

100042960



Appeal Decision

Inquiry held on 4 and 5 April and 10 May 2006
Site visit made on 5 April 2006

by **Jeremy Eagles DipTP DMS MRTPI**

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

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Date

- 9 JUN 2006

Appeal Ref: APP/Y3425/A/06/1197793

Land at Crown Street, Stone, Staffordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by McCarthy and Stone (Developments) Ltd against Stafford Borough Council.
- The application Ref 05/05267/FUL, is dated 29 September 2005.
- The development proposed is the erection of sheltered flats (Category II accommodation) for the elderly, House Manager's accommodation, car parking and landscaping.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

1. At the Inquiry an agreement executed in pursuance of Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 was submitted by the appellants. In it the appellants and the owners of the appeal site covenant with the Council not to commence the proposed development without having first paid a specified off site open space contribution to the Council and not to allow the sale or occupation of any proposed dwelling until a specified contribution towards off site affordable housing has been paid to the Council.
2. In addition a unilateral undertaking made under Section 106 of the above Act was also submitted by the appellants. In it the appellants and owners covenant with the Council to permit the public the use of the proposed canalside pathway during the hours of daylight until such time as a further path creating a continuous link between Workhouse Bridge and the site is provided, when the public will then be allowed permanent and unhindered access along the proposed pathway.
3. The location plan (drawing no 1281-2-LP) submitted with the original application indicates that the boundary of the site is set back from the bank of the canal. This is inconsistent with the submitted site plan which shows intended works within the strip of land adjoining the canal bank. At the Inquiry it was agreed that the indicated site boundary should include this strip of land and I accept that the amended plan (drawing no 1281-3-LP Rev A) will not prejudice the interests of any of the parties. I shall consider the appeal on the basis of this amended plan.
4. The appellants submitted 2 additional plans prior to the Inquiry. Firstly, an amended site plan (drawing no 1281/3/02 Rev A) which shows the creation of a landscaped path along the edge of the adjacent public car park. This scheme relates to land outside the appellants' ownership and would have an impact on the layout and capacity of the car park. The appellants confirmed that these proposals do not form part of the scheme but rather are

intended to illustrate one way that the Council might use the appellants' off site open space contribution. I shall consider these proposals only in that context. Secondly, the appellant has submitted a detailed landscaping scheme (S 344/1) which the Council has not had the opportunity to fully consider. I shall consider this drawing as an illustrative scheme only.

Main Issues

5. The main issues in this case are the effect of the proposed development on:
- (i) the character and appearance of the Stone Conservation Area;
 - (ii) the setting of 3 Listed Buildings - Star Lock, Workhouse Bridge and The Malthouse, and
 - (iii) the health and safety of the future occupiers of the proposal having regard to the proximity of a high pressure natural gas pipeline.

Planning Policy

6. The development plan includes the *Regional Spatial Strategy for the West Midlands* (RSS11); the *Staffordshire and Stoke-on-Trent Structure Plan* (SP) and the *Stafford Borough Local Plan* (LP). Of the policies brought to my attention, the following are of particular relevance. RSS Policy QE1 states that environmental improvement supports wider economic and social objectives and includes the aim of supporting regeneration by restoring degraded areas. RSS Policy QE3 and LP Policy E&D 1 promote the creation of high quality built environments. SP Policy D2 requires that development should, where possible, improve the environment and, amongst other things, be sympathetic to the character and qualities of its surroundings and avoid hazards to health and safety. SP Policy D3 encourages schemes which enhance the image and boost the vitality of town centres and re-use underused land for a number of uses, including housing.
7. SP Policy NC 19 and LP Policy E&D 18 generally reflect the duty imposed by section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* which requires decision makers to have a special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. SP Policy NC 18 and LP Policy E&D 23 reflect Section 66 of the *Planning (Listed Building and Conservation Areas) Act 1990* which includes a duty to give special regard to the desirability of preserving a listed building or its setting. LP Policy E&D 2 advises that proposals should pay due regard to the existing townscape framework, including skylines, views and historic features.
8. The site lies within an area identified under LP Proposal T1 as an area for canal related development where, despite the Council's reference to LP Policy RLT9, the reasoned justification clearly states that a range of uses, including residential, will normally be acceptable. LP Policies HOU5 and HOU17 seek provision for amenity and recreational open space and affordable housing as a part of residential proposals. The Council has published the Stone Town Centre Vision (STCV) which although not having the status of supplementary planning guidance has been the subject of consultation and has been formally adopted by the Council. It provides a comprehensive analysis of the townscape of Stone and is a material consideration in this appeal. The Council has published its *Local Development Framework: Submission Core Strategy Development Plan Document*. No

particular policies contained in this document have been brought to my attention and in view of the early stage in its preparation I shall afford it limited weight.

Reasons

Conservation Area Considerations

9. The appeal site comprises a roughly rectangular area of gently sloping, hard surfaced vacant land which forms an overspill car park associated with the Crown Hotel. A narrow strip of planting forms the rear boundary of the site with the Trent and Mersey Canal beyond which lie the broad washlands of the River Trent. Access to the site is obtained from Crown Street (A520) which is part of a one-way system carrying traffic around the core of Stone town centre which lies immediately to the north, on the far side of Crown Street. To the north-west is a bowling green and to the south-east a public car park and toilet block. The appeal site and its immediate surroundings are relatively open with no prominent buildings to the south, west or east. However, to the north of Crown Street, as well as number of smaller car parks and rear service yards, are a variety of 2 and 3-storey buildings of differing styles many of which appear as secondary ranges to the rear of buildings fronting High Street.
10. The Conservation Area encompasses much of the centre of Stone as well as a substantial length of the canal which at this point runs around the southern and western edge of the town centre. The canal is an important feature of the Conservation Area both in historical and townscape terms. The appeal site lies between it and the historic core of the town but is presently dominated by the busy one-way street (A520) and the adjoining car parks and service areas. Although little suggests that the site has been extensively developed in the past, openness is not an important historical feature of the immediate area and it is clear from old maps of Stone that Crown Street was at one time much more heavily built-up.
11. The area situated between Crown Street and its extension, Newcastle Street, and the canal, is identified in the STCV as a "canalside industrial and surface car park" character area which displays an "inactive edge", creating a hostile and unattractive pedestrian environment. The townscape assessment sees this poorly defined character as a weakness and calls for the development of existing vacant "opportunity sites" to enhance, strengthen and add diversity to the surrounding area. The STCV also identifies the need to provide more minor landmarks; improve legibility and connections between the town centre and the canal and river and promote public access and a mix of uses along the canal bank. The desire to improve despoiled parts of the Conservation Area both generally and in relation to the canal is shared by the Conservation Area Study (1987).
12. I recognize the historical and townscape value of the adjoining bowling green but feel that many of the other open areas of the canalside character area, including the appeal site, are in need of visual enhancement and provide the opportunity for creating a stronger and more diverse urban form than presently exists. The STCV identifies the appeal site and other land fronting the northern bank of the canal as "development opportunity" sites and I consider that the development of the appeal site with a building of distinctive character and of some scale, that fully addresses the frontage of both Crown Street and the canal, would strengthen the present urban form. This objective is not wholly consistent with the view expressed by the Council's witness that a significant part of the site should be left open and I consider that to do so would result in the loss of an opportunity to significantly enhance the appearance of this part of the Conservation Area.

13. The development includes a 3 and 4-storey building of traditional materials with the limited top floor area situated largely in the roof space and lit by dormer windows set into some of the roof slopes. The external walls have a relatively high proportion of solid compared to void areas and feature a regular pattern of small windows and strong vertical elements. The detailed design generally represents a contemporary interpretation of traditional canalside architecture which follows the theme set by other nearby apartment developments on this bank of the canal at Cameron's Wharf and The Moorings. All the main elevations of the proposal contain features of interest and I consider that the detailed external treatment of the proposal would serve to enhance the character of this part of the Conservation Area. In looking at the evidence of other schemes elsewhere I am satisfied that the appellants produce a wide variety of different designs in response to individual site characteristics and that the proposal does not represent a standard approach to the design or size of the building.
14. The Council is concerned about the height and bulk of the proposed building within the context of the adjoining section of the Conservation Area. The buildings on the far side of Crown Street are not particularly dominant in the street scene and characteristically follow the fine grain pattern of the narrow, linear burgage plots which run back from High Street. However, the appeal site lies outside that character area in an area of larger, more regular plots and although some of the traditional canalside buildings in the area, such as the former lock keeper's cottage and the boat repair docks, are relatively low key many are of a much larger scale, such as the former workhouse and the Joules Brewery warehouse.
15. Although there is some difference in the views of the Council's witnesses it was generally conceded that a building of 2 or 3 storeys could be satisfactory. The height of the proposed development would be similar to other traditional 3-storey buildings in the area and would be consistent with the overall design theme of the proposal. In addition, the length of the main elevation facing the canal would be significantly less than that of other existing large buildings fronting the canal and the overall mass of the building would be in keeping with its location in the canalside character area. It would strengthen and add to the street scene without over-dominating the existing buildings on the north side of Crown Street or the more low-key structures associated with the canal.
16. In terms of the effect of the proposal on views into and across the Conservation Area, those principal ones identified in the STCV would not be significantly affected. Whilst I accept that the view of the Parish Church tower from the canal towpath would be obscured in part this would only be to a very limited extent and would, in any event, occur with almost any building erected on the site. The skyline of the town centre, which is significantly raised above the level of the appeal site, would remain dominated by the Parish Church and the proposal would reinforce the built form of the town when viewed at a distance from the River Trent washlands to the south and south-west. The reverse view from the town centre towards the river is best appreciated as part of the vista down the pedestrian alleyways from High Street, particularly Adies Alley, which would not be significantly obscured by the proposal. I do not consider that the proposal would have a significant effect on important views into and across the Conservation Area.
17. The proposed development includes a single block of flats for the active elderly with communal facilities and a resident house manager. A limited amount of parking is proposed reflecting the relatively low car ownership rates of potential residents. The site

represents previously developed land in a sustainable location, being within walking distance of a wide range of public and commercial facilities in the town centre and close to public transport routes. The proposal would provide 40 new homes of a specialist nature for which there is an undoubted need in the area at a density which is appropriate for this town centre fringe site. LP Policy T1 allows for, and the STCV encourages, housing within and around the town centre and I consider the proposed development would add significantly to the variety of accommodation available in the town in an appropriate location.

18. The proposed development would constitute one main residential use and would not in itself represent a strong mix of different uses. However, it lies within an area of the town centre fringe where the STCV has identified other development opportunity sites and landscape improvement areas along the canal bank intended to increase public interest. The opportunity for a mix of uses exists within this range of sites and I do not consider that it is imperative that each site must individually comprise a mix of different activities. Many of the development sites appear to be of an insufficient size to accommodate a high level of diversity within their own boundaries and there is no certainty that the introduction of a café bar on the canal side of the appeal site would in fact be viable in the present absence of a public through route alongside the canal.
19. The proposal includes the creation of a landscaped footway along the site frontage to the canal between the adjoining public car park and the edge of the overgrown area at the rear of the bowling green. The path would form an important part of the canalside route envisaged in the STCV and would eventually contribute towards the overall aim of improving public access and linkages in the locality. The proximity of the south elevation of the proposed building to the path and the activities of residents within the scheme would add interest to this part of the route in contrast to the present dead frontage of the car park.
20. However, until such time as the link across the adjacent land to Workhouse Bridge has been undertaken the proposed pathway would remain a well screened cul-de-sac and would be likely to become a focus for anti-social behaviour, especially after dark, due to a lack of surveillance from passing pedestrians. The appellants have submitted a unilateral undertaking under Section 106 of the above Act which would address this problem by allowing public access during daylight hours until the footpath link to the west has been completed at which time permanent access would be permitted. I consider this to be reasonable arrangement which satisfies the tests set out in Annex B5 to Circular 5/05.
21. In view of its location within easy walking distance of Stone town centre the proposal would be likely to generate a significant level of pedestrian activity along Crown Street and through the pedestrian alleys to High Street. This increase in the number of movements would create a more active edge to this part of the area and the visual interest and natural surveillance arising from the proposal's developed frontage over 3 floors would create a less hostile and more attractive pedestrian environment. The proposed tower on the front corner of the building would provide a minor landmark feature in the streetscene which would be visible when moving in either direction along Crown Street and which would be seen within the vista down Adies Alley when approaching from the town centre. The proposed building and in particular this distinctive feature would add to the overall legibility of this part of the town centre and the Conservation Area.

22. My conclusion on this issue is that the proposed development would significantly enhance the character and appearance of the Stone Conservation Area in accord with relevant development plan policies.

Settings of Listed Buildings

23. Within the locality of the appeal site lie 3 Grade II Listed Buildings - Star Lock, Workhouse Bridge and The Malthouse. The Council is concerned that the proposal would adversely affect the settings of these buildings. However, it does not seek to define the extent of these settings, relying on the assumption that they generally correspond with the surrounding Conservation Area. However, this approach is rather superficial and it is necessary for me to consider this issue in the context of the individual setting of each Listed Building.
24. Star Lock is a functional structure forming part of canal. Its setting comprises the cohesive group of buildings and related structures that cluster about it, including The Star Inn, the former lock keeper's cottage, the overflow weir and the buildings on the approaches to the A520 bridge over the canal. I do not accept that this setting provides a semi-rural context to the Listed Building and consider that the proposal is set sufficiently well apart from the Lock to ensure that it would not unduly affect it.
25. Workhouse Bridge is a traditional brick built canal bridge separated from the appeal site by the bowling green and the adjoining overgrown land. It is elevated above the appeal site and is on a similar level to Workhouse Lock and the boatyard and canal basin beyond which provide its predominantly industrial context. The proposal would be set below the bridge and would not significantly impinge on the setting of the Listed Building.
26. The Malthouse is the closest of the listed buildings to the appeal site. It is a plain functional building of simple rectangular form set at right angles to Crown Street on the corner of Adies Alley. Its size, shape and orientation are dictated by its location within a narrow burgage plot running down from High Street. It forms part of the historic core of the town and its setting comprises the other buildings that share its secondary location at the rear of buildings in High Street. It does not lie within the canalside character area which contains the appeal site and whilst the proposed building would be significantly larger than the Listed Building it would not over-dominate it or significantly detract from its setting.
27. In relation to this issue my conclusion is that the proposed development would not detract from the settings of the 3 Grade II Listed Buildings in accord with the relevant development plan policies.

Health and Safety Considerations

28. The appeal site lies on the opposite side of the canal to the line of a 406mm diameter Transco High Pressure Pipeline, carrying natural gas at a permitted maximum pressure of 19 bar, which follows the route of the canal towpath at a minimum depth of 1m. The Health and Safety Executive (HSE) has assessed the proposal using the Planning Advice for Developments near Hazardous Installations (PADHI) System and has offered advice on the nature and severity of the risks. The risk of an incident occurring which would result in a 'dangerous dose' of thermal radiation is considered by the HSE to be very unlikely. The risks are not so great as to be intolerable and had the Council been minded to grant permission the HSE would not have exercised its call-in powers. However, in this case the HSE does advise against the proposed development.

29. The proposed flats lie within the middle and outer zones of the defined consultation distance and are considered to constitute development of Sensitivity Level 3. Results of risk modelling indicate that there would be 1.4 chances per million per year at 20m from the pipeline of receiving a dangerous thermal dose and 1.3 chances per million per year of a risk of death at the same distance. Without wishing to underestimate the risk involved I consider these represent low levels of risk both in absolute terms and in relative terms compared to those risks arising from other human activities found in everyday life.
30. I note that residential development in such a location would not be advised against by the HSE in every circumstance and that a proposal for general market housing of up to 30 units at a density of less than 41 dw/ha would have attracted no objection on this site. It is the density of the scheme and the fact that the potential residents are deemed to be more vulnerable than the average member of the population that has brought about this advice. Nevertheless, I recognize that this is a Category II sheltered housing scheme rather than a residential care home which would fall into the same sensitivity category and residents of the proposed flats would be relatively active. In addition, the development would be managed which would enable evacuation plans to be prepared, practiced and implemented, thereby reducing risk levels somewhat.
31. In terms of the site's proximity to the pipeline I note that if the development were to be located 15-20m further from the pipeline the HSE would not have advised against the proposal. Taking both this factor and the nature of the scheme into account it is clear that the proposed development is close to the margins of the region where the HSE would not advise against granting planning permission. I have taken into account the possibility of reducing the level of risk by imposing a condition which would require the approval of a scheme of fire blast measures by the Council. Although such a scheme would not have a major effect on risk levels it would serve to reduce them as far as is reasonable.
32. In this case I have considered the likely risks arising from the proximity of the pipeline and have balanced these against the benefits of the scheme that I have identified above, particularly in relation to the first main issue. The provision of a significant addition to the housing supply for the elderly in Stone in an appropriate sustainable location and the creation of a development that would enhance the appearance of the Conservation Area and provide for the improvement in the permeability of the area are important benefits which in my view outweigh the small risks arising from the proximity of the pipeline. My conclusion on this issue is that bearing in mind the proximity of the high pressure natural gas pipeline the proposed development would not have an unacceptable effect on the health and safety of the future occupiers of the proposal, in accord with SP Policy D2.

Other Matters

33. There is no dispute between the parties as to the need for financial contributions to be made towards the provision of affordable housing and open space in accordance with LP Policies HOU5 and HOU17. In my view the benefits offered by the agreement satisfy the tests set out in Annex B5 to Circular 5/05 and weigh in favour of the development.

Conditions

34. I have considered the Council's suggested conditions in the light of Circular 11/95. In addition to the standard time condition, I have already identified the need for a condition requiring the submission and approval by the Council of scheme of fire blast measures.

Conditions requiring the completion of the access and parking area prior to the occupation of the development; the closure of the existing access and the prevention of the erection of gates at the new access without the prior approval of the Council are necessary in the interests of road safety. A condition requiring a landscaping scheme is necessary in order to enhance the appearance of the development. I accept that a condition requiring the construction of the development at a minimum level is necessary to avoid possible flooding. A condition requiring the approval of external materials is necessary in the interests of visual amenity. In view of the restricted parking and amenity space available a condition is necessary restricting the occupation of the flats to persons aged 55 and above.

35. A condition requiring general compliance with the approved plans is not necessary as the Council has separate enforcement powers to ensure this. In view of the unilateral obligation submitted by the appellants in relation to the public rights of access to the canalside pathway a condition requiring such access is unnecessary.

Conclusions

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

Formal Decision

37. I allow the appeal, and grant planning permission for the erection of sheltered flats (Category II accommodation) at land at Crown Street, Stone, Staffordshire in accordance with the terms of the application, Ref 05/05267/FUL, dated 29 September 2005, and the plans submitted therewith, subject to the following conditions:
- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) No development shall take place until details of fire blast resistant glazing to the openings facing the Trent and Mersey canal have been submitted to and approved in writing by the local planning authority. Development shall take place in accord with the approved details which shall thereafter be retained unless otherwise agreed in writing by the local planning authority.
 - 3) Prior to the occupation of the development the access and parking areas hereby approved shall be graded, surfaced and laid out in accordance with details to be submitted to and approved in writing by the local planning authority and thereafter retained unless otherwise agreed in writing by the local planning authority.
 - 4) Prior to the occupation of the development the existing means of access to the site shall be closed, the pavement reinstated and the drop kerbs removed.
 - 5) No gates or barriers shall be erected at the approved access onto Crown Street unless otherwise agreed in writing by the local planning authority.
 - 6) No development shall take place until full details of all landscaping and other external works and details of any existing planting to be retained together with measures for their protection during the course of development have been submitted to and approved in writing by the local planning authority. These works shall be carried out within a period of eight months following the completion of the development. For a period of 5 years following the completion of the scheme any

- plant damaged, dying or removed shall be replaced with one of a similar type and size.
- 7) No development shall take place until full details of the existing and proposed ground levels and the finished floor levels of the proposed building have been submitted to and approved in writing by the local planning authority. The development shall be carried in accordance with the approved details.
 - 8) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
 - 9) The occupation of the residential development hereby permitted (other than the House Manager's accommodation) shall be restricted to only persons of not less than 55 years of age unless otherwise approved in writing by the local planning authority.

Jeremy Eagles

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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Mrs J Dudley Flat 17, Watersmeet Court, Stone, Staffordshire ST15
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DOCUMENTS

Document 1 List of persons present at the inquiry
Document 2 Copy of Council's notification letter
Document 3 Copy of correspondence from The Planning Bureau Ltd dated 13 April 2006
Document 4 Proof of evidence submitted by Mr P Appleton (HSE)
Document 5 Supplemental proof of evidence submitted by Mr Butt
Document 6 Proof of evidence submitted by Mr Lines

- Document 7 Statement of Common Ground (unsigned) submitted by appellants
Document 8 Correspondence between appellants and the Council re: affordable housing
Document 9 Copy of HSE's Approach To Land Use Planning
Document 10 Copy of Section 106 agreement between the landowners, the appellants and the Council dated 5 April 2006
Document 11 Copy of unilateral obligation executed under Section 106 by the landowners and appellants dated 10 May 2006
Document 12 Extract from Adopted SP – Policies NC18 and NC19

PLANS

- Plans A – D Preliminary drawings not submitted with the appeal proposal
Plans E – K Appeal scheme drawings
Plan L Amended location plan showing revised site boundary
Plan M Detailed landscape proposals
Plan N Site plan illustrating potential off-site landscaping in adjacent car park
Plan O Section illustrating view from canal towpath to church tower supporting evidence of Mr Day.