



Appeal Decision

Site visit made on 3 January 2025

by **N Praine BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/D1835/W/24/3352311

5 Bull Ring, Worcester, Worcestershire WR2 5AA

- 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 Hekmat Kaveh against the decision of Worcester City Council.
 - The application Ref is 24/00021/FUL.
 - The development proposed is described as three dwellings and bin store.
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Decision

1. The appeal is allowed and planning permission is granted for three dwellings and bin store at 5 Bull Ring, Worcester, Worcestershire WR2 5AA in accordance with the terms of the application, Ref 24/00021/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The views of the main parties were sought following the publication of the revised National Planning Policy Framework on 12 December 2024. Their responses have been taken into account in this decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the St John's Conservation Area and its impact on the setting of the nearby listed buildings including 5 Bull Ring; and
 - The effect of the proposed development on the living conditions of future occupiers.

Reasons

Character and Appearance

4. The appeal site sits to the rear of 5 Bull Ring, and it is currently overgrown. The site is surrounded by buildings which are predominantly in residential use, however, not all are. No 5 is also a listed building.
5. In addition, the appeal site is located within the St John's Conservation Area ("the CA"), a designated heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

6. The significance of this part of the CA relates to the strong architectural interest of the area's buildings when viewed from the Bull Ring, despite modern infilling and replacements. No 5 is also identified as a focal building.
7. The appeal site and its environs to the rear of the Bull Ring have a different, informal character. Buildings on this side are two storey, one and a half storey or single storey in appearance. These buildings are subservient in scale to the buildings which face the Bull Ring and the relationship of the buildings including the informality and subservience of the rear plots all contribute to the significance of the Conservation Area.
8. The proposed development would be to the rear of the Bull Ring with limited, if any visibility from the main road. The two storey elements of the proposed development would also closely follow the extant consent under Worcester City Council Ref: 21/00158/FUL. While the additional dwelling would be located at an angle to the other two proposed dwellings and features a front bike store, it would be nestled between other buildings, including the extant elements of the existing consent, with limited visibility from many public vantage points.
9. Furthermore, its visual subservience and the gently angled characteristics of this additional dwelling would respond to the informality of buildings to the rear of the Bull Ring and add further interest to this immediate area. The exact details of the cycle stores can also be controlled by condition ensuring that a suitable design could be agreed.
10. The proposed development would not have any fenestration to its rear elevation. The Council site this as poor design, however, this would not be fundamentally different to the extant consent which was found to be acceptable by the Council. While the third dwelling increases the footprint of the proposed building, given the change in land levels this would be read as single storey when viewed from the rear. Given its nestled location within the site, any harm generated from this element of the scheme over and above the extant consent would not create unacceptable harm or amount to overdevelopment.
11. Therefore, the proposed development would integrate effectively with its surroundings. The character and subservient scale to the street-fronting buildings would also be retained and the local distinctiveness and identity of the area would be preserved.
12. As indicated above, No 5 is a listed building and the listing identifies it as part of 3 and 5 Bull Ring. From both my observations on site and the evidence before me, its significance is derived, at least in part, from its status as a vernacular building of its age and type, including its detailing and internal features. Its prominent setting on the Bull Ring contributes to how this asset is appreciated and this setting makes a positive contribution to the significance of the listed building.
13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest.

14. As set out in the preceding paragraphs, the significance of the listed building and its setting are appreciated principally from the front. The rear elevation has less historic interest. Whilst the proposed development would be closer to the listed building than the extant consent, the element which would be closer would sit as a subservient lower scaled building cut into the land and would be of similar proximity and height, above ground, to that of the existing outbuilding.
15. This part of the proposed development would therefore not obscure any key views of the listed building or significantly alter its historic setting or internal features. As a result, the proposed development would have a neutral impact on the setting and significance of the listed building. The Council also did not object to the proposed development on the basis of any harm to any other listed buildings and I am inclined to agree.
16. Accordingly, the proposed development would preserve or enhance the character or appearance of the St John's Conservation Area and would not harm the significance, setting or any features of special architectural or historic interest of the nearby listed buildings including 5 Bull Ring. Therefore, it would comply with the relevant provisions of Policies 6, 21 and 24 of the South Worcestershire Development Plan 2016 ("the Development Plan").
17. These policies, amongst other things, look to ensure that development affecting heritage assets, or their setting, should preserve significance while achieving a high quality of design which relates positively to its context, drawing on the local character and historic environment.

Living Conditions

18. The Council objected to the single aspect nature of the proposed development as there would be no openings within the rear wall. In addition, the Council also raised objection regarding the size of the outdoor amenity spaces.
19. Single aspect design can reduce outlook, daylight distribution and offer less opportunity for cross ventilation. However, the extant consent was approved in September 2023, and it was found to be acceptable for its single aspect outlook. While development should also be considered on its own merits, the extant consent is a material consideration which attracts significant weight.
20. The appellant has shown that the proposed outdoor amenity space for units 1 and 2 would be no smaller than the extant scheme. It is also shown that the added dwelling (unit 3) would benefit from acceptable space. While units 1 and 2 fall below the thresholds set out in the South Worcestershire Design Guide Supplementary Planning Document (2018), these units, including their proposed outdoor amenity spaces, would be very similar to the extant consent. The extant consent is a material consideration which attracts significant weight.
21. Accordingly, the Council has not robustly shown how the living conditions of the extant development, which it considered to be acceptable in September 2023, differ to the proposed development. On this basis there is limited clear evidence to demonstrate how the proposed living conditions of the current appeal would result in unacceptable harm over and above the extant scheme.

22. The proposed development would therefore provide adequate living conditions for future residential occupants. It would comply with the relevant provisions of Policy 21 of the Development Plan. This, amongst other things, addresses the need for high quality design for future occupiers.

Other Matters

23. The Planning Services Delegated Decision Report suggests that the proposed development would have an overbearing effect upon the neighbouring properties. However, there is limited evidence setting out why the proposed development would be overbearing to these neighbouring properties. In addition, this concern has not been carried forward to the Council's Decision Notice. Given the extant consent and the dimensions and layout of the proposed development including its separation to existing neighbouring properties, I am satisfied that any impact on neighbouring properties would be acceptable.

Conditions

24. The Council has suggested a list of seventeen conditions which I have considered and where necessary amended in line with national policy and guidance. In the interest of certainty, conditions specifying time and the approved plans are required. The details of materials, finishes, windows, doors, means of enclosure, floor slab levels and landscaping are necessary to ensure the visual success of this proposed development and its integration into the locality.
25. A condition limiting the provisions of the General Permitted Development Order 2015 are also necessary given the location and site constraints. I have imposed a condition to control the hours of demolition, construction, and engineering works in the interests of the living conditions of neighbouring occupants. Conditions to agree cycle parking and to ensure the submission and implementation of a Construction Environmental Management Plan are also necessary in the interests of adequate on-site facilities and highway safety.
26. Archaeology conditions are needed as the proposed development may affect heritage assets of known archaeological significance. Surface water drainage and refuse conditions are also necessary. I have imposed a condition regarding renewable / low carbon energy to mitigate the impact of climate change. Finally, a condition to secure bird and bat boxes is required to ensure that the development does not impact on, or harm protected species.

Conclusion

27. For the above reasons, having regard to the development plan as a whole and all other relevant considerations, the appeal is allowed subject to the conditions listed in the attached schedule.

N Praine

INSPECTOR

Schedule of Conditions (17 in total)

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, completed, and retained in accordance with the following approved plans except where otherwise stipulated by conditions attached to this permission: Location and Site Plan 23071/101 Rev P1 Proposed Drawings 23071/102 Rev P5.
3. No superstructure works shall take place until samples and full particulars of all external facing materials to be used in the construction of the development 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.
4. No superstructure works shall take place until detailed plans and sections of the proposed windows and doors at a scale of 1:20 together with details of proposed finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
5. No development shall take place until details of all walls, fences and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site.
6. The construction work on the buildings hereby approved shall not be commenced until the precise floor slab levels of each new building, relative to the existing development on the boundary of the application site have been submitted to and approved in writing by the local planning authority. Thereafter the new buildings shall be constructed at the approved floor slab levels.
7. Prior to the commencement of any external construction works in respect of the development hereby permitted a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority.

The landscaping scheme shall include:-

- a) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
- b) a written specification outlining cultivation and other operations associated with plant and grass establishment.
- c) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation of the development, whichever is the sooner, and thereafter retained and /or replaced.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that Order with or without modification), no extensions or external alterations to the properties hereby approved or sheds, outbuildings or similar within its curtilage shall be undertaken without the express consent of the Local Planning Authority.
9. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.
10. The Development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to the following:-
 - Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the road / public highway.
 - Details of site operative parking areas, material storage areas and the location of site operatives facilities as required.
 - The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.
 - Traffic management measures to include the use of a banksman to oversee all vehicular manoeuvres, if necessary avoiding peak pedestrian times.
 - Any temporary traffic management measures such as signage and / or cones in the highway will require a permit. Applications can be made via www.worcestershire.gov.uk.
 - Measures to demonstrate that those immediately affected by the construction works will be kept informed and due consideration and courtesy will be shown to the local community.

The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved.
11. The dwellings hereby permitted shall not be occupied until sheltered, secure and accessible cycle parking has been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the provision shall be retained for the purposes of cycle parking only at all times.
12. No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 - 1) The programme and methodology of site investigation and recording.
 - 2) The programme for post investigation assessment.
 - 3) Provision to be made for analysis of the site investigation and recording.

- 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- 5) Provision to be made for archive deposition of the analysis and records of the site investigation.
- 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
13. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 12 of this planning permission and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
14. Development shall not take place until a scheme of surface water drainage, which shall include proposals for sustainable drainage, (SuDS), has been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is first brought into use, or in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority.
15. The Development hereby approved shall not be occupied until refuse storage facilities have been provided in accordance with the approved plans. The refuse storage facilities shall be retained at all times.
16. The development shall be carried out in accordance with the approved Energy Statement. The approved details, showing the incorporation of energy generation from renewable or low carbon sources equivalent to at least 10% of predicted energy requirements, shall be implemented and operational prior to the first occupation of the development.
17. No occupation of the development hereby permitted shall take place until details of bird and bat boxes for roosting have been submitted to and approved by the Local Planning Authority. The agreed details of the bird and bat boxes shall then be fully implemented prior to occupation and/or first use of the development permitted and retained thereafter.

End of Schedule