

APPEAL BY WESTERN ESTATES LTD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF FORMER SWIMMING BATHS AND CONSTRUCTION OF 273 ROOM STUDENT DEVELOPMENT WITH ASSOCIATED COMMUNAL AREA AND CAR PARKING (ALTERNATIVE TO PLANNING APPROVAL 15/00166/FUL) AT FORMER JUBILEE BATHS, BRUNSWICK STREET.

Application Number **16/00244/FU**

LPA's Decision **Refused by Planning Committee on 24 May 2016**

Appeal Decision **Dismissed**

Date of Appeal Decision **13 February 2017**

The Inspector indicated that a planning obligation under Section 106 of the Town and Country Planning Act 1990 (S106) had not been submitted by the time of her site visit, despite the appellant's stated intention. A draft obligation was provided by the extended deadline however this had no legal effect as it had not been signed or dated. Under the approach set out in the Planning Inspectorate's Procedural Guidance, the Inspector was not required to delay the issuing of a decision to allow further time for a dated legally binding obligation to be submitted and as such the appeal was determined without such an obligation.

The Inspector found that the main issue was the effect of the development on the living conditions of the occupants of neighbouring residential properties with particular regard to on street car parking and congestion.

In dismissing the appeal, the Inspector made the following comments:

- The Council's parking standards would require the provision of a maximum of 69 parking spaces to serve the development. The 19 spaces proposed equate to just over 27% of the maximum standard. The Council accepted, in the previous scheme, a lower level of car parking, around 34% of the requirement in recognition that Keele University has measures in place to discourage students from using a car to access the campus and that the appeal site is located very close to the bus station with regular services to the University.
- The development would increase the number of student rooms by approximately 12% and reduce the number of parking spaces by less than 2%. Paragraph 17 of the National Planning Policy Framework (NPPF) encourages the management of growth to make the fullest possible use of public transport, walking and cycling and focus development in locations which are or can be made sustainable. The appeal development is in such a location. The site would also be within cycling distance of the University and the scheme would provide 110 cycle parking spaces.
- The appellant's Transport Statement and draft Travel Plan indicate that a car park management strategy would be implemented and the measures within it (including the need for students to sign a charter which stipulates that they would not have a car at the site) are to be supported.
- The Council has concern that despite being discouraged some students may wish to have a car available. Students would be discouraged from the use of nearby public car parks due to the parking fee and possibly time limitations. They would therefore tend to park on nearby residential streets with no parking restrictions. The residential streets within a 10-15 minute walk time that the Council highlighted are relatively narrow and at the time of the Inspector's visit had a number of parked vehicles. The Inspector accepted that additional parking in these locations by students vehicles would result in increased parking stress resulting in the possibility that residents having to parking further away from their homes; the residential streets would become more congested reducing the quality of the residential environment and adversely affecting the living conditions of the residents.
- In respect of the previous approved scheme, in line with local plan policy, and in order to protect the amenity the Council imposed a planning condition requiring surveys of parking on residential streets to be undertaken before and after the occupation of the development to demonstrate if an increase in on street parking had occurred. In

addition a Section 106 agreement was signed to secure a sum of money to fund resident car parking zones in the affected areas if these proved to be necessary.

- Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The Inspector was provided with no evidence that the increase in student rooms and loss of two parking spaces would have such an impact.
- The Inspector had to have regard to the measures agreed in the previous approved scheme and on the basis of the evidence before her; the same requirements are appropriate and necessary in the appeal case. In the absence of a S106 these measures cannot be secured and this weighs heavily against the development.
- The appellant made reference to the NPPF which states that student accommodation can be included towards the Borough's housing requirement based on the amount of accommodation it releases in the housing market. The Council commented that there is no evidence to that effect and therefore the development cannot be said to contribute to housing supply. In any event, whilst the council cannot demonstrate a five year supply of housing this matter does not alter the Inspector's overall conclusions.
- The contribution the Council sought to public open space is necessary in line with policy CSP5. However without a legally binding planning obligation an appropriate contribution cannot be secured and the proposed development would not comply with policy.

Conclusion

- The appeal proposal would be located in a very accessible and sustainable location. However the limited on site car parking for students could result in additional parking stress on nearby residential streets adversely affecting the amenity of residents. In line with the approved scheme on the site, it is necessary that appropriate measures are in place to control and manage on street car parking and to provide residents parking zones where required. In the absence of a legally binding planning obligation these measures cannot be secured. Accordingly it is concluded that the development would cause harm to the living conditions of the occupiers of nearby residential properties.

Recommendation

That the decision be noted.