



Appeal Decision

Hearing held on 25 February 2014

Site visit made on the same day

by Isobel McCretton BA(Hons) MRTPI

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

Decision date: 12 May 2014

Appeal Ref: APP/K3415/A/13/2207067

The Greyhound, Boney Hay Road, Burntwood WS7 9AL

- 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 Partner Construction and Burntwood Hay Ltd against the decision of Lichfield District Council.
 - The application Ref.13/00414/FULM, dated 12 April 2013, was refused by notice dated 12 September 2013.
 - The development proposed is construction of 22 dwellings for 100% affordable housing.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of 20 dwellings for 100% affordable housing at The Greyhound, Boney Hay Road, Burntwood WS7 9AL in accordance with the terms of the application, Ref. 13/00414/FULM, dated 12 April 2013, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. During consideration of the application the proposals were amended. The revised proposals were for the construction of 20 dwellings and this was the scheme determined by the Council. I have determined the appeal on this basis.
3. The appellants have submitted a S106 Unilateral Undertaking. This would secure the development as 100% affordable housing. It would also secure a financial contribution towards the provision of education, interpretation and management associated with the Cannock Chase Special Area of Conservation. This Undertaking has been agreed with the Council and I am satisfied that it meets the tests for planning obligations set out in the National Planning Policy Framework (2012) (the Framework) and the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010.
4. The application was made prior to the publication of the Planning Practice Guidance (planning guidance) by the Government on 6 March 2014. However, having regard to the submissions, I am satisfied that no party's interests would be prejudiced by my determination of the appeal in the light of the advice therein.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the area;
- Whether adequate amenity space would be provided to meet the needs of future occupiers; and
- Whether adequate parking would be provided to meet the needs arising from the development.

Reasons

Character and Appearance

6. The appeal site lies at the junction of Boney Hay Road and Highfield Road. It comprises the greater part of a site previously occupied by a public house (The Greyhound) and car park, though the pub has been demolished and the site is vacant. It is proposed to erect 20 affordable dwellings on the site: 8 x 3-bedroom and 4 x 2-bedroom houses, plus 2 x 1-bedroom and 6 x 2-bedroom flats. There would be a corner block of 8 apartments, 1 pair of semi-detached houses and a terrace of 5 houses facing Highfield Road, and a pair of semi-detached houses and a terrace of three dwellings facing Boney Hay Road. Some of the houses in Boney Hay Road would have parking spaces at the side of the dwelling, and the remainder of the parking would be in a parking court at the rear, giving a total of 33 spaces. This is the first phase of development on the site with an area on the south-eastern side earmarked for a development of detached houses.
7. The density of the proposed scheme would be of the order of 60 dwellings per hectare (dph), though taking the larger site as a whole, the density would be around 46dph. This would be greater than the housing in the immediate vicinity of the site which the Council estimates to be of the order of 30-35dph but, in the wider area, the density of housing varies and there are a number of pockets of more densely developed housing (e.g. Leigh Avenue at around 50dph). As such, I do not consider that the proposal would be unacceptably uncharacteristic of the area. Moreover, the development would meet specific, identified housing need for smaller, affordable units in a sustainable location.
8. Objectors refer to the fact that, as a result of the higher density, the dwellings would be closer to the pavement than others in the immediate area in Boney Hay Road and Highfield Road which are well set back from the pavement. Nonetheless, I saw that, to the south in Boney Hay Road, there are dwellings which are set even further forward so that there is no strong, established building line. Similarly, the maisonettes to the east are set further forward on the plot than other dwellings in Highfield Road.
9. The development would be broken up with two pairs of semi-detached houses, two terraces and a larger apartment building turning the corner, all set a minimum of 3m from the back edge of the pavement. The trees along the eastern boundary of the site would be retained. It seems to me that the proposed dwellings would be comfortably assimilated into the street scene, and, with appropriate frontage landscaping, would not be out of keeping with the varied character and design of the surrounding properties.

10. Furthermore, Burntwood is proposed as a focus for new housing development in the Core Strategy¹. Policy H1 actively promotes the delivery of smaller properties including 2-bed apartments and 2 and 3 bedroom houses to increase local housing choice and contribute to the development of mixed and sustainable communities. Higher density will be sought, focused around the most sustainable centres, to assist in the provision of smaller units to meet a diverse range of housing needs. The Core Strategy is at an advanced stage and so, in accordance with para 216 of the Framework, I accord it some weight.
11. At the Hearing it was argued that the layout would mean that, for convenience, future occupiers would be likely to leave bins on the frontage rather than in the allocated areas to the rear and that this would detract from the street scene. However adequate provision would be made for bin storage and this would be a management issue for the registered social landlord.
12. I conclude that the proposal would not be detrimental to the character and appearance of the area. It would accord with saved Local Plan² policies H3 and DC1 which, among other things, require housing proposals to have a harmonious relationship with their setting, respect the scale and density of adjoining properties and incorporate a suitable landscape scheme.

Amenity Space

13. The Council states that the private amenity space provision for future occupiers would not accord with its adopted Supplementary Planning Document (SPD)³. This guidance relates to residential extensions and the Council argued that it is logical to apply this guidance as minimum standards when designing new schemes, and that provision in excess of the recommended standard would allow some margin for future extension as the needs of the occupiers change.
14. The SPD advises that, for 2-bedroom units, a minimum of 65m² should be retained which should be free from overlooking by immediate neighbours and not include space for parking or garaging of vehicles. The average length of gardens should not be less than 11m with a minimum width of 5m, again excluding accommodation for vehicles. The Council maintains that only 3 of the 12 houses would have at least 65m² of amenity space (with 3 mid-terrace units having around 45m²). None of the gardens would be 11m in length and the 3 mid-terrace units would also be less than 5m in width.
15. However the SPD is guidance for extensions where the Council is seeking, among other things to reconcile '*the potentially conflicting demands of the desire of householders to extend their properties and the protection of the standards of amenity enjoyed by neighbours*'. The Residential Design Guide (RDG) also refers to 65m² but advises that '*where this cannot be achieved the variation must be explained and justified. Good innovative design and/or considered response to the surrounding context and characteristics can form the basis of such justification*'. Overall, it seems to me that the aim is to provide usable space free from overlooking and separate from car parking space in the context of a cohesive scheme.

¹ Lichfield district Local Plan : Our Strategy (Proposed Submission) (July 2012)

² Lichfield District Local Plan (June 1998)

³ Supplementary Planning Document: A Planning Guide to Residential Extensions (2005) (SPD)

16. The gardens, even the smaller ones, would provide space for sitting out, bin storage, clothes drying and other amenity space separate from the parking areas. The smaller gardens would serve the 2-bedroom dwellings. It is possible that these units would be occupied by families with children, but even so there would be some space for outdoor play. Thus, although the proposal would not fully accord with the advice in the SPD, I consider that, on balance, adequate amenity space would be provided for future occupiers.

Parking Provision

17. In total 33 parking spaces are shown. The Council contended that the configuration, with a number of spaces in tandem which would have to be allocated to the same dwelling, would mean that, although the total number would comply with the adopted standard, in practice there would be a shortfall of 2 spaces. As the parking area would have no capacity for additional vehicles, this could lead to additional on-street parking, potentially reducing visibility at the access to the site and at the junction of Highfield Road and Boney Hay Road.

18. I note that no objection was raised by the Highway Authority in this regard and that the standards in the Local Plan are maximum standards which are to be applied flexibly. At the site visit I saw that on-street parking is restricted in Boney Hay Road in the vicinity of the site and on the corner of the junction with Highfield Road with double yellow lines, and speed control measures are in place in Highfield Road. No substantiated evidence has been adduced to show that there is heavy demand for on-street parking in Highfield Road (where many of the dwellings have off-street parking space) or how slightly increased on-street parking, should it occur, would compromise highway safety. Moreover, the appellants claimed that research has found that car ownership amongst non-owner-occupied households is generally lower. As such, I consider that the parking provision as shown would be acceptable and would not materially conflict with Local Plan policy T4.

Conditions

19. I have considered the need for conditions in the light of the advice in the practice guidance and those discussed at the Hearing.

20. For the avoidance of doubt and in the interests of proper planning it is necessary to require that the development be constructed in accordance with the approved drawings.

21. In the interest of the appearance of the development and the amenity of neighbouring residents, I shall require the approval and implementation of details in respect of external materials, boundary treatment (around and within the site), external lighting, tree protection and landscaping and restrict extension of the dwellings without the approval of the local planning authority.

22. To ensure adequate facilities to serve the needs of future occupiers it is necessary to require approval of details of drainage, the provision of refuse storage areas and the parking and manoeuvring spaces.

23. To safeguard ecological interest and provide ecological enhancement I shall require the development to be carried out in accordance with the recommendations of the accompanying Ecology Report.

24. In the interests of highway safety it is necessary to impose conditions to ensure that the access serving each dwelling is completed before occupation and that the existing access onto Highfield Road is closed and the footway reinstated.
25. Because of the previous commercial use of the site, to protect the water environment and safeguard public health, I shall impose a condition requiring an investigation for contamination and the implementation of any necessary remediation works.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed.

Isobel McCretton

INSPECTOR

Schedule of Conditions for Appeal Ref. APP/K3415/A/13/2207067

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
2. Except insofar as may otherwise be required by other conditions to which this permission is subject, the development shall be carried out in complete accordance with the following approved drawings: PAR089SUR001A, PAR089PA001J, PAR089PA100A, PAR089PA200A, PAR089PA300C, PAR089PA400B, PAR089PA002A, 13043/110A, 13043/SK10B, AE 1310-01B.
3. Notwithstanding any description/details of materials in the application documents, before the development hereby approved is commenced, full details, including samples, of the external materials to be used in the construction of the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
4. Notwithstanding any description/details of boundary treatments in the application documents, before the development hereby approved is commenced, full details of the height, type and position of all site and plot boundary walls, retaining walls, fences and other means of enclosure to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details before the development is first occupied, unless otherwise agreed in writing with the Local Planning Authority.
5. Before the development hereby approved is commenced, drainage details for the disposal of foul sewage and surface water, including outfall, shall be submitted to and approved in writing by the Local Planning Authority. The

scheme shall thereafter be implemented in accordance with the approved details before any of the dwellings are first occupied.

6. Before the development hereby approved including any demolition and/or site clearance works is commenced or any equipment, machinery or material is brought onto site, full details of protective fencing and/or other protective measures to safeguard existing trees and hedgerows on and adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. The agreed tree and hedge protection measures shall thereafter be provided prior to any site clearance works and before any equipment, machinery or materials is brought onto site, or development commences, in accordance with the British Standard 5837: 2012 and shall be retained for the duration of construction (including any demolition and/or site clearance works), unless otherwise agreed in writing by the Local Planning Authority. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas. The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment, machinery and surplus materials have been removed from the site.
7. Before the development hereby approved is commenced, a detailed landscape and planting scheme incorporating the retention of existing trees and shrubs on the site, and providing full details of a green screen type boundary treatment between the parking areas for plots 15 to 20 and the phase 2 site, shall be submitted to and approved in writing by the Local Planning Authority. The approved landscape and planting scheme shall thereafter be implemented within eight months of the development being brought into use, unless an alternative timescale is agreed in writing by the Local Planning Authority.
8. Before the development hereby approved is commenced, details of the design of the shared access/driveways serving plots 8 to 16 and 17 to 20 shall be submitted to and approved in writing by the Local Planning Authority. Submitted details shall include a width of 4.5m for the first 10.0m rear of the highway boundary with a minimum of 600mm tolerance to either side and no boundary treatment; surfaced in a porous bound material. The accesses/driveways shall thereafter be provided, in accordance with the approved details, before any of the dwellings they serve are first occupied.
9. Before any part of the development hereby approved is commenced, the application site shall be subjected to a detailed scheme for the investigation and recording of any contamination of the site and a report shall be submitted to and approved in writing by the Local Planning Authority. The report shall identify any contamination on the site, the subsequent remediation works considered necessary to render the contamination harmless and the methodology to be used. The approved remediation scheme shall thereafter be completed and a validation report submitted to and approved in writing by the Local Planning Authority within 1 month of the approved remediation being completed, to ensure that all contaminated land issues on the site have been adequately addressed prior to the first occupation of any part of the development.

10. Before the development hereby approved is commenced, details of all external illumination, to include lighting to shared parking and manoeuvring areas and other communal spaces, shall be submitted to and approved in writing by the Local Planning Authority. The illumination on the site shall thereafter be implemented in accordance with the approved details.
11. The development hereby approved shall be carried out having full regard to all recommendations and mitigation, including the erection of bird and bat boxes as detailed within the Code for Sustainable Homes Category 9: Ecology report by EMEC Ecology dated 9 December 2011, unless otherwise agreed in writing by the Local Planning Authority.
12. Before any of the dwellings hereby approved are first occupied, the access serving the respective dwelling shall be completed within the limits of the public highway.
13. Before the development hereby approved is first occupied, the existing site access to Highfield Road, including the access crossing between the site and the carriageway edge, made redundant as a consequence of the development hereby permitted, shall be closed and the access crossing reinstated as footway, in accordance with details to have been first submitted to and approved in writing by the Local Planning Authority.
14. Before any of the dwellings hereby approved are first occupied, the parking and manoeuvring areas serving the respective dwelling shall be provided in accordance with submitted drawing no. PAR089PA001J and surfaced in a porous bound material with the individual parking bays clearly delineated and allocated in accordance with the approved details. Thereafter the parking spaces shall be kept available and free from obstruction for the parking by residents and their visitors.
15. Any tree, hedge or shrub planted as part of the approved landscape and planting scheme (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, unless otherwise agreed in writing by the Local Planning Authority.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order 1995 (as amended), (or any Order revoking and re-enacting the Order with or without modification) the dwellings hereby shall not be enlarged or extended to the rear or side without the prior written permission, on application, to the Local Planning Authority.
17. Prior to the first occupation of the dwellings the refuse storage areas shall be provided and thereafter shall be retained.

APPEARANCES

FOR THE APPELLANT:

Mark Dauncey BA, MA	Pegasus Group
Gordon Metcalfe BSc(Hons) DipTP, MRTPI	Partner Construction

FOR THE LOCAL PLANNING AUTHORITY:

Della Thompson DipTP	Senior Planning Officer
----------------------	-------------------------

INTERESTED PERSONS:

Cllr Thomas Marshall	Lichfield DC
Cllr Keith Willis-Croft	Lichfield DC
Mrs S A Tweddle	Local Resident

DRAWINGS:

A1-12 Amended drawings submitted with the planning application:
PAR089SUR001A, PAR089PA001J, PAR089PA100A, PAR089PA200A,
PAR089PA300C, PAR089PA400B, PAR089PA002A, 13043/110A,
13043/SK10B, AE 1310-01B, J9078s1, J9078s2