

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY MR. K. & MRS. V. STOPFORTH

**THE COACH HOUSE
FORMER AINSWORTH NURSING HOME
KNOWSLEY ROAD
AINSWORTH
RADCLIFFE
BL2 5PT**

PINS REF: APP/T4210/W/23/3332224

L.P.A. REF: 69616

**THE APPELLANTS' COMMENTS ON THE WRITTEN
STATEMENT OF THE LOCAL PLANNING AUTHORITY**

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1 INTRODUCTION

- 1.1 These comments relate firstly to the Questionnaire completed by the Council and secondly to the Council's statement of case in relation to an appeal by Mr. K. & Mrs. V. Stopforth in connection with the property known as The Coach House at the former Ainsworth Nursing Home, Knowsley Road, Ainsworth, Radcliffe.

2 THE QUESTIONNAIRE

- 2.1 In response to question 2a the Council state that the relevant part of the appeal site can be seen from a road, public footpath or other public land. That is incorrect as the appeal site is actually some 250 metres from the public highway. Access to the site from the public highway is along a private road. There are no public rights of way or public land in close proximity to the appeal site.
- 2.2 In response to question 2b the Council do not consider that it is essential for the Inspector to enter the site to assess the impact of the proposal. We strongly disagree with the Council's response and we consider that it is absolutely essential that the Inspector enters the site.

3 THE COUNCIL'S STATEMENT OF CASE

The notation in the Council's statement does not easily lend itself to cross reference so extracts from the Council statement will be shown in italics followed by our comments.

- 3.1 *At point 3.2, the Appellant states that the design of the proposed dwellings was informed having regard to comments made by the Inspector in the appeal decision APP/T4210/W/22/3298500 (see appendix) for an appeal at the same site ref 67368 for 2 no dwellings, and also by the design of a recently new approved dwelling. In the appeal decision, the Inspector commented on the design, character and features of the existing historic buildings, noting the design, scale and general approach to the proposed dwellings would 'clash' with the original buildings on the wider site. The Inspector did not advise on a design brief or design approach in the event a new scheme was to be considered.*

We agree that the previous Inspector did not specifically advise on a design brief or design approach in the event a new scheme was to be considered. However, what the Inspector did do at paragraph 20 of his report was to identify the design features and external materials that were common and

prevalent in the original buildings on the former hospital site. These features may be summarised as follows:

- The roofs of the original buildings are primarily hipped.
- The window openings on all buildings mainly have a vertical emphasis.
- The presence of brick stacks and tall chimneys add vertical emphasis.
- Arched main doors are a common feature.
- The buildings are mainly constructed of red brick with slate roofs, terracotta ridge tiles, red brick headers and terracotta cills.

So as stated at point 3.2 of the appellants' statement, the design of the proposed dwellings was specifically informed by the Inspector's comments on the existing buildings in order to try to achieve a design solution that would specifically address the points flagged up in paragraph 26 of the Inspector's report in order to produce a new scheme that would not clash with the existing buildings on the site and which could be considered of sufficient design quality to mitigate against the loss of the existing building.

The design of the proposed dwellings was further informed by reference to the design features of the recently approved new build property on the site to the west of the appeal site. It was assumed by the appellants that the local planning authority fully endorsed the design features of the approved new build property. It was therefore not unreasonably assumed by the appellants that, if these features and also the features highlighted by the Inspector were incorporated in their revised design, then this would meet with the approval of the Council.

- 3.2 *At 7.2 the Appellant states that although the appeal was dismissed, the Inspector 'was not persuaded the loss of the building could not be mitigated against'. The Inspector's view was quite clear in point 23 of the previous appeal decision that the collection of buildings on the site have a distinctive character and appearance, concluding at point 26 of the appeal decision that the creation of 2 detached buildings to replace the existing oblong block erodes legibility of the site and the heritage significance overall.*

The appellants correctly pointed out the Inspector's views about possible mitigation of the loss of the building. At paragraph 25 he clearly states "That said, I am not persuaded at this point that ultimately loss of the building could not be mitigated against. However, I consider the scheme proposed is not of sufficient design quality to mitigate against the loss." Not unreasonably, the appellants inferred from these comments that if a scheme with sufficient design quality was submitted it may be possible to mitigate against the loss of the building. At paragraph 26 of his report, the Inspector clearly highlights the specific elements of the previous proposal that he found unacceptable and which would cause them to clash rather than harmonise with the original buildings on the wider site. Accordingly, the appellants adopted the design approach as set out on paragraph 3.1 above.

- 3.3 *The application subject to this appeal is no different in the respect the development seeks demolition of the existing building and replacement with 2 detached buildings.*

The Council is correct in stating that the development seeks demolition of the existing building and its replacement with 2 detached dwellings. However, this application is clearly significantly different in that the design of the proposed dwellings has been substantially revised in recognition of the previous Inspector's position that the loss of the existing building could be mitigated with a scheme of sufficient design quality. The appellants consider that such a scheme has been produced and this incorporates the important features flagged up by the Inspector in his observations on the design features of the existing buildings and the appellants have also incorporated features which were clearly acceptable to the Council demonstrated by their approval of the new build property.

- 3.4 *The appellants consider that in refusing the revised scheme, the Council completely ignored the Inspector's comments in the previous appeal and also that it has acted inconsistently in the way it has considered and approved other proposals for development of sites in close proximity to the appeal site.*

The appellants maintain that the Council has not had due regard to the comments set out in the previous Inspector's decision letter. The appellant also maintains that the Council has acted inconsistently in the way it has considered and approved other development proposals in close proximity to the appeal site. This will become evident on inspection of the site. Furthermore, the Council approved an entirely dwelling on the undeveloped area to the west of the appeal site on the basis that it was an exception (e) limited infilling in a green belt village development. However, the appellants' proposed development was considered to be inappropriate development in the green belt by this Council which is just one example of their inconsistent approach to decision making.

- 3.5 *What the appellant has failed to understand is that whilst the new build to the west of the appeal site was acceptable to the Council in design terms and the design of the proposal was acceptable, the issue here is that there would still be the loss of the historic building significantly diminishing the group heritage value and therefore leading to an unacceptable loss of significance to the group as a whole, which the Council assessed was not mitigated by the design of the replacements.*

The Council's comment here is perverse and only serves to reinforce the appellants' point in 3.4 above. If the design of the new build to the west of the appeal site is acceptable, given that the appeal proposals reflect the design and materials of that building and also the design and materials of the other buildings on the site, how can that that design not be acceptable also? The Council have simply adopted a position where demolition should not be allowed whatever the circumstances and have made no convincing argument in relation to the alleged failure to reach the required quality of design.

- 3.6 *At 7.4 the Appellant dismisses the importance of the NDHA draft local list as it has not been through the public consultation process. This does not mean that the site is any less important in terms of its historic and significant importance.*

As stated in the appellants' statement of case, the findings of the Inspector are accepted and respected. Nevertheless, it remains the case that the designation of the site as a NDHA is based on draft local list of over 500 properties and no formal consultation has been carried out. As such, it is the appellants' submission that the designation should carry only a limited amount of weight in the overall planning balance.

- 3.7 *The Council acknowledges that buildings on the site have been lost over 100 years ago, but this does not give justification for further loss of the heritage asset and this approach does not accord with the policy and legislative approach for a desirability to conserve heritage assets.*

The appellants were not suggesting that the loss of other buildings on the site justifies any further loss. The appellants were merely making the point that the original isolation hospital buildings were already incomplete and therefore the site could not be considered to be a particularly well preserved example of this type of establishment. The Council's assertion that the buildings were lost over 100 years ago is incorrect. Of the buildings shown on the 1910 Ordnance Sheet, the building immediately to the east of the appeal site was still in existence in the nineteen eighties.

- 3.8 *7.12 – In relation to the Wash House please refer to the Officer Report*

It is noted that the Council does not seek to contest the points made at paragraph 7.12 of the appellants' statement of case.

- 3.9 *7.13 – In relation to the Haven – please refer to the officer Report.*

Again it is noted that the Council does not seek to challenge the appellants' position which is set out at paragraph 7.13 of the statement of case.

- 3.10 *At point 7.14 the Appellant makes reference to a Structural Assessment which has been submitted as part of their appeal and which was NOT submitted at application stage.*

As pointed out in the appellants' statement of case, the Council's planning officer was critical because no structural assessment was submitted with the planning application. It has been submitted as part of this appeal to ensure that the Inspector had some background information to support the appellants' contention that a conversion project would be neither feasible or viable.

- 3.11 *In reference to the PINS 'Procedural Guide: Planning Appeals - England' this makes it clear that 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is*

essentially what was considered by the local planning authority, and on which interested people's views were sought'.

In the interests of procedural fairness, the appeal should be determined on the basis of the information on which the Council made its decision and which has been subject to consultation. Given the technical nature of the additional information, it is clearly a matter on which consultation would need to be undertaken with interested parties. To take this into account in the determination of this appeal would unacceptably prejudice the interests of consultees and/or interested people who may have observations to make. In line with the "Wheatcroft principles", it should not be accepted.

The appellants reject the Council's position with regard to this particular issue. Firstly, the PINS procedural guide basically states that the appeal process should not be used to evolve a scheme. The appellants have merely provided some additional supporting information and the appeal scheme is exactly the same as that which was originally considered by the local planning authority.

Secondly, as the Inspector will be aware, the Wheatcroft principles essentially rely on two tests being applied, substantive and procedural. The substantive test looks at whether any proposed amendment involve a substantial difference or a fundamental change to the application. The appellants' position is that the structural survey is not an amendment. However, if the Inspector takes a different view, the document clearly does not in any way constitute a fundamental change to the application. Hence, the substantive test would be passed and the issue would then be whether this would cause unlawful procedural unfairness to anyone involved in the appeal. The appellants do not consider this to be the case.

- 3.12 *At 7.15 and in reference to the "tilted balance" the Council note that the site is designated Green Belt and therefore in relation to paragraph 11(d) i footnote 7, the tilted balance does not apply.*

It is the appellants' submission that the tilted balance does apply and the Council has misunderstood footnote 7. While it is agreed that the site is in the green belt, this proposal is compliant with green belt policy and is appropriate development as accepted by the Council in the officer's report. As such, in this case, the application of green belt policy does not provide a clear reason for refusing the development. As the Council has a significant shortfall in the five year supply of deliverable housing and has failed the housing delivery test, then the tilted balance is therefore engaged.

4 CONDITIONS

- 4.1 The appellants are content with the conditions suggested by the local planning authority.