



Appeal Decision

Site visit made on 24 November 2008

by **Elizabeth Hill** BSc(Hons), BPhil, MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
16 December 2008

Appeal Ref: APP/K3415/A/08/2079930

Blair House, off Walsall Road, Lichfield, Staffs.

- 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 Deltabridge Investments Ltd against the decision of Lichfield District Council.
- The application Ref 06/00592/FUL, dated 31 May 2006, was refused by notice dated 1 February 2008.
- The development proposed is the erection of 3 dwelling houses and associated parking.

Preliminary matters

1. The Council's decision refers to Policy D1 of the Lichfield District Local Plan (LP). However, it is clear that the policy referred to should be Policy DC.1.

Decision

2. I allow the appeal, and grant planning permission for the erection of 3 dwelling houses and associated parking at Blair House, off Walsall Road, Lichfield, Staffs in accordance with the terms of the application, Ref 06/00592/FUL, dated 31 May 2006, the location plan and plans numbered 2249-02A, 11B and 12B and 452/01B, subject to the conditions set out in the attached schedule.

Main issue

3. I consider the main issue to be the effect of the proposed development on highway safety.

Reasons

4. The proposed development would be accessed from a track, which is a right of way and which serves the Trunkfields Farm/Mill area. It is currently the access to a few dwellings, including the unoccupied Blair House, and two garages and is single track width for most of its length. Its narrowest width would be about 3.7m when the proposed improvements to it have taken place. In addition, a passing place of about 4.8m by 28m is proposed and there are two more potential passing places by the garages and the access to 119a and 121 Walsall Road. If the area near the garages were to be in use for parking then there would be another alternative near the junction with Walsall Road to ensure that traffic would not have to reverse onto this road to allow traffic out of the track. The appellants have demonstrated in plan 452/04 and I saw on my site visit that there would be inter-visibility between vehicles using the passing places, without further cutting back the vegetation on the verges.

5. Figure 7.1 in the Manual for Streets says that a width of 4.8m, which is proposed in the main passing place, would be sufficient for a lorry and a car to pass each other. The minimum 3.7m width shown in plan 452/06 would be sufficient to ensure access for emergency vehicles such as fire engines. This minimum width would also allow 2 people walking abreast with a pushchair to pass a car, as set out on pages 68 and 74 of the Manual for Streets. The submitted swept path analysis shows that the turning space to be provided near the proposed dwellings would allow for commercial vehicles to turn.
6. The Council's main concern is pedestrian/vehicular conflict. Whilst this track would not be typical of some of the shared surface schemes shown in the Manual for Streets it would share some of their characteristics. Vehicle movements would be low. The appellants' survey shows that in a 12 hour period there are 22 vehicle movements at present on the track, which would increase by a further 12 if the development were to be built. This is well below the 100 vehicle movements per hour for shared surfaces in the Manual for Streets. The track would be a cul-de-sac for vehicles and its nature would encourage low speeds and, in terms of vehicular movements, the track would be a relatively calm traffic environment. Any improvements to the surface of the track and the passing places would be likely to benefit people with disabilities and those using pushchairs.
7. Local residents say that the route is used as a route to school/nursery and to the new play area constructed in the strategic open space on the new development. The survey conducted by both the residents and appellants shows the path to be well-used, with the busiest times being during the morning and afternoon periods associated with school opening and closing times. At these times there may well be pedestrians with children, pushchairs and cycles using the track but its proposed width shows that these users could pass vehicles. Two footpaths emerge onto the track, with restricted visibility due to the walls/fences which run along the paths to their junctions with the track. However, vehicle speeds are likely to be sufficiently low for the safety of other types of users of the track to be protected.
8. The junction onto Walsall Road would be close to a pedestrian-controlled crossing and fencing has been erected recently across part of the radius to the junction of the track with Walsall Road shown on plan 452/01B. This area is within the red line on the application plan. Because of unknown land ownerships on the access track, the application was advertised and Certificate C provided, subsequent to its submission. In such circumstances paragraph 28 of Circular 11/95: The Use of Conditions advises that the any access should be conditioned to ensure that it would be provided prior to the approved development taking place. This would ensure that the improvements to the track, including the radius, would have to take place in accordance with the approved details on plans 452/01B and 452/06 before any development on the site took place.
9. Therefore I conclude that the proposed development would not harmful to highway safety and would be in accordance with Policy DC.1 of the LP and Policy T13 of the adopted Staffordshire and Stoke-on-Trent Structure Plan.

Other matters

10. Outline planning permission for the adjacent housing development Ref 98/00036/OUT was granted in 1999, which was twice extended by S73 applications. A S106 agreement was drawn up relating to this application, which included a requirement to provide public open space for the development. A minimum of 5.7ha of public open space was required for the development of 650 dwellings, to be phased in accordance with the building of the housing, as shown on Plan 3 attached to the obligation. Both attached Plans 2 and 3 show the Blair House site as within an area of public open space. Nevertheless paragraph 1.1 of Schedule 2 to the agreement says that the locations on Plan 3 are approximate and paragraph 2 of the schedule that plans showing the location, extent, layout and landscaping of the areas of open space should be submitted for written approval.
11. The second S73 application (Ref 03/00539/FUL) increased the number of dwellings on the site to 1100, reduced the size of the Trunkfields Farm/Mill site which includes Blair House, following the receipt of the archaeological report required by condition as part of the original outline approval and increased the amount of public open space to be provided. Subsequently, a total of 11.5 ha of public open space has been secured, which the Council has accepted is adequate for the development.
12. The aim of the S106 was to ensure that sufficient open space was provided in the strategic landscaping areas, phased in with areas of housing development, which the Council considers has been carried out. The exact location of the public open space was to be determined through the submission of subsequent plans. The schematic plans included in the S106 and the requirements of the development brief have been superseded as the detailed designs for the development have emerged through reserved matters applications and details submitted to satisfy conditions. The updated masterplan for the development 7140-100, dated April 2005 and included in the Residents' Association submissions, shows the site excluded from the area of public open space.
13. Although the purchasers of the new dwellings surrounding the site might have considered that Plan 3 showed the likely extent of open space in the area, Schedule 2 of the original S106 allowed for subsequent change, and the S106 therefore needed no formal modification. Even if the Blair House site was to be developed there would still be sufficient strategic open space for the area linked through the Trunkfields valley, as intended.
14. Archaeological and ecological surveys have been carried out on the site. These have shown that there is a need for mitigation works in respect of bats and a watching brief for archaeology. These could be the subject of suitably-worded conditions. Objection has also been made to the layout of the development and its lack of integration into the original development. Whilst it might not be possible to achieve full integration with the new development, the detail of the proposed houses would complement the design of the existing new dwellings nearby. Therefore the scheme would not have an adverse effect on the character and appearance of the area. The occasional use of the track as an access would have little environmental effect.

Conditions

15. I have considered the suggested conditions in the light of the advice in Circular 11/95. The plans are referred to in the decision and therefore a condition would not be necessary to define them. Conditions would be necessary to cover the submission of details of materials for external surfaces of buildings and access/driveways, details of verges, eaves and guttering, door surrounds and canopies, boundary treatment, landscaping and its maintenance and finished floor levels to protect the character and appearance of the area. Conditions requiring the fencing of retained trees and the provision of details of proposed underground services would be required to protect existing trees on the site and the proposed landscaping.
16. In order to protect highway safety, it would be necessary to ensure that the access track was constructed to approved plan 452/01B. For the reasons set out above I consider that the access should be improved to the required standard prior to construction works for the dwellings starting. This would only require a minor change to the suggested conditions. The track would also need to be a minimum width of 3.7m and be able to comply with the swept path analysis, as shown on plan 452/06 submitted with the appellants' final comments. This would allow for the access of emergency vehicles, in accordance with the Manual for Streets and to allow space for pedestrians to pass cars. Also in the interests of highway safety, a lighting strategy would be needed for the track and dedicated space provided for parking, turning and manoeuvring of vehicles for the dwellings which should have ungated drives.
17. A surface and foul drainage scheme would be needed to ensure adequate drainage of the site and development would need to be restricted close to the culverted watercourse on the site to allow its maintenance. In addition, conditions would be required to ensure that the bats on the site were protected prior to the demolition of the existing building on the site and mitigation was provided. Finally, there has been an initial archaeological investigation of the site and it has been agreed that a watching brief would be required. A condition would be needed to ensure that this was implemented. I have changed and combined some of the conditions in the interests of clarity and precision.

Conclusions

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

E A Hill

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
- 3) No development shall take place until details of the construction method and materials for the access track and two passing areas have been submitted to and approved in writing by the local planning authority. The access track and passing areas shall be of a compacted granular/permeable construction. The access track, passing areas and junction with Walsall Road shall be constructed in accordance with the approved details and submitted plans 452/01revB and 452/06 prior to the construction of the dwellings hereby approved and shall be retained for the life of the development.
- 4) No development shall take place until a plan indicating the position, height, design and materials of boundary treatment to be erected has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until the details of the construction of all verges, eaves and guttering have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until the details of the door surrounds and canopies have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These works shall be carried out as approved in accordance with a timetable to be agreed in writing with the local planning authority.
- 8) If any tree, hedge or shrub provided as part of the landscaping scheme should die or be lost through any cause within 5 years from the date of first planting, it shall be replaced in the next planting season with a plant of similar size and species unless otherwise agreed in writing with the local planning authority.
- 9) No development shall take place until the details of the routes of any proposed underground services have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until the details of the proposed surface water and foul water drainage including the surface water outfall from the access, parking and turning areas have been submitted to and approved in writing by the local planning authority. The drainage system shall be provided in accordance with the approved details before the first occupation of the dwellings hereby approved and retained for the lifetime of the development.

- 11) No development shall take place until details of the finished floor levels of the dwellings hereby approved, including their relationship to the levels of the highway, the lagoons, existing development and existing ground levels, have been submitted to and approved in writing by the local planning authority. The works shall be undertaken in accordance with the approved details.
- 12) No development shall take place within the site until the appellants, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The programme shall be undertaken in accordance with the approved details and timetable.
- 13) No development shall take place until the details of a lighting strategy and scheme for the site and the access track between Walsall Road and the site have been submitted to and approved in writing by the local planning authority. The strategy and scheme shall include details of the construction and maintenance of the lighting. The lighting scheme shall be carried out in accordance with the approved details prior to the first occupation of the dwellings hereby approved and maintained in accordance with the approved strategy.
- 14) No development shall take place until the details of a method statement for the demolition of the existing building on the site and the construction of the dwellings hereby approved, including a scheme of bat mitigation and the presence of an approved bat worker at stages of development to be agreed, have been submitted to and approved in writing by the local planning authority. The mitigation measures shall be fully implemented prior to the first occupation of the dwellings hereby approved and thereafter maintained in accordance with the approved scheme.
- 15) No demolition work shall take place until a DEFRA Bat Licence has been approved and bat mitigation approved in accordance with Condition 14. Once the licence has been approved it shall be presented to the local planning authority prior to the demolition of the existing building on the site.
- 16) No development shall take place until details of a scheme of temporary protective fencing in accordance with BS5837:2005 has been submitted to and approved in writing by the local planning authority. The protective fencing shall be erected prior to the demolition of the existing building on the site and be retained throughout the construction period of the development and within those areas of protection, no materials shall be stored or temporary buildings erected, plant or vehicles parked or fires lit or changes in ground levels undertaken.
- 17) The vehicular accesses to the residential properties shall remain ungated for the lifetime of the development.
- 18) No dwelling hereby approved shall be occupied until the drives, parking, turning and manoeuvring areas shown on drawing No 452/01revB have been constructed in materials the details of which have been submitted to and approved in writing by the local planning authority. Thereafter those areas shall not be used for any purpose other than the parking, turning and manoeuvring of vehicles.

- 19) There shall be no new buildings, structures including gates, walls and fences or raised ground levels within 8m of the top of any bank of a watercourse; or within 3m of any side of an existing culverted watercourse, inside or along the boundary, unless otherwise agreed in writing by the local planning authority.