



Appeal Decision

Site visit made on 9 January 2023

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/L3245/W/22/3303317

17 New Street, Wem SY4 5AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Derrick Dulson, of Dulson Ltd., against the decision of Shropshire Council.
 - The application Ref 20/01156/FUL, dated 24 February 2020, was refused by notice dated 8 March 2022.
 - The development proposed is described in the Council's decision notice as 'erection of 26 No. 2 Bed and 11 No. 1 Bed retirement apartments with guest and manager accommodation, communal facilities, formation of parking areas, new access and landscaping scheme, following demolition of existing buildings facing New Street and outbuildings within the site.'
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The proposal differs from the original scheme.¹ As is evident from the banner heading above, however, the Council have assessed revisions. The appeal process has also afforded the opportunity for any interested party to comment on the current proposal.
3. The current proposal is now supported by a Unilateral Undertaking dated 25 January 2023 ('UU'),² under section 106 of the Town and Country Planning Act 1990 as amended. Notwithstanding certain potential errors,³ the UU commits those with an interest in the land to the provision of 5 affordable units and to making a contribution of £124,877.00 towards open space improvement (in the eventuality the appeal were to be allowed).
4. Each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan here includes policies of the Shropshire Core Strategy (adopted February 2011, the 'CS') and of the Site Allocations and Management of Development Plan (adopted December 2015, 'SAMDev').
5. Neither main party has referred to policies of the emerging Local Plan 2016-2038, currently at examination, in furtherance of their case. Whilst the

¹ The original scheme was for '30 No. 2 bed apartments, 9 No. 1 bed apartments...'.

² Corrected signatures to the UU submitted on 17 February 2023.

³ Notably in respect of the definition of Gross Development Value, which may relate to schedule 3 to the UU, and the absence of a monitoring fee (which may or may not be conscious).

appellant sets out that the proposal would make a positive contribution to local housing supply, there is no countervailing evidence to the Council's position that they are able to demonstrate a five year land supply of deliverable housing sites (with regard to paragraphs 68 and 74 of the National Planning Policy Framework, 'NPPF').

Main issues

6. The main issues are:
- (i) whether the proposal would result in suitable living conditions for its intended future occupants in respect of outside space,
 - (ii) the effect of the proposal on historic significance, and
 - (iii) the effect of the proposal on the living conditions of the occupants of neighbouring properties to the north.

Reasons

Living conditions, future occupants

7. The Council has brought appeals at Handforth and Bridgnorth to my attention relating to housing for older people.⁴ Both were dismissed, and both concerned provision of outside space. Each decision is, however, context specific. The Handforth appeal falls within Cheshire East Council's administrative area. The Bridgnorth appeal, albeit referring to 'flexibility' in SAMDev policy MD2, relates to the erection of additional units within an existing retirement complex.
8. The appellant states that the Handforth appeal decision does not include 'full details of the quantity, layout and landscaping of the amenity space provided...'. The same is true here. There appears to be no reference to the quantity of outside space proposed, including of balconies. That is problematic; criterion 5. ii. of SAMDev policy MD2 advocates provision of 'at least 30sqm per person that meets local needs in terms of function and quality...'.⁵
9. The Council has drawn my attention to the judgement handed down in *Fraser*.⁵ That judgement related to two permissions granted by the Council for an extra care home for those aged over 55. As with the appeals above, that judgement turned on the specifics of the development proposed and its history. Notably the proposal here is instead for retirement apartments. The claimant there unsuccessfully argued that the Council's actions were in breach of the Public Sector Equality Duty ('PSED') in relation to the protected characteristics of age and disability.⁶ I am also bound by the PSED.
10. Various points made in the Fraser judgement are nevertheless useful context, regardless of the specifics or outcome of that challenge. The judgement reiterates that the 30sqm metric in policy MD2 is not determinative in itself. Criterion 5. ii. is part of policy MD2, the opening element of which sets out how design should be considered 'holistically'. Policy MD2 is also set within the wider evaluative context of CS policy CS6, which seeks, amongst other things, to ensure high quality in design. Conflict with one development plan policy, or element thereof, does not equate to conflict with the development plan as a

⁴ Ref. APP/R0660/W/20/3262327, and APP/L3245/W/22/3296574.

⁵ *Fraser, R (On the Application Of) v Shropshire Council* [2021] EWHC 31 (Admin) (11 January 2021).

⁶ Section 149 of the Equality Act 2010 as amended.

whole. Whether a proposal would comply numerically with criterion 5. ii. is therefore part of a broader planning judgement.

11. However, contrary to the appellant's reading of Fraser, much of that judgement concerned the history to, and different perspectives on, the quantity of outside space proposed. The judgement refers to such fine-grain detail as the area given over to flowerbeds. The appellant accepts that the proposal here would 'not fulfil the requirement of 30sqm'. As noted above, however, there appears to be no precise enumeration of the amount of outside space proposed or any shortfall relative to that metric.
12. The claim in Fraser in respect of PSED failed. In part that was as the Council had assessed the scheme irrespective of the particular needs of potential occupants of differing ages, or those with health conditions or impairments. With that in mind, the appellant states that 'elder people typically downsize into retirement properties in order to avoid the onerous maintenance burden of large gardens.' That observation may go to the flexibility or judgement inherent in reaching a conclusion as to compliance with policy MD2.
13. However, that statement cannot be read other than as an assertion that older people tend to need less outside space than others. That is not necessarily so. Open space benefits wellbeing, irrespective of whose wellbeing. NPPF paragraph 130. f) furthermore sets out, plainly, that planning should ensure that places are created which promote health and wellbeing 'with a high standard of amenity for existing and future users'.
14. A further shortcoming with the appellant's case is that, in the appellant's words, the proposal 'is for town-based retirement apartments, not suburban style housing'. Any outside space metric cannot account for the variety of all different sites and contexts. I note also that policy MD2 draws from the Council's Open Space Interim Planning Guidance of 2012 (which is not part of the statutory development plan).⁷ I acknowledge that the site falls within the town centre policy boundary for Wem, and that there are public open spaces relatively nearby.⁸
15. Nonetheless the level of density proposed would significantly exceed that which is typical of the area. As detailed subsequently, Wem is characterised by a lively historic pattern of development. That generally, if not universally, results in a significantly lower residential density than the 137 units a hectare that the scheme represents.⁹ Residential density is a simplistic metric, and development pressures differ from historic circumstances. Nevertheless the nearest residential properties to the appeal along New Street clearly reinforce that point. They are of far lower density, potentially comparable with many suburban environments.
16. The appellant states that 'open space is provided throughout the scheme at the centre and periphery of the site'. They also state how 'landscaped open space is provided within the development adjacent to the north, south and west boundaries of the site'. However along the western site boundary by Drawwell Lane, the 'landscaped open space' there is a narrow tapering sliver of land. It is

⁷ In turn derived from the approach taken at former Bridgnorth District Council.

⁸ Including Wem Recreation Ground which the appellant sets out is around 173 metres away.

⁹ 37 units within a site of 0.27ha, therefore $37 \times 3.704 = 137$.

set next to parking spaces and, in part, occupied by electric vehicle charging points. It appears simply to be the residual of marrying up the geometry of the building with the site, rather than consciously designed or useable other than for functional purposes or access. That is similarly the case of open space proposed to the south. There a scattering of small areas of open space set between parking spaces, pedestrian access to the site, and the vehicular access to Wem Business Park is proposed.

17. There would be a greater area of outside space set between the northern wing of the building and the site boundary with no.19, in which location an allotment garden is proposed. However, for much of its length that element of outside space would be around three metres in width. That area would fall between a three storey wing of the property on one side and the substantial wall demarcating the common boundary with no.19 on the other (detailed subsequently). There would consequently be little meaningful outlook from that area, which would also likely fall in shade for much of the time.
18. In terms of on-site provision that leaves a further modest area of open space between parking spaces and the entrance to the proposed building to be considered.¹⁰ Nestled between the northern and southern wings of the building, much of that space is also likely to be shaded for significant proportions of the day. Much would also be 'functional', i.e. surfacing around the entrance to the building and pathways associated with parking and cycle storage. There would be little opportunity for meaningful natural landscaping. By consequence, and because of its proximity to parking spaces, that central element of outside space would not be conducive to relaxation.
19. I therefore find that the level and quality of outside space would result in poor living conditions. The proposal would not accord with SAMDev policy MD2, CS policy CS6 or NPPF paragraph 130. f). The proposal would also not accord with the guidance in section 2.14 of the Council's Type and Affordability of Housing Supplementary Planning Document (2012).
20. In my view the existence of public open spaces relatively nearby is not an adequate offset to unacceptable on site provision. The prevailing level of density in the area results in a significantly higher baseline in terms of outside space availability than is proposed. Inevitably much of future occupants' time would be spent within the confines of the site (regardless of the characteristics of intended occupants). Open space elsewhere is also inevitably less readily accessible than on-site provision.
21. NPPF paragraph 55 directs that consideration should be given as to whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (in that order of preference). Planning obligations must only be sought where they meet the tests set out in NPPF paragraph 57, also contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended.
22. As noted above the UU contains a significant contribution to off-site open space improvement. The appellant contends that contribution would both meet the Council's request in that respect, and offer wider benefit. However the former is

¹⁰ See plan no. 2.01 Revision D.

incidental. The Council ultimately refused permission, in part on the basis of the nature of the outside space proposed. I have reasoned above that public space elsewhere would not adequately offset constrained living conditions on site; improved open space would not necessarily render it more accessible.

23. Furthermore, NPPF paragraph 57 sets out how planning obligations must be 'directly related to the development'. I cannot therefore accord weight to any broader benefit that may result from the open space contribution beyond that which is directly related to the development proposed.

Historic significance

24. The appeal site, roughly square, amounts to about 0.27ha. It is set centrally within Wem to the west of New Street (B5476). The site falls within the town centre policy boundary and Conservation Area ('CA'), both of which also track along New Street and by the High Street to the south. The site is varied in nature. It includes a run of buildings set hard against the pavement flanking New Street. Those buildings have been successively altered over time, such that it is challenging to describe the precise relationship of a given property number to a distinct unit. Historically they appear to be collectively referred to as 'Minton House', I hereafter refer to them as the 'buildings' on site (as opposed to structures).
25. The buildings, flanking the eastern side of the site, potentially include nos. 16, 17 and 18 running south to north, and also what is signed as 'Minton Flat'. The latter appeared partially accommodated in a two storey rear outrigger to no. 18, and also to extend above the three-centred brick arch spanning to neighbouring no. 19. Regardless of their current arrangement or numbering, the buildings were once humble, traditional, and two storey (albeit with relatively finely-jointed Flemish bond brickwork, some of which remains visible).
26. The buildings are referred to as workers' cottages in the Conservation Area Appraisal ('CAA'). The appellant's updated Heritage Impact Assessment ('HIA'), drawing from an earlier appraisal of 2004, indicates that they originated as two buildings dating in part from the late eighteenth century. In that respect the buildings were, and to a lesser extent are, consistent with those further northwards through the CA as far as no. 49 New Street. From no. 49 onwards three storey properties of finer architectural detailing are found.
27. Reflecting an intricate historic evolution to the site, the northern boundary, demarcated by a substantial brick wall, is irregular and stepped. There are various ramshackle structures on site, including a lean-to with corrugated metal sheet roof using the irregular northern boundary as support. There are also several utilitarian timber framed structures clustered around the north of the site. They are workshop, or hangar-like, in appearance and construction, mostly clad with clapboard under profiled fibre cement.
28. To the west of the site is Drawwell Walk.¹¹ The Walk runs between the High Street a short distance to the south, to Pym's Road to the north, tracking behind the plots of properties along New Street. The Walk is historic, narrow and enclosed by a patchwork of boundary features of different eras. Rough-

¹¹ Footpath 0231/1R/1.

dressed local stone predominates nearer the High Street, varied eras of brickwork increasingly featuring heading northwards.

29. Beyond the Walk falls Wem Business Park. I understand that was formerly a brewery. Now it is a mixed commercial and industrial estate comprising around 40 units hosting various uses in various understated and functional buildings. Access to Wem Business Park spurs off New Street, running by the southern edge of the site. I note in that context that the site also falls within a protected employment area under SAMDev policy MD9.
30. Universally buildings and structures on site are in disrepair. That appears simply to have transpired incrementally over time, rather than by deliberate agency. There is a long history of permissions dating back to 2007 here, including 'the demolition of all buildings on site to facilitate residential development'.¹² Nevertheless the site, last used in part as a builders' yard, appears to have been left vacant for many years. At the time of my site visit an upstairs pipe had burst, damaging ceilings almost, it appeared, to the point of structural failure.
31. Workshop structures are clearly unsalvageable; structural trusses have broken and deformed, and roofs have caved in. The site also hosts a miscellany of building items, both openly stored and within shipping containers. Some of the site is consolidated hardsurfacing, or was at some point. Otherwise the site is laid with loose gravel. Some was either left to its own devices originally, or has since reverted to scrub. The site has been subject to vandalism and fly tipping.

Statutory and policy context

32. In summary, sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended place duties upon me to pay special regard or attention to the desirability of preserving listed buildings, their settings, and the character and appearance of conservation areas. Similarly summarised, SAMDev policy MD2, criterion 2. iii. and policy MD13, seek to ensure that development integrates suitably with the historic environment.
33. NPPF paragraphs 189 and 199 set out how great weight should be given to the conservation of designated heritage assets, irreplaceable resources, relative to their significance. Archaeology may be significant in itself, and may contribute to an understanding of the significance of other heritage assets. Significance may be affected indirectly, i.e. by virtue of changes to the surroundings in which an asset is experienced. Not all change is harmful, and not all elements of setting contribute equally to significance (or at all).
34. Arguably almost any building has some level of significance in physically embodying the past in the present; there is a continuum of significance, rather than abrupt distinction as to whether a building represents a non-designated heritage asset ('NDHA') or not. NPPF paragraph 203 sets out, however, that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.' SAMDev policy MD13 contains similar wording.

¹² Granted conditional planning permission 2 March 2010 (ref. 10/00041/CON).

NDHA

35. There is no dispute that 'Minton House' may fairly be described as an NDHA. As set out above, buildings on site have evidently been subdivided and internally altered over time. Some historic fabric and detailing, nevertheless, remains. Consistent with the observations in paragraph 4.11 of the appellant's updated Historic Impact Assessment ('HIA'), particularly within the southernmost of the buildings on site, the staircase, balustrades and tiling is historic. Insofar as relevant to this appeal, the significance of the NDHA results principally from its original form, embodied materials, craftsmanship and historic consistency with other properties within the CA.
36. Form and scale are, however, replicable. Whilst significance may not only lie in the original form of a building, successive alterations here have detrimentally affected integrity. Modern window openings have been inserted. Historic openings have been blocked up. Parts of the buildings have been rendered, or finished internally, with modern materials. By consequence, and also by virtue of being vacant for some time, building fabric has significantly degraded. The buildings on site, moreover, are not a particular architectural rarity. Whilst there is limited evidence as to what has become of any remnants of buildings mapped here in 1631, there is nothing to indicate that buildings presently have any particular associative or cultural significance. Those factors serve to qualify significance.

Archaeology

37. The line of former castle ramparts is shown cutting across the site in the Ordnance Survey map of 1881. Trial trenches dug revealed subsurface alterations including historic ditches, albeit little by way of structures as opposed to earthworks (paragraphs 4.1 and 4.2 of the Archaeological Evaluation, 'AE'). There is limited consistency of land apportionment or building footprint comparing present circumstances with the plan of 1834 reproduced in the AE. Consistent with its previous use and alterations to buildings, the AE identified subsurface remains of demolition rubble, and also of a sunken concrete wall. Accordingly, in my view recording of any archaeological significance encountered during construction could be suitably and proportionately addressed via condition (were the scheme acceptable overall).

CA and listed buildings

38. Wem, the name of the Town deriving from Old English, has an intricate history. I understand that the castle, the site of which is scheduled, was ruined by 1290 and destroyed by 1460. Wem played a notable role in the English Civil War. As reflected in the CAA, the eighteenth and nineteenth centuries represented a period of economic prosperity associated with the construction and operation of the Shropshire Union Canal. Many buildings were consequently built, rebuilt or altered around that juncture.
39. The CA is principally concentrated around the historic line of the High Street, arcing around the site of the former castle. The appeal site falls within a northwards spur of the CA. That part of the CA represents something of a later medieval, and after that polite, expansion of the Town. Based on map regression, the AE indicates Drawwell Walk was part of that expansion, originally providing access to burgage plots off New Street.

40. The CA is therefore based on a medieval street layout, which in turn reflects a long continuity of settlement beforehand. Streets are narrow and winding commensurate with medieval and earlier patterns of building. As at New Street, properties tend to be set hard up against pavements. Those characteristics result in a sense of intimacy and enclosure.
41. Medieval properties sit next to later neo-classical architecture. Or, in the case of grade II listed 46 and 48 Noble Street, where timber framing is exposed behind a later brick façade, together. That reflects the organic, incremental growth of the Town over time and the alteration of buildings. Whilst the overall scale and height of properties within the CA varies, nevertheless buildings within the CA predominantly honestly attest to the structural limitations of historic construction. Most are two or three storeys; I was unable to identify any of four storeys in the vicinity of the appeal site.
42. Local stone and red brick predominates reflecting historic materials and craftsmanship. Some Georgian properties, or Georgian additions, incorporate stone from elsewhere, potentially transported via canal. Unsurprisingly the architectural detailing of medieval properties is limited, albeit that much has been overwritten. By contrast at polite buildings such as Grade II* listed Park House,¹³ behind a commercial garage opposite the appeal site, there is elaborate ornamentation (notably an imposing pediment hosting a coat of arms with swags).
43. Insofar as relevant here, the character and appearance of the CA derives principally from the arrangement of properties relative to one another and to streets, architectural variety in scale, materials and details, and a sense of intimacy. Importantly those characteristics authentically reflect the origins and evolution of the Town, and also wider economic and social change.
44. The three nearest listed buildings to the appeal site are Park House, grade II listed Old Hall to the south-east, and Roseville House on the opposite side of the access to Wem Business Park. Similar to nos. 46 and 48 Noble Street, the list entry indicates that Old Hall originated as an early seventeenth century timber-framed house,¹⁴ later altered by way of a nineteenth century brick wing. On account of screening within the plot of Old Hall, its distance from the site, and presence of intervening features including New Street, there is little meaningful interaction between the two. Roseville House is a classic example of a symmetrical late Georgian design.¹⁵ The surroundings in which Park house and Roseville are experienced are in part the CA; their significance is intertwined.
45. As a whole, in its present state, aside from in respect of the NDHA and archaeologically, the site detracts from the CA. The buildings on site, as seen from the public realm, appear dilapidated and also on account of later alterations possess little visual historic integrity. More broadly, the site has fallen into neglect. Given the close-knit nature of the CA, there is no particular significance attributable to part of the site being open (notwithstanding that it would have been so at some point in history).

¹³ List entry no. 1308007.

¹⁴ List entry no. 1055442.

¹⁵ List entry no. 1055441.

46. I have also referenced above how New Street diverges to some extent from other elements of the CA by being a medieval, and later polite, projection beyond the High Street. The uniformity of terraced properties there, and the setback of nos. 51 to 61 from the pavement, is atypical. Neither the garage between Park House and New Street, nor Wem Business Park contribute positively to the CA by virtue of their utilitarian forms. I also accept that in proportions, articulation, materials and architectural detailing, the proposal would take certain design cues from its surroundings. The proposal would also screen Wem Business Park from view from certain vantage points.
47. However that the site detracts from character and appearance, and that historically permission was granted for demolition of the buildings on site, does not indicate that the proposal would be acceptable considered with reference to the significance of the CA as a whole. For five principal reasons harm would instead result.
48. Firstly properties within the CA tend to be set hard up against pavements. That arrangement contributes to historic authenticity reflected in a sense of intimacy and enclosure. By contrast the proposal here would be set back from the pavement behind a low front boundary wall. The appellant's suggestion that planting might be introduced there would further mean that the relationship of the proposal to the street diverges from local character.
49. Secondly, as alluded to above, the level of density proposed here would vastly exceed that which typifies the CA. I have reasoned that the intrinsic nature of the CA results in large part from the limitations of historic construction, and that the pattern of development results from the incremental overlay of different eras of development. As noted in respect of living conditions the foregoing results in a far lower prevailing level of density than is proposed.
50. Thirdly, whilst density is a crude proxy for effects, the level of residential density proposed results in a bulky and unrelieved form to the proposed building. That contrasts with the characteristic liveliness and intimacy of much of the CA, which again honestly reflects the evolution to the Town and is integral to significance. There are few, if any, examples of buildings of comparable overall scale or overall mass in the area. Accordingly the form of the building would be wholly out of keeping with the prevailing organic and intricate nature of the CA as a whole.
51. Fourthly, the proposal would be four storeys in height. That would be readily apparent from New Street by virtue of the arrangement of windows in the east-facing gable elevation.¹⁶ That would also be perceptible, albeit to a lesser extent by virtue of accommodating the fourth storey within the roof slope served by roof lights, approaching the site from the south.¹⁷ The ridgeline of the eastern elevation of the proposed building would be significantly higher than neighbouring no. 19 and properties beyond.
52. I acknowledge that there are buildings of comparable or greater overall height nearby, including Park House. However as set out above, I was unable to

¹⁶ See plan 3.03 Revision C in particular.

¹⁷ See plan 3.04 Revision C.

identify comparable examples of four storey buildings within the CA. Fifth, by virtue of what appears to be plant provision, the roof form proposed would be somewhat complex, bulky and functional. Whilst I accept that likely stems from the practicalities of servicing such a building, nevertheless that would add to the discordant overall form of the building.

53. By consequence, the proposal does not respond appropriately to its surroundings. Whilst NPPF paragraphs 124 and 125 encourage making efficient use of land, in my view the corollary of the proposal seeking to do so in this instance would be insensitively designed development. The proposed building would unduly draw the eye, jarring with prevailing consistency and competing with the form of Park House in particular. The scheme would thereby detract from historic integrity, entailing harm to the character and appearance of CA and setting of Park House and Roseville House.

Consideration

54. Drawing together my reasoning above, notwithstanding that the significance of the NDHA is qualified and archaeological interest could be suitably addressed via condition, the proposal would intrinsically result in harm by virtue of demolition. Albeit that the site as a whole detracts visually from the WCA, nevertheless by consequence of representing a discordant addition therein, the proposal would fail to preserve character and appearance to the detriment of significance. That would be in conflict with the clear expectations of statute.
55. The extent of harm, and the weight that should carry, is a matter of judgement. For the reasons given in paragraphs 45 to 46 of this decision the harm arising may fairly be described as less than substantial within the terms of the NPPF. The harm arising would also, logically, differ in respect of the NDHA, CA and setting of listed buildings considered individually (significance and effects are, to some extent, different in each respect).
56. Nonetheless, NPPF paragraph 200 sets out how any harm to, or loss of, the significance of a designated heritage asset should require 'clear and convincing justification'; 'less than substantial harm' is not synonymous with less than substantial weight in decision-taking. NPPF paragraph 202 further sets out that in circumstances where development will lead to less than substantial harm, that should be 'weighed against the public benefits of the proposal including, where appropriate, securing 'optimum viable use'. I will turn to that balance after addressing the third main issue.

Living conditions, neighbours

57. As in respect of buildings on site nos. 19, 21 and 23 New Street beyond to the north are modest traditional terraced properties. Consistent with that layout, and on account of the limited width of properties and intervisibility between gardens by consequence, prevailing levels of privacy here are qualified. There is, however, a generous separation distance between the rear elevations of those neighbouring properties and Drawwell Walk, significantly greater than that which prevails in respect of rear gardens elsewhere in Wem. First floor rear windows at nos. 19, 21 and 23 face squarely westwards towards Drawwell Walk, as opposed to towards the appeal site.

58. The plot boundaries of nos. 19, 21 and 23 are not shown on the supporting plans. They are somewhat complex to put into words. There is moreover no definitive information before me as to their relationship to one another. Nonetheless, as noted above, the northern site boundary is stepped. Proceeding from New Street to Drawwell Walk, the boundary first flanks the southern elevation of no 19 passing under the arch. Moving westwards it then steps slightly behind the rear elevation of no 19. A very short distance beyond a single storey extension to no 19, the site boundary extends further behind no. 19 (so as to approximately align with the elevation of the single storey extension at no.19 facing towards no. 21).
59. The northern site boundary is demarcated by a wall sufficient to accommodate a roughly standard height gate by no. 19 with rounded brick arch above (about 28 brick courses high). The single storey extension at no. 19 is attached to that wall and extends above it by a further brick course, fascia board and monopitched felt roof upstand. Beyond the lean-to referred to above, the site boundary thereafter returns to initial alignment immediately to the rear of no 19. From there heading westwards the boundary is demarcated by a more substantial wall, some 42 brick courses high.
60. Brick courses are inevitably a crude reference point, varying amongst other things on account of ground level, mortar joints and coping stones. However, by way of rough comparison, the principal elevation of no 19 is about 63 brick courses tall. Therefore the lower section of boundary wall is just above the brick headers to the ground floor principal elevation windows of no 19; the taller section roughly level with the sills of first floor windows.
61. Judging by what I saw, in a similar manner to properties northward beyond no. 23 New Street, initially the gardens of nos. 19, 21 and 23 are subdivided east to west (continuing the line of party walls). However around where the appeal site boundary wall cuts significantly behind the rear elevation of no. 19, that arrangement appeared to change; the area beyond appearing demarcated running north to south.
62. Effects to living conditions are inherently dependent on perception, different individuals having different sensitivities. Nevertheless, inherent in my reasoning above is that the principal aspect through the rear elevation windows at nos. 19, 21 and 23, and also within gardens initially is westwards (rather than towards the appeal site). In revisions to the scheme considered by the Council at application stage, windows within the northern elevation of the northern wing of the proposal would be provided at first and second storey level by way of "V" shaped one-sided bay(s).¹⁸
63. Whilst not a characteristic architectural feature of the area, those bays would allow views north-westwards, baffling views towards the rear elevations of neighbouring properties. By consequence, given existing levels of intervisibility, and the separation distance between the rear elevations of neighbouring properties and Drawwell Walk, the proposal would not result in undue overlooking or loss of privacy.

¹⁸ Plan 3.02 Revision C.

64. My reasoning above illustrates that there is already a notable sense of enclosure to the rear of no. 19 in particular, but also to a declining extent at no. 21 and no. 23 respectively. However, the ridgeline of the proposed building next to no. 19 would be significantly higher than at present. Whilst a pedestrian access would be maintained to the rear of no. 19, the form of the building would also be set closer to that property than the outrigger partially accommodating Minton Flat.
65. The northern wing of the property would also comprise three storeys as opposed to two, reaching far higher than any element of the existing boundary wall.¹⁹ Whilst there is a mixture of two and three storey dwellings throughout Wem, I was unable to identify any comparably close inter-relationships between differently scaled buildings within the immediate vicinity of the site. Arguably the existing sense of enclosure at nos. 19, 21 and 23 places some greater importance on maintaining that openness which remains.
66. In that context the proposal would adversely affect the living conditions of the occupants of neighbouring properties by virtue of resulting in an overly-dominant, enclosing presence. As in respect of outside space on-site, there appears to be no substantive evidence before me in respect of natural light. Although the availability of natural light to the rear of nos. 19, 21 and 23 is likely limited, as the proposal falls squarely to the south of those properties, there is clear potential for additional overshadowing.
67. I acknowledge that a revival of an existing commercial use on site may result in noise and disturbance. However there is nothing to indicate that the last use of the site as a builders' yard was unauthorised. There is no evidence of complaints here previously. Moreover, on the appellant's own marketing evidence, there is little prospect of a comparable use being re-established.
68. Regardless of my reasoning in respect of natural light, I conclude that the proposal would fail to ensure appropriate living conditions for the occupants of neighbouring properties. The proposal would thereby conflict with the relevant provisions of CS policy CS6 and NPPF paragraph 130. f) which, in summary, seek to ensure that all development is appropriately designed with reference to its surroundings and ensures a high standard of amenity.

Other matters

69. The proposal would entail various benefits. Chief amongst them, in the context of an ageing demographic, would be the provision of retirement apartments. Similarly in the context of current housing affordability pressures,²⁰ the proposal seeks to provide 5 affordable units. The appellant states that would exceed the 10% 'stipulated by policy CS11'. 10% does not, however, appear to feature in policy CS11. That percentage instead appears to reflect the position of the Council's affordable housing officer,²¹ the evidence base for which is unclear. The proposal would bring a vacant site back into productive use, an aim which has generated local support. The scheme would also result in employment during construction and operation, and future occupants would

¹⁹ It is unclear on what basis the appellant refers to the northern wing as 2.5 storeys, with reference both to the plan reproduced under paragraph 5.12 of their statement of case and the reference to a 3 storey element in their additional final comments submitted at appeal.

²⁰ Including with reference to paragraph 5.15 of the CS, and as referenced in the supporting officer report.

²¹ Officer report, paragraph 4.1.2.

bring trade to local services and facilities. I also acknowledge that the site has attracted no substantive interest to extensive marketing for an ongoing commercial or employment use.²²

70. There are several other ostensible public benefits listed in the appellant's statement of case.²³ I have addressed the open space contribution above. There is nothing to suggest, however, that 'investor confidence in the town of Wem' is lacking; sites 'stall' for various reasons. Contrary to the appellant's assertion of 'no apparent evidence of new housing delivery in Wem Town Centre since the adoption of the SAMDev in 2015', the Council have indicated significant levels of delivery nearby.²⁴ Whilst CS policy CS1 seeks to deliver 'around 27,500 new homes', with reference to paragraph 5 of this decision, there is nothing to indicate that anticipated delivery across the County is faltering, or will do so in the foreseeable future. The appellant's reference to optimum viable use in respect of the site, a term used in NPPF paragraph 202, is difficult to understand (given the designated heritage asset in which the appeal site falls is the CA).
71. Moreover there is no precise enumeration of the need for retirement apartments in this location. 10% affordable housing falls short of the overall 33% affordable housing target set out in CS policy CS11, and there is no robust evidence before me as to the derivation of 10%, or in respect of viability. The sole reference I can find to viability is the passing statement in paragraph 2.4 of the appellant's planning statement, which is that 'viability must be an important consideration and it is considered that as now amended, the proposal with the number of units proposed will still be viable'. The UU contains provisions in respect of viability, albeit potentially incomplete and subject to drafting errors noted previously. Consequently on the basis of the evidence before me I cannot definitively say that the proposal would achieve 10% affordability, nor understand why that level of affordable housing provision has been advanced relative to any other proportion.
72. The foregoing in respect of viability is significant; viability inevitably tethers what is achievable on a given site. In the absence of robust evidence in that respect I cannot rationally reach the view that the scheme is the only option for bringing the site back into productive use, noting that permission has previously been secured for 14 dwellings in that context (a residential density of around 53 dwellings per hectare). Other schemes in theory, including those potentially less harmful to heritage, may have similar potential in terms of economic and social benefits. Similarly there is nothing to suggest that an alternative proposal of whatever form would be unable to provide a footpath link to Drawwell Walk.
73. Summarising my reasoning above, the proposal would undoubtedly result in certain public benefits. However there is limited evidence in those respects, insofar as they serve to justify the specific proposal before me. The public benefits of the scheme therefore do not outweigh the harm to heritage that would result within the terms of NPPF paragraph 200, nor are any other material considerations of sufficient collective weight to overcome the harm resulting from conflict with relevant provisions of the development plan.

²² Appellant statement of case, paragraph 5.24.

²³ Paragraphs 5.23 and 5.24.

²⁴ Council statement of case, paragraph 5.45.

Conclusion

74. For the reasons given above, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow

INSPECTOR