

Meeting: Planning and Development
Committee

Agenda Item:

Date: Tuesday 9 August 2022

INFORMATION REPORT - APPEALS / CALLED IN APPLICATIONS

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1. APPEALS RECEIVED

1.1 NONE.

2. DECISIONS AWAITED

- 2.1 21/00681/AD, McDonalds, Monkswood Retail Park, Elder Way. Appeal against refusal of advertisement consent for 1no. internally illuminated totem sign.
- 2.2 21/00809/FP. 168 Fairview Road. Appeal against refusal of planning permission for the erection on 1no. two bedroom detached dwellings with parking and access.
- 2.3 21/01152/ENF. 68 Basils Road. Appeal against the serving of an enforcement notice to remove the first floor of the two storey rear extension which was refused under planning permission reference number 21/01256/FPH.
- 2.4 21/01256/FPH. 68 Basils Road. Appeal against the refusal of planning permission for the retention of a part two storey, part single storey rear extension.
- 2.5 21/01126/FP. 56 Austen Paths. Appeal against the refusal of planning permission for the change of use from a 6-bedroom House of Multiple Occupation (HMO) Class C4, to a 7-bedroom HMO (Sui Generis), 3 x car parking spaces; 8-bicycle parking spaces, and location of 7-bin storage facilities to the rear driveway.
- 2.6 21/01101/FP, 303 Ripon Road. Appeal against refusal of planning permission for the conversion of 1 no. 4 bedroom dwelling to 3 no. studios, single storey front and rear extensions and conversion of garage including the change of use from public amenity land to residential use and associated parking.

3. DECISIONS RECEIVED

- 3.1 19/000474/FPM, Land West of Lytton Way. Appeal against refusal of planning permission for the demolition of existing office building (Use Class B1) and structures, and the construction of seven apartment buildings comprising 576 dwellings (Use Class C3) together with internal roads, parking, public open space, landscaping, drainage and associated infrastructure works.
- 3.2 The appeal was allowed subject to conditions.

Procedural Matters

- 3.3 The previous appeal decision was quashed in the High Court on 1st December 2021 and so required to be re-determined.
- 3.4 Following the submission of the appeal, the Council had adopted new standards for cycle parking which is to be secured by condition. Amended plans submitted with minor changes to parking bays, location of sub-stations and addressing drafting issues were agreed during the inquiry.
- 3.5 Regard was given to the executed Legal Agreement which was submitted on 6 July 2022.

Main Issue

- 3.6 Main parties had reached common ground regarding infrastructure provision which was the third reason for refusal. In this case, the developer agreed to all the financial obligations where were being sought, including primary education and NHS GP provision. It was also agreed that there were no negative impacts on the Old Town High Street Conservation Area (this is because the reasons for refusal did not explicitly state the development would have a detrimental impact on the historic character of the conservation area).
- 3.7 In contrast to the previous inspector, this inspector did not consider privacy or outlook as it was not disputed by main parties (again, this was not a reason for refusal so could not be challenged by officers during appeal proceedings). As such, the appeal focussed on the two main reasons for refusal relating to design.

Reasons – Character and appearance

- 3.8 The inspector in the decision letter sets out in detail the general policy requirements set both nationally and locally in relation to Good Design. The inspector also goes into detail the sites characteristics and the context of the surrounding area.
- 3.9 The proposed development seeks to comprehensively redevelop the site with 576 residential units across seven blocks. The blocks would curve from north to south (blocks 1 to 6) with block 7 being located towards the railway line. The blocks would have similar floorplans with the taller northern and southern blocks forming the wayfinding aspect of the scheme. The pavilion blocks (blocks 2 and 5) would be lower and some would adjoin the taller blocks and central gateway blocks (Blocks 1, 3, 4 and 6). The gateway blocks would be taller than the pavilion blocks and would directly abut the main entrance to the site and arrival square.
- 3.10 The design concept sees the taller blocks and wayfinding blocks as having a vertical emphasis and being a lighter colour whereas the pavilion blocks would have a horizontal emphasis and be a darker brick. Separate pavilion blocks 2 and 5 would have a central set-back of a different brick to denote each blocks central entrance. Sitting lower than the most frontage blocks, block 7 would use a contrasting form. The blocks would range between 6 and 16 storeys.
- 3.11 The number of tall buildings was a concern raised by the Council with the Council's expert design witness confirming in his evidence that he considered the site suitable for a single tall building, but more would be unlikely. There are taller buildings in Stevenage, but they are set at some distance apart.
- 3.12 The inspector noted the Council's aim to regenerate the new town, the recent permissions for the MSCP (multi-storey car park) and Matalan, and planning applications (which have resolution to grant) with taller buildings. As such, the town was going to see the provision of number of tall buildings. The inspector, therefore, considers the provision of tall building on the site as not harmful per se. This is

because of the developments proximity is not only located close to tall buildings within and outside of the town centre, but also as an island surrounded by roads, parkways and the railway and is therefore separated from other smaller buildings. In the absence of a policy to prevent the grouping of tall buildings, the inspector considers that of greater concern is of whether the development is of sufficient design quality and appropriate effect on the character and appearance of the area to be consistent with local and national policies.

- 3.13 Turning to matters of building form and layout, height, proportions, materials and architectural detail, the inspector did not consider the golden ratio as set out in the previous inspectors decision.
- 3.14 In her analysis of the proposal, the inspector considered that taken together, the building form and layout, height, proportions, active frontages, materials and architectural detail of the proposed development would be successful in the site. The inspector goes onto consider that whilst the scheme does not have the flair that is attributed to the existing building, she emphasised the importance of high quality materials to be secured by way of condition. With the condition in place, the inspector considered that the proposed development would be high quality.
- 3.15 However, the inspector in her analysis considered that the development would have a moderate adverse effect on townscape and views. This is due to how the groupings of the buildings would appear from certain viewpoints. Notwithstanding, she did not consider the proposed development would have an adverse impact on the legibility of the town centre. Moreover, she also considered that the landscaping and car parking areas would not have an adverse effect on the proposed development.
- 3.16 In summary, the inspector considered the development would have a moderate harmful effect on the character and appearance of the area, stemming only from the loss of the existing building and the developments appearance in long views. As such, she considered there was a conflict with local plan policies on design. But, she did consider the proposal accorded with Policy SP7 in respect of environmental capacity.

Other Matters

- 3.17 Reference was made about the number of flatted developments coming forward. However, the inspector set out in the decision letter that such developments are in keeping with the Council's regeneration aspirations for the town centre. Though mention has been made about increasing density to avoid building on Green Belt land and to delivery of an arts centre in the existing building, the inspector set out in her decision that she is required to consider the scheme that is before her. Moreover, the inspector correctly pointed out that overall suitability of housing allocations and land being removed from the Green Belt is best addressed through Local Plan examination.
- 3.18 In terms of people living in the development, the inspector does note that the development could house people who commute to London or Cambridge. This is considered to be a reasonable assumption given the sites location near the train station. The inspector was also correct in her judgement that a requirement to restrict the flats to only those who work locally is neither enforceable or reasonable. In terms of affordable housing, these are generally grouped together in flatted developments in terms of ease of management and maintenance.
- 3.19 Turning to comments relating to the challenges about finding school places and appointments at doctor's surgeries, the inspector argues that whilst it would not be reasonable for the development to fund existing gaps in infrastructure, it would address its own effect on school and NHS infrastructure via planning obligations. In terms of Police and other emergency services, there was no evidence before the inspector that this development would contribute towards those services or that it would have a negative impact on water pressure which requires mitigation.

- 3.20 Improvements to walking and cycling routes would be secured via the Section 106 legal agreement. The matter of sewerage is addressed by condition, there would be sufficient parking provision and there is no evidence before the inspector for her to consider issues around congestion, fly parking and rat running on neighbouring roads.
- 3.21 The inspector did note that there is potential issues with noise, anti-social behaviour, crime and lack of community cohesion, it has not been demonstrated that the proposed development would worsen any existing situation. Additionally, matters around noise will be addressed by condition and steps have been taken to design out crime. In terms of impact of light on neighbouring developments, the inspector raised no concerns in her decision and there were no concerns raised around privacy. In addition, she did not consider that it had been demonstrated that light pollution would occur as a result of the proposed development.
- 3.22 In terms of safety around tall-buildings, the inspector had noted these concerns, she set out in the decision letter that the legal agreement provides a water scheme with the provision and maintenance of fire hydrants and no cladding is proposed. A condition is also imposed to deal with the impacts from construction. The inspector also sets out that matters around thermal insulation would be addressed through Building Regulations and concerns around property values is not a material planning consideration.

Planning obligations

- 3.23 The relevant parties have entered into a legal agreement which includes obligations which would come into effect if planning was granted. The inspector considered these obligations in accordance with Regulation 122 of the Community Infrastructure Levy.
- 3.24 The inspector considered the clauses around affordable housing, including a clawback mechanism to secure any potential uplift in on-site affordable housing provision or a financial contribution in lieu met the relevant tests. The inspector also considered the obligations relating to open space and its maintenance also accorded with regulation 122.
- 3.25 The Inspector also considered, based on the evidence provided during the appeal by both the Council and County Council, that the full £1,670,632 contribution towards Primary Education met the CIL tests. This deviates from the previous inspectors decision which sought a substantial reduction in the financial obligation for Primary Education by 80%. The inspectors decision does not deviate from the previous inspectors decision on the NHS contribution of £81,538. Other obligations including the £22,574.33 towards a Car Club along with travel plan monitoring, provision of cycle ramps and footway connections and monitoring fees were also considered to meet the relevant tests.
- 3.26 However, the inspector did not consider the requirement for trees and plants to be sourced from nurseries in England and Wales, which whilst laudable, failed to meet the 3 tests under regulation 122. In summary, the inspector concluded the legal agreement would be consistent with the local plan along with the ability to provide more affordable housing where viability permits.

Planning Balance

- 3.27 The latest Housing Delivery Test (HDT) score as issued in January 2022 is 79% which exceeds the thresholds set out in the NPPF (above 75%). The appellant had projected HDT results for future years which the inspector gave no weight to.
- 3.28 In terms of the dispute between the Council and the appellant on 5 Year Land Supply (YLS), the points of dispute related to methodology and to the delivery of a number of sites within the supply. The updated Statement of Common Ground confirms the parties agree to the 20% buffer to be applied and the base date is 1 April 2022.

- 3.29 The appellant considers the deliverable 5 year supply is 2,491, which is 2.476 years (Sedgefield) and 3.54 years (Liverpool). The Council considered supply to be 4,126 which is 4.58 years (Sedgefield) and 5.87 years (Liverpool). The inspector does not consider in her decision letter who was correct or which methodology should be used i.e. Liverpool or Sedgefield.
- 3.30 The inspector went on to argue that as the scheme 576 units, it would support the Government's aim as set out in the NPPF to significantly boost the supply of housing. Reference was given to Policy SP7 which refers to the need to deliver 7,600 homes over the plan period. The inspector notes that many of these homes are to be delivered on strategic sites (e.g. North Stevenage, West Stevenage, Stevenage Town Centre) and argues they appear to be complex to deliver and slow to come forward.
- 3.31 The inspector also argues there is also an historic under delivery of new homes in Stevenage, and even if she were to support the Council's best case scenario, in light of the scale of development proposed and due to local and national circumstances, she gave the provision of additional homes substantial weight.
- 3.32 In terms of the obligations to be secured in the Legal Agreement, she gave those neutral weight. In terms of affordable housing, whilst the scheme was not policy compliant, the inspector considered the delivery of affordable rent units which is the highest priority tenure. She also argued there had been an under delivery of affordable homes in Stevenage and the scheme would deliver 17% of affordable homes required over the Plan Period. As such, due to the number of units being delivered (52) combined with under delivery and the size of unmet need, she gave significant weight.
- 3.33 In terms of the sites sustainable location and provision of measures such as a car club, travel plans, travel vouchers, EV charging, which whilst are requirement of policy, including Building Regulations, she gave these reasonable weight.
- 3.34 With regards to redevelopment of a brownfield site, in accordance with the NPPF, this was afforded substantial weight. The proposed development would also go beyond requirements with a 60% carbon reduction where the inspector applied significant weight. The development would also have a biodiversity net gain of 22.3% where the inspector applied significant weight to. With regards to economic impacts such as jobs and local expenditure, the inspector considered these to be afforded significant weight.
- 3.35 The inspector therefore considered that the overall benefits of the scheme have substantial weight. In conclusion, whilst the inspector noted the negative attributes of the scheme in relation to design and conflict with the development plan, the inspector sets out in the decision letter that the overall benefits outweigh this conflict.

Schedule of conditions

- 3.36 The schedule of conditions were discussed at the inquiry with amendments taking into account new plan numbers. Details of the conditions and reasons for them being imposed are set out in the appeal decision.

Conclusion

- 3.37 The inspector concluded the appeal should be allowed.