Old Bush Inn as a non-designated heritage asset; and
 - The effect of the proposal on highway safety.

Reasons

Playing field

5. The appeal site is in an area of designated open space within the Walsall Site Allocations Document 2019 (the SAD). Policy LC6 of the Walsall Unitary Development Plan 2005 (the UDP) and Policy OS1 of the SAD state that the reduction of or loss of the recreational network /open space will be resisted

and only permitted if at least equal compensatory provision is made in respect of quality, quantity and location. This is broadly in accordance with the requirements of paragraph 103 of the National Planning Policy Framework (the Framework) which states that existing open space and recreational land should not be built on unless there is no need for the space, the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location or the development is for alternative sports and recreational facilities.

6. The appeal site was last used as a playing field in 2017 as a football pitch for Pelsall Villa FC. The appellant considers that due to the sports pitch being unused for seven years, there being no public access and there being no approaches to the owners to use the land for sports facilities then the use is redundant and has been abandoned.
7. I accept that most of the infrastructure has been removed from the site. However, there is nothing substantive before me to suggest that the site could not be physically used as a playing field. In addition, the period of non-use is relatively small. Furthermore, whether or not the site is in private or public ownership it needs to accord with relevant policy requirements. Moreover, the lack of use should not be seen as indicating an absence of need for playing fields in the area.
8. According to Sport England, the most recent assessment of playing pitches was commissioned by the Council in 2021¹ which has formed the background evidence for the Black Country Playing Pitch and Outdoor Strategy Overarching Strategic Framework 2022 (the PPOSS). The report identifies that for the area in which the appeal site is located there are shortfalls of capacity for both 11v11 and 7v7 football pitches to meet current and future demand and this picture is replicated across Walsall as a whole. Adult pitches and 5v5 provision have some reported capacity, but this is only just above a demand supply balance. The PPOSS also reports there to be demand for additional 3G Artificial Grass Pitch provision, principally to meet training demand for Walsall clubs/teams. This is not disputed by the appellant.
9. The latest PPOSS goes on to state that while there is no identified need to re-develop the site to serve a stadia club, given the overall picture of some shortfalls of provision for community football, particularly youth football, there is a need to protect the site until demand is met. If the site were to be re-developed for another use, the PPOSS makes the case that there should be mitigation secured in line with Sport England's policy and the guidance in the Framework.
10. The proposal would not fall within any of the criteria of Paragraph 103 of the Framework. When the planning application was being considered by the Council, the appellant was supportive of a commuted sum to pay towards alternative provision secured by way of a legal agreement. However, this has not been forthcoming with the appeal submission.
11. The appellant states that there has been no assistance provided by the Council in this respect, particularly as to what any contribution would be spent on. This would clearly need to be agreed as part of any agreement. Nevertheless without this, or any other form of replacement provision, then for the reasons

¹ Playing Pitch and Outdoor Sports Strategy (PPOS) 2021

above I conclude that the proposal would lead to the loss of playing field that would not comply with the requirements of the Framework or policy LC6 of the UDP and policy OS1 of the SAD.

Travel Plan

12. The Council cite the lack of a full Travel Plan as a reason for refusal. From the case officer report this appears to be primarily due to it not being secured through a legal agreement to assess and monitor it long term.
13. The appeal site is in a relatively accessible location. However, a Travel Plan would assist in helping to reduce the dependence on the car by people accessing the nursing home, which is a key objective of the development plan. It is therefore necessary to make the development acceptable.
14. The appellant has submitted a Travel Plan to which the Council raise no objections. However, there is no accompanying legal agreement which would be necessary to ensure that the outputs from the Travel Plan are effectively monitored and assessed in the longer term.
15. For the reasons above, I conclude that a travel plan secured by a legal agreement, is necessary to make the development acceptable. In the absence of a legal agreement the proposal is contrary to Policies T8 and T9 of the UDP and policies TRAN2 and TRAN5 of the Black Country Core Strategy 2011 (the Core Strategy). These require that development contributes to a reduction in the reliance on the car and the increased use of sustainable alternatives.

Character and appearance

16. The Pelsall Common Conservation Area (the CA) as its name suggests is dominated by green space in and around Pelsall Common as an historic open space, but also encompassing houses that are located adjacent to that green space.
17. The houses range in age. There are some fine examples of Victorian and Edwardian properties which add to the historical character of the area. However, there are, particularly in the vicinity of the appeal site, examples of buildings of modern construction. The built form is mainly of a domestic scale but with a variety of designs giving little unity overall. The significance of the CA is therefore largely derived from the green open space and its relationship to the housing that frames it.
18. The appeal site is part of the former Pelsall Villa FC football ground which was closed following fire. To the west is the Old Bush Inn a locally listed building forming a non-designated heritage asset. Its significance is largely derived from its use as a pub demonstrating local historic and social history. Its setting as a roadside pub is largely limited to Walsall Road where views allow an appreciation of its use and architecture and its contribution to the social history of the area. However, it is in a very poor condition having suffered fire damage and vandalism and currently detracts from the character and appearance of the area.
19. To the south are semi-detached houses probably dating from the 50's/60's and to the north the Pelsall FC grounds formed of a pitch and a single storey pavilion. Beyond that is a modern assisted living facility. To the east is a dense line of woodland and green open space.

20. The appeal site forms a large area of open space which functions both as a green space contributing to the character and appearance of the area and as a recreational space, which I have already considered above. It is relatively hidden from public view by planting and a hedge to both Walsall Road and Bush Grove as well as the Old Bush Inn. There is a Public Right of Way to the east, but this is within woodland. The site would be more open to view in the winter when the trees lose their leaf, and its limited visibility makes a positive contribution to the green, open, spacious character and appearance of the area and hence the significance of the CA.
21. The proposal to construct the H shaped building would cover a large amount of the site together with the car parking leading to a loss of the open space. Nevertheless, it would be two storey and set back within the site. I appreciate that parking would be sited at the front of the building, rather than the building fronting Bush Grove. However, existing development on the road is set back behind gardens and the appeal building would be behind the existing hedge to Bush Grove and set behind green space, as well as the parking, which could incorporate further landscaping. Another hedge would be planted along the western boundary so that any views of the building would be through existing and proposed planting helping to integrate it into the local area. There would be a necessity to breach the hedgerow fronting Bush Grove to allow for a vehicular access. However, the majority would be retained and consequently as a whole the verdant nature of Bush Grove would be preserved.
22. The building would be larger than others in the area, which retain a domestic scale. Nevertheless, the building and its roof would be broken up through fenestration and design features providing a degree of articulation which ensures that the building would not present as a solid mass. It would have photovoltaics, but these would be flush to the roof thus not a prominent feature. It would be an unashamedly modern building within the CA, but this would, as I have described, not be unusual. Its domestic scale and set back from the road, together with its landscape setting would ensure its successful integration so that it would not harm the historical character and appearance of the wider CA.
23. The Old Bush Inn would still be appreciated as a public house from Walsall Road. Given the distance between the proposed building and the pub, then it would not dominate the non-designated heritage asset and therefore would not harm its significance.
24. It would be better if the development could incorporate the wider site including the Old Bush Inn, as this area would remain undeveloped under the current proposals. However, I understand that the rest of the site is not in the ownership of the appellant. Furthermore, piecemeal development does not necessarily lead to harm.
25. Bringing all the above together, while open space would be lost, this would be tempered by the landscape setting, the existing limited visibility of the open space, and the lack of harm caused by the design of the building. Hence in my view, the spacious character and appearance would be retained through the way the development is proposed and the significance of the CA and the non-designated heritage asset would be preserved.

26. For the reasons above I conclude that the proposal would not have a harmful effect on the character and appearance of the area having regard to the Pelsall Common Conservation Area and the Bush Inn as a non-designated heritage asset. There would therefore be no conflict with Policies GP2, ENV18 and ENV32 of the UDP, Policies ENV1, ENV2 and ENV3 of the Core Strategy, Policy EN5 of the SAD, Policy DW3 of the Designing Walsall Supplementary Planning Document for Urban Design adopted 2008, revised 2013 (the DWSPD), Conserving Walsall's Natural Environment Supplementary Planning Document 2013 (the NESPD) and the Framework. Together these require that development does not have an unacceptable effect on the environment, takes account of the context, surroundings and effect on the local character of the area, responds to the identity of each place with high quality design and preserves or enhances the significance of Conservation Areas as well as protecting hedgerows of significant landscape, ecological and historical value.

Highway safety

27. The proposal would be accessed from a single point off Bush Grove. Bush Grove is a narrow residential cul-de-sac serving 16 dwellings. The houses are set back with off-street car parking available as well as purpose built garages. I accept this would not mean that on-street parking would not occur from time to time. Notwithstanding the comments of interested parties, the substantive evidence I have before me shows this happens only on a sporadic basis and not on the public footway. Furthermore, even given that parking there would be sufficient room for large vehicles to pass. Moreover, the proposal would provide the required level of on-site parking in accordance with the Council's parking standards, so is unlikely to lead to an increase in on-street parking on Bush Grove.
28. The appellant's transport statement dated June 2023 demonstrates that the proposal would generate 7 two way vehicle trips in the morning peak period and 6 two way vehicle trips in the evening peak period and over the course of the day there would be 71 two-way vehicle trips which is a low level of traffic. Furthermore, the expected delivery schedule for the care home demonstrates that food deliveries would be the most frequent and even then, limited to three times a week. There is no substantive evidence before me to lead me to believe the highway network would not be able to cope with such a low level of traffic movement and thus, material harm would not be caused.
29. Bush Grove only has a footway on its southern side. Pedestrians accessing the care home would therefore need to cross the road. However, this is a quiet cul-de-sac. I walked to the proposed access from the Old Bush Inn and while I had to cross the road twice, this did not present any difficulties given that the road itself only gives access to 16 dwellings. I appreciate the level of traffic would increase if the care home were in place. However the increase in traffic levels would not be significant. Furthermore, I have already found that it is unlikely there would be any increase in on street parking which may be on the pavement. Consequently, there would be no increased impediment to walking on the footway.
30. The appropriate visibility splay would be provided, and a condition could be imposed to ensure that the hedge is appropriately maintained.
31. For the reasons above, I conclude that the proposal would not cause harm to highway safety. There would therefore be no conflict with Policy GP2 of the

UDP, Policy TRAN2 of the Core Strategy, Policy T4 of the SAD and the Framework. Together these require that development does not have a harmful impact on the highway network and can be accessed safely by all modes of transport to and from the development.

Other Matters

32. The appeal site is located within the zone of influence of the Cannock Chase Special Area of Conservation (the SAC) which is an internationally protected site primarily for its dry heathland. In accordance with advice from Natural England and the evidence provided by the SAC Partnership, any development within 15km of the SAC, which is likely to increase recreational disturbance of the area is likely to result in significant harm to the SAC's reasons for designation.
33. While the proposal would provide residential accommodation it falls outside of the categories of development which are viewed as likely to result in an increase in recreational disturbance. It would be a facility designed for older people in need of care who would be unlikely to be able to travel for recreation. Consequently, I am satisfied that the development would not result in significant harm to the integrity of the SAC.

Planning Balance and Conclusion

34. I have found that the proposal would be contrary to development plan policies regarding the protection of recreational spaces and the support of sustainable alternatives to transport than the car. It therefore would be contrary to the social and environmental objectives of the Framework as well as the development plan as a whole.
35. The Planning Practise Guidance states that the need to provide housing for older people is critical. Furthermore, The Council's development plan acknowledges that the demographic of Walsall is ageing and the large increase in the number of very elderly people will require some degree of care or specialist housing. The Council's SAD considers such developments should be "directed to locations that enjoy good access to public transport and services such as shops." The provision of the proposal would provide a facility for which there is acknowledged need and demand in an accessible location. It would also enable the release of about 47 houses back into the housing market at a time when the Council is unable to demonstrate a five year housing land supply. These figures are not disputed by the Council. These are significant social objectives of the Framework.
36. The proposal would deliver economic benefits in the form of construction jobs and from 50-60 new full time and part time jobs for the running of the care home.
37. There would also be bio-diversity net gain which would be a benefit of the development in accordance with the environmental aims of the Framework.
38. As the Council is unable to demonstrate a five year housing land supply then paragraph 11dii of the Framework is engaged. However, I am of the view that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

39. The proposal would conflict with the development plan as a whole and the matters I outline above, including the Framework are not sufficient to outweigh that conflict
40. For the reasons above the appeal should be dismissed.

Zoe Raygen

INSPECTOR