
Appeal Decision

Site visit made on 6 June 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2016

Appeal Ref: APP/M3455/W/16/3146927

Shelton Day Centre, Cemetery Road, Shelton, Stoke-on-Trent ST4 2DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Javaid Iqbal against the decision of Stoke-on-Trent Council.
 - The application Ref 58335, dated 9 May 2015, was refused by notice dated 4 March 2016.
 - The development proposed is the erection of 24 dwellings with associated landscaping/parking following the demolition of the former Shelton Day Centre.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 23 dwellings with associated landscaping/parking at Shelton Day Centre, Cemetery Road, Shelton, Stoke-on-Trent ST4 2DL in accordance with the terms of the application, Ref 58335, dated 9 May 2015, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However the proposal was amended prior to the application being determined by the Council with the number of dwellings proposed being reduced from 24 to 23. Therefore in allowing the appeal I have amended the description to reduce the dwelling number to 23 and to remove reference to the demolition of the existing building as at my visit I saw that it has already been demolished.
 3. There is some disagreement between the Council and the appellant as to which house type plans were considered by the Council when making its decision. Though it seems that a number of amended plans were submitted to the Council by the appellant (9101/111 Revision J and 9101/112 Revision C), the Council has advised that it considered drawing numbers 9101/111 Revision G and 9101/112 Revision A when making its decision. I note that the later revisions show fairly minor amendments to the proposed window detailing and do not in my view materially alter the proposal. As such I do not consider that any party would be unfairly prejudiced by me determining the appeal having regard to the amended plans and I have therefore had regard to them in reaching my decision.
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Main Issue

4. The main issue is whether the proposed layout is acceptable having regard to crime prevention.

Reasons

5. The appeal site comprises a vacant piece of land that previously contained Shelton Day Centre. It adjoins Cemetery Road and is opposite Hanley Cemetery. It also adjoins a number of residential and commercial properties located on Cemetery Road, Caledonia Road and Stoke Road. The site boundary with Cemetery Road is generally marked by a stone boundary wall with dense landscaping, including large mature trees, behind it. At the time of my visit Cemetery Road was reasonably busy with vehicular and pedestrian traffic and I noted that there are double yellow lines along the length of Cemetery Road in the vicinity of the appeal site. Residential properties on either side of the appeal site and further along Cemetery Road front onto the road.
6. The proposed dwellings would be accessed off Caledonia Road and would front onto a new access road within the site. The dwellings nearest to Cemetery Road would back onto that road with the rear boundary of the rear gardens adjoining Cemetery Road. I have had regard to the comments made by Staffordshire Police and to the concerns raised by the police and the Council in relation to the fact that the rear gardens of the proposed dwellings back onto rather than front Cemetery Road and would therefore be publically accessible and therefore potentially vulnerable.
7. The Council's reason for refusal refers to guidance contained within Secured by Design New Homes 2014 (SBD 2014), a police publication. My attention has been drawn to the fact that further guidance has subsequently been produced entitled Secured by Design Homes 2016 (SBD 2016). I have had regard to these documents and the guidance within them in reaching my decision and also to relevant paragraphs of the National Planning Policy Framework (the Framework) which seek to ensure that developments create safe and accessible environments. Both SBD 2014 and SBD 2016 state that it is preferable that footpaths are not placed to the back of properties. Though not specifically referred to in the Council's reason for refusal, Manual for Streets states that access to the rear of dwellings from public spaces should be avoided.
8. The existing site boundary with Cemetery Road has a largely continuous and robust boundary treatment of walling and mature landscaping. I note that as part of the proposal the majority of the existing boundary trees are to be retained and that the appellant intends to provide a high quality robust boundary fronting Cemetery Road. I also note that the rear elevations of the proposed dwellings adjacent to Cemetery Road contain a large number of window and door openings over three storeys. This will help to ensure surveillance of the rear gardens and rear boundaries of the dwellings. The particular design of the dwellings, existing and proposed boundary treatments along Cemetery Road and the reasonably busy nature of the road means that I am satisfied that the proposed layout would create a safe environment and would be acceptable having regard to crime prevention. Whilst I note that the layout differs to that of other dwellings on Cemetery Road, this in itself is not a reason to withhold planning permission.

9. Taking the above matters into consideration, I conclude that the proposal is acceptable having regard to crime prevention. It therefore complies with the guidance contained within SBD 2014, SBD 2016 and with relevant paragraphs of the Framework. This guidance and these policies seek, amongst other things, to ensure that developments create safe environments.

Other Matters

10. I note that the Council has raised concerns regarding a number of other matters within its Statement of Case not referred to in the reason for refusal. Firstly concern has been expressed regarding the fact that a number of existing trees on the site were removed when the previous building on site was demolished and regarding inadequate tree protection measures being in place on site. Whilst the loss of any trees is regrettable, it appears that the demolition of the building and associated loss of trees took place following confirmation from the Council that its prior approval was not required for the demolition. I understand that any remaining trees on site of significance are now protected by a Tree Preservation Order (TPO) and I am satisfied that this together with appropriate tree protection and landscaping conditions means that the proposal would not result in an unacceptable impact on any remaining trees on site. I note that this was the view of the Council's planning officers.
11. Concerns have also been expressed within the Council's statement regarding parking and traffic management information. However I note that the Highway Authority did not object to the proposal subject to the imposition of appropriate conditions and I have no substantive evidence before me to lead to me to reach a different conclusion.
12. Finally concern has been expressed regarding the effect of the proposal on the character and appearance of the area, with particular regard to the effect on trees and uncertainty regarding boundary treatments. Whilst I have had regard to these concerns, I am satisfied that they can be adequately addressed by the imposition of suitably worded conditions and I note that neither the Council's Urban Design & Conservation Team or planning officers raised concerns regarding the impact of the proposal on the character and appearance of the area.
13. I note the fact that the appellant was not represented at the Council's Planning Committee and was not therefore available to answer any queries from Councillor's, however this is not relevant to my decision.

Conditions

14. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the relevant plans as this provides certainty. Conditions are also required to control details of materials, landscaping, boundary treatment, tree protection and levels having regard to the level of information submitted with the application, the nature of the proposal and in the interests of the character and appearance of the area. Where necessary the wording of the suggested conditions has been amended to meet the tests for conditions as set out in the Framework. I have reduced the timeframe for replacement trees to be planted from 10 years as suggested by the Council to 5 years as in my experience this is a more reasonable timeframe and I have seen no specific justification for an extended timeframe in this particular case. The requirements of the tree protection condition are such that the information

required needs to be submitted and approved prior to the commencement of development.

15. Conditions are required for details of the proposed access off Caledonia Road, for a Construction Method Statement (CMS) and for the closure of the existing access off Cemetery Road. The nature of the CMS means that it is required to be submitted and approved prior to the commencement of development. A condition is also required specifying the surface materials of proposed driveways and parking areas. These conditions are all required in the interests of highway safety and in respect of the CMS condition in the interests of the living conditions of occupiers of nearby residential properties. The surface materials condition is also in order to reduce the risk of flooding.
16. A number of conditions have been suggested relating to contamination. I am satisfied that these are necessary given that no information regarding contamination was submitted with the application and having regard to the nature of the proposal and the site. I note that this followed the advice of the Council's Contaminated Land Officer, though also note that there is some difference in the number and wording of the contaminated land conditions suggested.
17. A condition is required for details of foul and surface water drainage having regard to the scale and nature of the scheme and this requires details of drainage to be submitted and agreed prior to the commencement of development. I am also satisfied that a condition requiring future control of the boundary treatment to be provided adjacent to Cemetery Road is necessary having regard to the length of the boundary and its prominent position. However I do not consider that the suggested condition regarding external lighting is necessary or that there is sufficient justification to remove permitted development rights for extensions and outbuildings to Plots A1 to A15.

Conclusion

18. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

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: 9101/001, 9101/002, 9101/101 Revision E, 9101/111 Revision J, 9101/112 Revision C and 9101/113 Revision A.
- 3) No development shall commence, apart from any development required to be carried out by condition 8, until full details of the way in which foul sewage and surface water are to be disposed of from the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for the use of sustainable drainage techniques and surface water limitation where practicable. Development shall be carried out in accordance with the approved scheme and in accordance with a timetable to be approved by the Local Planning Authority.
- 4) No site clearance, preparatory work or development shall take place apart from any development required to be carried out by condition 8 until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 5) No development shall take place, including any works of demolition, apart from any development required to be carried out by condition 8, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - (a) the parking of vehicles of site operatives and visitors;
 - (b) construction access;
 - (c) storage of plant and materials used in constructing the development;
 - (d) wheel washing facilities;
 - (e) measures to control the emission of dust and dirt during construction;
 - (f) location of the contractors compounds;
 - (g) portakabins;
 - (h) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No development shall commence, apart from any development required to be carried out by condition 8, until full details of the site access,

including its junction with Caledonia Road, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwellings and shall be retained thereafter.

- 7) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - (a) a survey of the extent, scale and nature of contamination;
 - (b) the potential risks to: human health;
 - (c) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - (d) adjoining land;
 - (e) ground waters and surface waters;
 - (f) ecological systems; and
 - (g) archaeological sites and ancient monuments.
- 8) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development or relevant phase of development is occupied.
- 9) No development, other than site preparation works and demolition and apart from any development required to be carried out by condition 8 shall take place until precise details of existing and proposed ground levels of the site and finished floor levels of the dwellings have been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved scheme.
- 10) None of the dwellings hereby permitted shall be occupied until boundary treatments, including retaining walls, have been provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The scheme shall include details of the location,

height, design, materials, type and colour of the proposed boundary treatments.

- 11) None of the dwellings hereby permitted shall be occupied until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include the following details:
 - (a) The treatment proposed for all ground surfaces including hard areas;
 - (b) Full details of trees and vegetation to be retained on site;
 - (c) Full details of tree planting;
 - (d) Planting schedules, noting the species, sizes, numbers and densities of plants and trees;
- 12) None of the dwellings hereby permitted shall be occupied until the proposed driveways and parking areas have been hard surfaced in a suitable porous material and retained thereafter.
- 13) None of the dwellings hereby permitted shall be occupied until the existing vehicular access from the site onto Cemetery Road has been closed in accordance with a scheme to be submitted to and approved in writing by the local planning authority.
- 14) No development shall take place above damp proof course level of the dwellings until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 15) The approved landscaping scheme shall be fully completed within the first planting and seeding seasons following the occupation of the buildings and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 16) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no replacement boundary treatments shall be erected to the rear of Plots A1 to A15.

Richborough Estates