



Appeal Decision

Site visit made on 19 February 2025

by **D Cleary MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th March 2025

Appeal Ref: APP/K3415/W/24/3355272

23 Coleshill Street, Fazeley, Tamworth, Staffordshire B78 3RG

- 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 Mr Adnan Hamid against the decision of Lichfield District Council.
 - The application Ref is 24/00133/FUL.
 - The development proposed is described as a 2-storey extension to side of existing restaurant to form ground floor retail unit and self-contained flat at 1st floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues are:
 - a) whether the development would preserve or enhance the character or appearance of the Fazeley and Bonehill Conservation Area;
 - b) the effect of the development on highway safety due to insufficient parking;
 - c) the effect of the development on the living conditions of the occupiers of nearby properties with particular regard to overlooking and loss of privacy; and,
 - d) the effect of the development on the living conditions of future occupiers of the development with particular regard to noise and odour.

Reasons

Character and Appearance

4. The appeal site relates to an informal car park which is located to the side of a restaurant. The site occupies a corner plot at the junction of Coleshill Street and New Street. The surrounding area is mixed in character and includes residential properties, including a row of prominent three-storey terraced dwellings on the opposite side of Coleshill Road. There are also a variety of ground floor commercial

uses, with flats above, in the area including a three-storey building on the opposite side of New Street. A public house is located to the rear of the site.

5. The site lies within the Fazeley and Bonehill Conservation Area (the FBCA). The statutory requirement¹ requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The Fazeley and Bonehill Conservation Area Appraisal (the FBCAA) provides a good understanding of the FBCA, its origins and the features that it possesses. Insofar as is relevant to this appeal the significance of the FBCA derives from the character, quality and variety of buildings, its historic plan form and the industrial origins of the area.
6. The location of the appeal site is prominent within the street although its current use means that it does not offer any meaningful visual contribution to the character of the area. The FBCAA² identifies that the appeal site as a 'potential improvement area', which is indicative of its current condition. The adjacent restaurant building, due to its age, design and appearance is a neutral entity in the FBCA. Therefore, it is considered that the appeal site and its surrounds do not make a positive contribution to the overall character or appearance of the FBCA or contribute towards its significance.
7. The appeal scheme proposes a two-storey extension to the existing building which would be provided across much of the existing parking area. The development proposes a replication of the general form of the restaurant building, which I consider to be a neutral element within the FBCA. The simplistic form and design of the development provides little architectural interest. The position, design and appearance of the openings provided on the Coleshill Street elevation do not take reference from the more traditional openings seen within the surrounding area. Furthermore, the scale, form and design of the development would markedly contrast with the three-storey building on the opposite side of New Street. This would result in an incoherent and imbalanced entrance to that street. As such, the form and appearance of the development would fail to harmonise with the more traditional buildings surrounding the site.
8. A largely blank flank elevation would face onto New Street. The proximity of the development to New Street, along with its two-storey height, would mean that the gable elevation would be prominent. The lack of any meaningful interest on this façade would create a bland elevation dominated by brickwork. This fails to reflect the general rhythm of openings in the traditional buildings surrounding the site. This lack of interest on a corner plot, would exacerbate the incongruity of the development in its context.
9. I have had regard to an earlier approval for development of the site³, although I note that the permission is now of some considerable age and was considered under a different policy climate. Nonetheless, the design and appearance of that scheme is materially different and appears to have paid greater attention to its heritage context. Therefore, I do not find the schemes to be directly comparable and, in any event, I have considered this appeal on its individual merits.

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

² Picture 12.1

³ Planning Ref: L-960191

10. Therefore, I do not consider that the development would result in a positive addition to the area, which maximises the potential of this undeveloped site in the FBCA. As such the development would have a harmful effect on the character and appearance of the FBCA. Having regard to the Framework⁴, the degree of harm to the FBCA would be less than substantial and should therefore be weighed against the scheme's public benefits and I return to this below.
11. For the above reasons, the proposal would fail to preserve or enhance the character or appearance of the FBCA. The proposal is therefore contrary to Core Policy 3, Core Policy 14 and BE1 of the Lichfield District Local Plan Strategy 2008 – 2029 (2015) (the LPS) and Policy BE2 of the Lichfield District Local Plan Allocations 2008 – 2029 (2019). These, amongst other things, seek to preserve and enhance the historic environment and avoid development which would be harmful to the significance of that heritage asset.

Highway Safety

12. The scheme proposes a retail unit at ground floor and a 2-bedroom flat at first floor. Parking standards, as set out in the Sustainable Design Supplementary Planning Document (the SPD)⁵, indicates that a two-bedroom dwelling should provide 1 off street parking space. Non-food retail should provide 1 space per 25sqm of gross internal area (GIA), and food retail should provide 1 space per 15sqm GIA. The application form indicates that a net internal floor area of 90sqm would be provided. The Council suggest that the GIA for the retail unit would be approximately 57sqm. It is not clear whether the unit would be for food or non-food retail. Based on the SPD standards a total of 3 or 4 parking spaces ought to be provided to serve the development.
13. The proposed scheme indicates a total of 2 parking spaces being provided. These would be in tandem and as such would appear impractical to serve the both uses. In any event, it is clear that the level of off-street parking falls below the SPD standards. As such, it is likely that the parking demand for the development would be reliant on on-street parking in the area.
14. In addition to this under provision, the scheme would also result in the loss of an existing parking area. I have no firm detail on the manner in which the existing parking area is used, and by who. Nonetheless, at the time of my site visit, this area was in use for parking. As such, the evidence would indicate that the development would result in the loss of a parking area and vehicles would be displaced onto the street.
15. There is some on street parking available along Coleshill Street in marked lay-bys to the front of the commercial properties. At the time of my site visit these spaces were well used. On street parking is also available to the front of the terraced row on the opposite side of Coleshill Street, and also along New Street. However, opportunities on New Street are limited due to the position of dropped kerbs and residential accesses. At the time of my site visit, I observed that parking on both streets appeared to be saturated with limited availability close to the appeal site. Although I do appreciate that this is a small snapshot in time and on the day of my visit roadworks were occurring further along Coleshill Street.

⁴ Paragraph 215

⁵ Appendix D

16. I acknowledge that the SPD indicates that parking standards can be applied flexibly depending on numerous factors. I also note that the site is located within a reasonably sustainable location with apparently good access to services, amenities and public transport options. However, in this instance, the development would result in a loss of an existing parking area, while also resulting in an additional demand for parking. I have not been provided with any evidence to show that a robust parking survey has been carried out. This would provide a better understanding of on-street parking availability within the area. Such information would be essential in determining that the surrounding streets can accommodate additional demand for on-street parking arising from the development.
17. If on-street parking in the surrounding streets is saturated then additional parking arising from the development could affect the free flow of traffic, lead to obstruction and, therefore, give rise to highway safety issues. Additionally, parking further afield could lead to undesirable walking distances for occupants/users of the development.
18. For the above reasons, I have insufficient evidence to be satisfied that the proposed development would not have a harmful effect on highway safety by reason of insufficient parking. Therefore, the development is contrary to Core Policy 3, Core Policy 5 and Policy ST2 of the LPS. Together, amongst other things, these seek to deliver sustainable development which provides an appropriate provision of off-street parking and improves road safety. The development also fails to adhere to the objectives of the SPD which seeks to ensure that sufficient space is provided within new development to accommodate its parking needs.

Living conditions – nearby occupants

19. The row of terraced properties on the opposite side of Coleshill Road are in residential use. These contain windows within their front elevation. The development would include first floor windows which would face directly towards these dwellings. Nonetheless, this would be over a busy public highway and the separation distance would be similar to the existing spacing in the area. Therefore, I do not consider that the occupants of these dwellings would be adversely affected by overlooking or loss of privacy.
20. The three-storey building on the opposite side of New Street contains windows at first and second floor level which face towards the appeal site. It is understood that these serve residential accommodation. A bedroom window would face towards these windows at a distance which is understood falls short of the recommended spacing standard. Nonetheless, this relationship is also over a public highway which, to some extent, lessens its sensitivity. In this context, as the relationship relates to a single window within the development, I do not consider that it would result in such a poor relationship that would be adversely harmful to the living conditions of occupiers within that property.
21. Any privacy concerns regarding the potential for views from the balcony into this property could be appropriately addressed through the provision of a privacy screen. This could be secured by condition if I were minded to approve the appeal. Furthermore, due to the pattern of development and distances, there does not appear to be any opportunity for views to directly overlook the private amenity spaces of any nearby property from first floor windows, or the balcony area.

22. For the above reasons, the development would not have a harmful effect on the living conditions of the occupiers of nearby properties with particular regard to overlooking and loss of privacy. Therefore, the development complies with BE1 of the LPS, which seeks to minimise disturbance to residents. Although not cited in the reason for refusal, the development would also comply with Core Policy 3 of the LPS which seeks to protect the amenity of residents.
23. While the development would not fully adhere to the spacing standards as set out in the SPD, I am mindful that this is guidance only. In this instance, there are locational factors which mean that the deviation of spacing standards is acceptable.

Living conditions – future occupiers

24. The appeal site is located within a mixed-use area which includes a public house and restaurant which are immediately adjacent to the site. These have the potential to cause disturbance through noise and odour. There are a large number of residential properties within the area and, therefore, residential uses are clearly compatible with these commercial uses. The proposed relationship is not an uncommon one and I do not consider that there is an in principle objection to the development in this regard.
25. While I note the concerns of the Council with regard to potential disturbance, there are measures available which could be incorporated into the design of the residential use. This could include acoustic glazing and mechanical ventilation. These would help to reduce the effects of the external uses on the living conditions of future occupants. I am of the view that measures to address the concerns could be provided through conditions if I was minded to approve the appeal.
26. For the above reasons, the development would not have a harmful effect on the living conditions of future occupiers of development with particular regard to noise and odour. Therefore, the development complies with Core Policy 3 and BE1 of the LPS, which seeks to protect amenity and minimise disturbance to residents.

Other Considerations

27. The proposed development would bring economic benefits during construction and once operational through the creation of jobs and local expenditure. The creation of a shop would also be a social benefit. In addition, the provision of a dwelling would be a social benefit which would help to boost the supply of housing in the area, albeit this would be limited to a single dwelling. I also acknowledge that the development would utilise previously developed land in a sustainable location. Together, these are clearly public benefits which would arise from the proposed development.
28. I acknowledge the appellants frustration with regard to the lack of engagement from the Council. However, this is a matter for the parties to resolve and is not a matter which is material to my consideration of the appeal.

Planning Balance and Conclusions

29. I have identified that the proposed development would cause less than substantial harm would be caused to the significance of the FBCA, through failing to preserve its character and appearance. The preservation of heritage assets are matters to which I am required to attach considerable importance and great weight.

30. I have identified that the scheme would deliver a number of public benefits. However, given the modest scale of the scheme, the public benefits combined are insufficient to outweigh the great weight to be attached to the harm that would be caused to a designated heritage asset.
31. For the above reasons, the development conflicts with the development plan, and with the provisions of the Framework in relation to heritage assets and there are no material considerations, which indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

D Cleary

INSPECTOR