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## Appeal Decision

Site visit made on 14 January 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

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**Appeal Ref: APP/K3415/W/24/3346936**

**Former Site of Bridge Cross Garage, Cannock Road, Chase Terrace, Burntwood WS7 1JY**

- 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 UV Care Burntwood Ltd against the decision of Lichfield District Council.
  - The application Ref is 23/01439/FULM.
  - The development proposed is erection of 3 storey, 72-bed dementia care home with community hub room and associated car parking / access arrangements.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of 3 storey, 72-bed dementia care home with community hub room and associated car parking / access arrangements at Former Site of Bridge Cross Garage, Cannock Road, Chase Terrace, Burntwood WS7 1JY in accordance with the terms of the application, Ref 23/01439/FULM, subject to the conditions in the attached schedule.

### Preliminary and Procedural Matters

2. The site is located within the Zone of Influence (ZoI) of the Cannock Chase Special Area of Conservation (SAC). Whilst not forming part of the Council's reasons for refusal, as the competent authority I need to consider whether there would be adverse effects on the integrity of the habitats sites in accordance with The Conservation of Habitats and Species Regulations 2017.
3. A planning obligation by way of Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (as amended) was submitted during the consideration of this appeal, and I consider this matter later in this decision.
4. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. The main parties were given the opportunity to comment on the updates to the Framework and where they have been received these comments have been taken into consideration.

### Background and Main Issues

5. During the consideration of this appeal, the Council reconsidered its position and confirmed that it withdraws all three reasons for refusal.
6. Comments were received from interested parties including the Staffordshire & Stoke-on-Trent Integrated Care Board (ICB) concerning the effect on the scheme

upon healthcare infrastructure in the area as well whether the site is a suitable location for the proposed care home.

7. Given the above, the main issues relevant to the appeal before me are:
- whether it has been demonstrated that the proposal would have an acceptable effect on healthcare infrastructure
  - whether the site is a suitable location for the proposed use; and
  - whether the Unilateral Undertaking (UU) and the obligations therein are necessary to make the development acceptable in planning terms, directly related to the development and are fairly related in scale and kind.

## **Reasons**

### *Healthcare Infrastructure*

8. During the determination of the application that led to this appeal comments were received from the ICB identifying that a total floor area of around 8.34 square metres (sqm) of clinical floorspace would be required to mitigate the perceived impacts of the scheme on the wider Burntwood Primary Care Network (PCN) and to support a 'strategic health centre project' for the PCN.
9. The appellant does not dispute that the scheme would have an impact upon the services provided by the PCN and proposes to provide on-site clinical surgery facilities and this facility would be around 16.2sqm. This is proposed to negate the impact of the scheme upon PCN, providing on site provision to be managed by visiting medical doctors. The size of this room is based upon the minimum standards for rooms and equipment set by the NHS and thus is the minimum size necessary to secure the facility.
10. Concerns have been raised about the suitability of such a facility not being a long-term sustainable solution for Burntwood to serve both this development and the PCN. Financial contributions have been sought by the ICB as an alternative to the onsite facility. This contribution has been based upon a cost per sqm of clinical floorspace required related to this development to support the delivery of a new health centre in Burntwood.
11. The Framework sets out that obligations must be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. It would be fair and reasonable to require contributions based upon the floorspace requirements related to this scheme.
12. However, whilst a timeline for the delivery of a new health centre in Burntwood has been provided, I have no evidence that the scheme has progressed in accordance with this timetable. Based on said timetable an application should have been submitted to the Council but I have not been informed that one has. As such, there is still considerable uncertainty over whether the proposed facility would be available to meet the needs of the occupiers of this development. Substantive evidence has not been submitted that the facility would be delivered in a timely fashion to conclude that the requested contributions would deliver the necessary increase in healthcare infrastructure.

13. An appeal was dismissed on this site<sup>1</sup> for a similar scheme and the Inspector in that case came to a similar conclusion on this matter and limited information is before me to determine that the circumstance regarding the deliverability of the new health centre has significantly progressed since that decision was made.
14. Regardless of whether contributions towards the new health centre in Burntwood or temporary measures for service provision would comply with the three tests set out in the Framework for obligations, an alternative provision would be secured via the onsite facility. The need for such a facility has been identified and it is not disputed by the parties that it is necessary to provide facilities to support the impact of the scheme upon the PCN. Furthermore, given that the facility would be located within the building, and be the minimum size necessary to secure said facilities it would be directly related and fairly and reasonably related in scale and kind to the proposed development.
15. Concerns were raised regarding the suitability of the proposed onsite facilities in terms of inefficiency for health visitors to access equipment, training facilities, health records and secure I.T links.
16. The UU submitted with the appeal provides measures to ensure the visiting clinical surgery is constructed and fitted out in accordance with relevant national standards for NHS healthcare GP consulting rooms. I shall consider the UU in more detail later in this decision but for the purposes of this matter it would ensure that the facility would be suitable to address the above concerns.
17. For the reasons set out above, the development would have an acceptable effect on healthcare infrastructure. Consequently, the development would be in accordance with Policy 4 of the Lichfield District Local Plan Strategy, 2015 (LPS). This expects new development, amongst other matters, to provide the necessary infrastructure at a timely stage to meet the community needs arising as a result.

#### *Location*

18. The appeal site is located within the town centre of Burntwood as identified within Policy Burntwood 3 of the Lichfield District Local Plan Allocations (LPA). Policy B1 of the Burntwood Neighbourhood Development Plan, 2021, (NDP) supports mixed use proposals within the town centre in order to support its vibrancy and diversity. Within the list of acceptable uses are community leisure and residential.
19. Two sites are identified on the Policies Map and the appeal site forms part of Site A. Policy B1 states that the development of large format retail and leisure uses will be supported at Sites A and B, although mixed use development of these sites is not limited to such uses. As a result, the policy does not restrict the entirety of those sites to retail and leisure uses and the use of part of Site A for residential would generally accord with this policy.
20. Policy B2 of the LPA allocates the appeal site under site reference B13 for mixed residential and retail use. However, one of the key considerations of the site is that the scheme should be designed to ensure connectivity to other areas and uses within the town centre and the site plan identifies a road running along the eastern boundary of the appeal site allowing access to the wider site to the south that forms part of Site A in NP Policy B1.

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<sup>1</sup> Appeal Reference: APP/K3415/W/22/3308505

21. Whilst there are other care homes in the area, the local policies do not seek to prevent further care homes from being built. Furthermore, I have no substantive evidence that the proposed care home would have a significantly detrimental impact upon the vitality of the town centre.
22. For the reasons given above, the site would be a suitable location for the proposed use and would comply with Policy B1 of the NDP as well as Policies B2 and B3 of the LPA which seek to promote the town as an area of increased and more diverse economic activity including residential development.

#### *Unilateral Undertaking*

23. The UU would secure a Biodiversity Credits Contribution or Biodiversity Credits Evidence for approval by the District Council. This contribution has been based upon the evidence in the Ecological Impact Assessment and Biodiversity metric calculator in order to deliver biodiversity net gain on the site. This contribution would accord with Policy NR3 of the LPS which requires that biodiversity net gain must be achieved by new development.
24. It is proposed that a Community Facilities Management Plan for the community café/room would be approved in writing by the District Council. Furthermore, the UU would ensure said facilities are available for public use in accordance with the approved plan for the lifetime of the development. This is supported by LPS Policy CP8 which supports the focus of leisure and cultural facilities within Burntwood, and this would be secured by the UU.
25. The UU would ensure the 16.2 sqm visiting clinical surgery would be constructed and fitted in accordance with the relevant national standards for NHS healthcare GP consulting rooms and is operational and available for residents in perpetuity. For the reasons given earlier in this decision, this facility would make adequate provision for healthcare infrastructure in accordance with Policy CP4.
26. LPS Policy ST1 seeks to secure sustainable travel patterns, and the UU requires that a Travel Plan would need to be approved in writing by the County Council to secure measure to achieve this. These measures require monitoring over a 5-year period and the cost of this monitoring would be secured via the UU and this would comply with Policy ST1.
27. I have considered the agreement in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations and the Framework. I am satisfied that the UU and the obligations are necessary to make the development acceptable in planning terms, directly related to the development and are fairly related in scale and kind. As such, it would accord with the statutory tests.

#### **Other Matter**

28. The appeal site is within the ZoI of the SAC and the SAC is a European site afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require that the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of European sites. This requires consideration of whether the proposal would have an effect on the qualifying features of the site, either along or in combination with other plans and projects. Where the potential for likely

significant effects cannot be excluded, an appropriate assessment of whether the plan would affect the integrity of a European site must be undertaken.

29. The qualifying reasons of the SAC and its primary reasons for selection as an SAC are its European dry heaths and North Atlantic wet heaths with cross-leaved heath. The conservation objectives of the SAC include ensuring that the integrity of the site is maintained or restored as appropriate, including its structure and function, supporting processes on which the qualifying natural habitats rely.
30. Given the distance between the appeal site and the SAC it would not directly result in the loss of habitats associated with the SAC. The Cannock Case SAC Partnership project provides advice for developments within the ZOI of the SAC. It acknowledges that as C2 use classes<sup>2</sup> provide for residents with appreciably less ability than the average resident to make use of recreation opportunities at a site like the Cannock Case SAC. As such, developments will generally tend to provide on-site, tailored outdoor space for their residents as an integral part of the development scheme. It therefore recommends no developer contributions are required for C2 use class schemes.
31. In light of the above and because the scheme before me seeks permission to provide care for residents with dementia, I concur with the Council's conclusion that even in combination with other developments, the proposal would not have a likely significant effect on the SAC.
32. Therefore, I concur with the other competent authority that the proposal would not undermine the conservation objectives of the identified habitats site, and an appropriate assessment is not required. Consequently, the proposal accords with the policies in the Framework that seek to protect areas of particular importance relating to habitats sites.

## Conditions

33. Having had regard to the requirements of the Framework and the Planning Practice Guidance I have imposed those conditions I consider meet the six tests, subject to minor amendments to ensure precision and brevity without changing their overall intent. With regard to Section 100ZA (5) of the Town and Country Planning Act 1990, the appellant has given their written agreement to the pre-commencement conditions attached to this decision.
34. Further to the standard time condition [1], a condition requiring the development is carried out in accordance with the approved plans is necessary in the interest of certainty [2].
35. Condition 3 is necessary in the interest of ensuring there is a satisfactory means of drainage. It is necessary for this to be pre-commencement to ensure works that could affect the delivery of suitable drainage is not undertaken.
36. Condition 4 is necessary in the interest of protecting protected or priority species during the construction of the development. It is necessary for this to be pre-commencement to ensure the Precautionary Method of Working statement has been approved and the approved measures put in place before works that could affect protected, or priority species take place.

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<sup>2</sup> The Town and Country Planning (Use Classes) Order 1987

37. Condition 5 is necessary in the interest of highway safety and the living conditions of the neighbouring occupiers. It is necessary for this to be pre-commencement to ensure works which could affect highway safety, or the living conditions of the neighbouring occupiers is not undertaken before the Construction Vehicle Management Plan has been approved and the measures put in place.
38. Condition 6 is necessary in the interest of the interests of health and safety given the historic use of the site. It is necessary for this to be pre-commencement to ensure any contamination on site has been identified and remediation works are undertaken before other work takes place.
39. Condition 7 is necessary in the interest of the living conditions of the neighbouring occupiers given the location of the site near to dwellings. It is necessary for this to be pre-commencement to determine the necessary site levels before works commence.
40. Conditions 8, 9, 12, 17 and 18 are necessary in the interest of the character and appearance of the area as well as biodiversity and ecology.
41. Conditions 10 and 11 are necessary in the interest of the living conditions of the occupiers of the proposed development as well as the occupiers of nearby dwellings.
42. Conditions 13, 14, 15 and 16 are necessary in the interest of highway safety as well as securing development of infrastructure for electric and hybrid vehicles, including cycle parking, to support more sustainable travel patterns.
43. A condition controlling the use to that falling within Class C2 of the Use Classes Order is necessary in the interest of the living conditions of the neighbouring occupiers [19].
44. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The site is within the town centre of Burntwood, and the proposal includes areas of soft and hard landscaping located next to the road. The site is located close to the shopping centre with outdoor seating and meeting space and the low-level boundary treatment and open spaces is a notable feature that positively contributes towards the character and appearance of the area. As the scheme including the boundary treatment would form part of this character this would provide clear justification to restrict permitted development rights for additional gates, fences, walls or other means of enclosure [20].

## **Conclusion**

45. The development would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

*G Sibley*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: AP20023-L0 Rev A; AP20023-L01 Rev N; AP20023-L02 Rev O; AP2023-L03 Rev K; and AP20023-L05 Rev F.
- 3) No development shall take place until the final detailed surface water drainage design has been submitted to and approved in writing by the local planning authority. The final design must conform to the design detail summarised in the approved preliminary drainage layout drawing 6478-KSA-XX-XX-DR-C-0001-P2, dated 21 March 2024. The design must further demonstrate:
  - i. BRE-365 infiltration testing (or further ground investigation reports) to demonstrate whether a full or partial discharge to ground is achievable via infiltration. If a connection to sewer is sought, off site discharges shall be restricted to a maximum rate of 5 litres per second and evidence of permission to connect from the asset owner at the point and rate shown in the design shall be demonstrated (i.e. pre-development enquiry).
  - ii. Detailed design (plans, network details and full hydraulic calculations) in support of any surface water drainage scheme, including details of any attenuation system, Sustainable urban Drainage System (SuDS) features and the outfall arrangements.
  - iii. Performance calculations should demonstrate the performance of the designed system and attenuation storage for a range of return periods and critical storm durations (15 minutes up to 48 hours), to include as a minimum 1:2 year, 1:30 year and the 1:100 year plus climate change return periods.
  - iv. The hydraulic modelling design shall use Flood Estimation Handbook Rainfall Data and shall apply a factor of 40% upon rainfall to model the impact of climate change as per the approved drainage strategy.
  - v. A plan showing the total impermeable/permeable areas of the development layout shall be submitted alongside the drainage design to confirm the contributing areas within the hydraulic model.
  - vi. The use of SuDS features to provide reuse and recycling of roof runoff (water butts and bio retention areas) and to provide source control (permeable paving). All SuDS measures are to be demonstrated on the drainage plan. All shared SuDS features shall be located in areas of the site allowing for adequate access to provide management and maintenance.
  - vii. Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system. Finished floor levels are to be set 150 millimetres higher than ground levels to mitigate the risk from exceedance flows (i.e. blocked gullies). In all cases, the surrounding ground level shall slope away from the finished floor level of properties and any entrances to mitigate against the risk of surface water inundation.

- viii. Provision of an acceptable management and maintenance plan to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development. To include the name and contact details of the body(ies) responsible.
- ix. Provision of an acceptable Surface Water Management Plan (SWMP) to ensure that temporary measures are installed to intercept, store and discharge surface water runoff generated by the site during the construction phase.

The development shall thereafter proceed in accordance with the approved details, with the surface water drainage design implemented prior to first occupation of the development hereby approved.

- 4) No development shall take place until a Precautionary Method of Working (PMoW) statement has been submitted to and approved in writing by the local planning authority. The PMoW shall cover the following points:
- i. Reasonable Avoidance Measures (RAMs) for mammals during construction, to secure site works overnight.
  - ii. Careful clearance of any vegetation showing awareness to; nesting bird season, small mammals such as hedgehogs, reptiles and amphibians.
  - iii. A designated contractor compound for storage of materials and vehicles on hard-standing.
  - iv. Biodiversity/landscape enhancements proposed on site to replace any lost ecology (to tie into Condition 8 of this schedule)

The approved scheme shall thereafter be implemented in accordance with the approved details and maintained throughout the construction period.

- 5) No development shall take place, including any site clearance works, until a Construction Vehicle Management Plan (CVMP) has been submitted to and approved in writing by the local planning authority. The CVMP shall include the following details:
- i. Details of the construction access.
  - ii. Arrangements for the parking of the site operatives and visitors
  - iii. Location of the contractor's compounds, welfare cabins, toilet facilities and material storage areas.
  - iv. Hours of construction.
  - v. Recorded daily inspections of private road/adopted highway leading to the site access.
  - vi. Measures to remove mud and debris carried on the private road/adopted highway.
  - vii. Measures to prevent dust from construction affecting the air quality in the vicinity of the site (i.e. 'dampening' of equipment/surfaces).

The approved scheme shall thereafter be implemented in accordance with the approved details and maintained throughout the construction period.

- 6) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
  - ii) the site has been remediated in accordance with the approved measures and timescale; and
  - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
- i) additional measure for the remediation of the site have been carried out in accordance with the details that shall first have been submitted to and approved in writing by the local planning authority; and
  - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until the following information has been submitted to and approved in writing by the local planning authority:
- a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings;
- full details of the proposed finished floor levels of all buildings and hard landscaped surfaces. The development shall be carried out in accordance with the approved details.
- 8) No development shall take place above slab level, and notwithstanding any details shown on any approved plans, until an alternative details soft landscape and planting scheme (incorporating future maintenance details) has been submitted to and approved in writing by the local planning authority. The approved landscape and planting scheme shall thereafter be implemented within the first planting season, in the case of all soft landscaping and planting.
- 9) No development shall take place above slab level until details of all external facing materials, including colour, size and texture of timber cladding, brickwork (including all window surrounds and vertical/horizontal banding), roof tiles, render swatches and glazed canopies/balustrades for balconies shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved details and retained as such thereafter.
- 10) No development shall take place above slab level until a Noise Impact Assessment (NIA) has been submitted to and approved in writing by the local planning authority. The NIA shall include details of any noise mitigation

measures required to safeguard the amenities of those occupying the care home from commercial noise sources surrounding the development. The development shall only be implemented in accordance with the approved mitigation measures, with those measures implemented and in place prior to the buildings occupation and maintained as such thereafter.

- 11) No development shall take place above slab level until a scheme to control the odours from any extraction fan system or other means of exhausting air into a location outside of the building has been submitted to and approved in writing by the local planning authority. The measures for controlling odours shall be implemented in accordance with the approved details prior to the first occupation of the development and shall be retained as such thereafter.
- 12) Prior to the first occupation of the development hereby approved the boundary treatment shall be constructed in accordance with the details shown on drawing no AP20023-L05 Ref F and retained as such thereafter.
- 13) Prior to the first occupation of the development hereby approved the cycle storage/parking facilities shall be constructed in accordance with the details shown on drawing no AP20023-L05 Rev F and retained as such thereafter.
- 14) Prior to the first occupation of the development hereby approved, the proposed new site access from Cannock Road (road number C0146) shall be completed within the limits of the public highway broadly in accordance with drawing no J32-7759-PS-003 Rev A, dated 29 April 2024 contained within the Transport Statement, dated May 2024, prepared by 'mode transport planning'. The visibility splays shown on drawing no J32-7759-PS-003 Rev A shall be kept free of all obstructions to visibility with nothing placed or allowed to remain forward of the visibility splays over a height of 0.6 metres above the adjacent carriageway level. The access and visibility splays shall be retained as such thereafter.
- 15) Prior to the first occupation of the development hereby approved the existing site access that is being made redundant as a consequence of the development hereby approved as shown on drawing J32-7759-PS-003 Rev A, dated 29 April 2024 contained within the Transport Statement, dated May 2024, prepared by 'mode transport planning', shall be permanently closed with the access crossing reinstated as footway with full height kerbs in accordance with details to be first submitted to and approved in writing by the local planning authority.
- 16) Prior to the first occupation of the development hereby approved the electric charging equipment of AC Level 2 (or equivalent providing for no lesser standard of efficiency) to serve two parking spaces within the staff and visitor's car park shown on drawing AP20023-L01 Rev N shall be installed and operational and retained/maintained as such thereafter.
- 17) The development hereby approved shall be carried out in accordance with Section 7 'Further Surveys, Mitigation, Compensation and Enhancement' as detailed in the Preliminary Ecological Appraisal (Updated Ecological Appraisal Ref: 2023/5591/A, dated 15 December 2023). The ecological precautionary and enhancement measures relating to badgers, hedgehogs, nesting birds, bats and invertebrates shall be implemented prior to the first occupation of the development hereby approved and shall be retained as such thereafter.

- 18) Any tree, hedge or shrub planted as part of the approved landscape and planting scheme approved under Condition 8 of this schedule (or replacement tree/hedge) on the site and which dies or is lost through any cause during a period of 5 years from the date of first planting shall be replaced in the next planting season with others of a similar size and species.
- 19) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification), this permission shall relate to the primary use of the premises as a care home (Use Class C2) with community hub as shown on the approved plans, and for no other purposes.
- 20) Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no additional gates, fences, walls or other means of enclosure (other than any approved as part of a planning condition) shall be erected, constructed or placed in any location within the curtilage of the care home (including anywhere along the access road to the east of the building).

End of Schedule