

Appeal Decision

Site visit made on 6 September 2016

by Beverley Wilders BA (Hons) PgDurt MRTPI

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

Decision date: 29 September 2016

Appeal Ref: APP/A0665/W/16/3153339

West View, 6 Old Coach Road, Kelsall, Chester CW6 0QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Dale against the decision of Cheshire West & Chester Council.
 - The application Ref 15/04805/FUL, dated 24 November 2015, was refused by notice dated 3 March 2016.
 - The development proposed is erection of 2 No 4 x bedroom houses with off street parking and 2 No garages.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No 4 x bedroom houses with off street parking and 2 No garages at West View, 6 Old Coach Road, Kelsall, Chester CW6 0QJ in accordance with the terms of the application, Ref 15/04805/FUL, dated 24 November 2015, subject to the conditions set out in the attached schedule.

Procedural Matter

2. My attention has been drawn to the fact that following the refusal of the proposal by the Council, the appellant submitted an additional planning application for one dwelling on the appeal site (Ref 16/02078/FUL). The more recent application was approved by the Council on 4 August 2016 and the permission remains extant and capable of implementation until 4 August 2019. I have been provided with a copy of the decision notice and approved plans for the more recent application and have had regard to them in reaching my decision.

Main Issue

3. The effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site comprises a piece of land located to the rear of a small row of two storey terraced dwellings at Nos 2 to 6 Old Coach Road within the built up part of the village. There is a change in land levels across the site with levels reducing towards Chester Road. The site is surrounded by buildings on all sides comprising a variety of sizes, designs and materials and lies adjacent to St Philip's Church, a Grade II listed building. A public footpath runs along one side of the site providing pedestrian access between Old Coach Road and
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Chester Road. There is existing mature hedging along the northern, eastern and southern site boundaries meaning that wider views of the site are fairly limited and largely restricted to views from nearby buildings.

5. The proposed detached dwellings would be located fairly centrally within the appeal site and would be set down within the site meaning that the relative height of the dwellings would be very similar to the height of the terraced dwellings at Nos 2 to 6 and would be below the height of the church. The dwellings would be of a traditional design and constructed from traditional materials. Though relatively large, the central position of the dwellings together with their proposed height relative to surrounding buildings and extensive boundary screening means that I consider that the proposal would respect local character and would be of an appropriate layout and design.
6. Whilst I accept that the amount of screening on the site could change over time and that it would not completely screen the proposal, it is likely that some level of boundary screening would be retained by future occupiers and I am satisfied that even if more extensive views of the site become available, that the design and layout of the proposed dwellings means that they would not be harmful to the character and appearance of the area. The proposed garages are discretely sited and modest in scale and therefore their visual impact would be limited.
7. Though the dwellings would be larger than the terraced dwellings I do not consider that their comparative size to the terrace means that they would appear overly large in their setting, given the relative position of the dwellings and the variety of building types and sizes in the immediate locality. In addition the space around and between the proposed dwellings and nearby buildings means that the proposal would not result in overdevelopment of the site and I note that there is a variety of plot sizes in the immediate vicinity and that the plot sizes proposed are not uncharacteristically small.
8. I note that the Council did not raise any objections to the proposal with regard to its impact on the setting of the Grade II listed church. Having regard to the relative scale of the buildings, the relative position and distance of the proposal from the church building and its grounds and to intervening screening which is to be retained, at least in the short to medium term, I concur with the Council and am satisfied that the proposal would not harm the setting of the listed building.
9. Taking the above matters into consideration, I conclude that the proposal would not have an adverse effect on the character and appearance of the area. It would therefore comply with Policy ENV 6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies. This policy seeks to promote sustainable, high quality design and construction and states that development should, amongst other things, respect local character and achieve a sense of place through appropriate layout and design.

Other Matters

10. In reaching my decision I have had regard to a number of other matters raised in objection by interested parties including reference to policies contained within the Kelsall and Willington Neighbourhood Plan (NP) and in particular NP Policy L3 which states that the only type of housing that will be supported in the village centre is housing for the elderly. However I note that whilst some consultation has taken place on the NP, it has not yet been made and as such

does not carry full weight. In addition, as previously stated, there is an extant consent for one dwelling on the appeal site (Ref 16/02078/FUL) and as such the principle of residential development on the site has already been accepted by the Council. In light of this I consider that the principle of residential use of the site is acceptable.

11. Some concerns have also been raised with regard to the impact of the proposal on the living conditions of nearby occupiers having regard to outlook, privacy and sunlight and daylight. I note that the Council raised no objections to the impact of the proposal on nearby occupiers and stated that the proposed distances to nearby properties complies with the Council's guidelines for residential development. Having regard to the position and scale of the proposed dwellings relative to existing properties and to the position and purpose of the proposed windows, I concur with the Council and am satisfied that the proposal would not materially harm the living conditions of nearby occupiers. Though the proposed dwellings would affect the view from some properties, this is not a reason to withhold planning permission bearing in mind that the planning system operates in the public interest.
12. I note that the proposed dwellings would be accessed off an unmade single track road that also functions as a public right of way. However having regard to the scale of development proposed, the extant permission and likely number of vehicle movements, in the absence of any substantive evidence from interested parties regarding highways matters I am satisfied that the proposed access arrangements are acceptable and would not result in harm to highway or pedestrian safety. I note that no objections were raised to the proposal by either the highway authority or the Council's Public Rights of Way Officer.
13. Though I have had regard to the concerns raised with regard to the impact of the proposal on the garden of remembrance I do not consider that the construction of two dwellings in the positions proposed would have a significantly harmful effect on users of the garden. Similarly in the absence of any specific policies relating to the use of the appeal site I do not consider that a desire to retain the site as a possible site for the future expansion of the graveyard is a reason to withhold planning permission for the proposal.
14. Some concerns have been raised with regard to the impact of the proposal on water levels and drainage and to the effect on wildlife. I note that the Council has suggested conditions to be imposed regarding drainage, birds and bats and I note that no objections were raised to the proposal by either United Utilities or the Council's Natural Environment Officer subject to the imposition of the suggested conditions. Therefore in the absence of any substantive evidence to the contrary I am satisfied that the proposal is acceptable with regard to drainage and wildlife issues.
15. Having regard to the location of the site within the village and in light of my comments in relation to the NP and the extant permission, there is no requirement for the appellant to demonstrate a need for the type of dwellings proposed. Though the proposal would result in the loss of an existing open area of land, it appears to form part of a residential garden and for the reasons previously stated, the impact on the character and appearance of the area is considered to be acceptable. I have had regard to the concerns raised regarding ground levels and the impact of the proposal on the stability of nearby properties but there is no substantive evidence to suggest that any

subsidence would result from the proposal. Finally though I note reference to a number of factual and technical errors within the submission, I am satisfied that I have sufficient information to properly assess the proposal.

Conditions

16. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the relevant plans as this provides certainty. Conditions are also required to control details of materials, landscaping, tree protection and lighting having regard to the nature of the proposal and in the interests of the character and appearance of the area. Where necessary the wording of the suggested conditions has been amended for the purpose of clarity and to meet the tests for conditions set out in the National Planning Policy Framework. The nature of the requirements of the tree protection measures are such that the information required needs to be submitted and approved prior to the commencement of development.
17. I am satisfied that the suggested conditions regarding a construction method statement and works to the access are necessary in the interests of highway safety and having regard to the site location and access arrangements. I am also satisfied that conditions are required regarding breeding birds and bat and bird boxes. This is having regard to the nature of the site, its location and the presence of existing vegetation and landscaping. I have imposed a condition requiring drainage details to be submitted and approved. Though I note that a condition was not requested by United Utilities, I consider that one is necessary having regard to the comments received by interested parties regarding drainage and water levels, to changing levels across the site and to the scale and nature of the proposal.
18. I do not consider that a condition is necessary regarding joinery details. This is having regard to the site location which is not prominent and to the fact that the site is not subject to any specific controls, for example as part of a Conservation Area. Additionally I do not consider that it would be reasonable or necessary to impose a condition removing permitted development rights for the proposed dwellings. This is having regard to the plot sizes of the proposed dwellings, the relatively discrete location of the site and to the absence of any specific justification being put forward by the Council as to why such a condition is necessary.

Conclusion

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

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 15:8643:OS1, 15:8643:01C, 15:8643:02, 15:8643:03, 15:8643:04C, 15:8643:05, 15:8643:07A.
3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a. the parking of vehicles of site operatives and visitors;
 - b. loading and unloading of plant and materials;
 - c. storage of plant and materials used in constructing the development;
 - d. the erection and maintenance of security hoarding where appropriate;
 - e. wheel washing facilities;
 - f. measures to control the emission of dust, dirt, noise, vibration and light during construction;
 - g. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - h. delivery, demolition and construction working hours;
 - i. details of any piling.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4. No development shall commence until details of the proposed alterations to the vehicular access point to the site have been submitted to and approved by the local planning authority; and the dwellings shall not be occupied until the access has been constructed in accordance with the approved details. The access shall thereafter be retained as such.
5. No development shall commence until details of a surface water drainage system have been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details before the dwellings are first occupied.
6. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees/hedges (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees/hedges shall be carried out as approved. In this condition "retained tree/hedge" means an existing tree/hedge which is to be retained in accordance with the approved plans and particulars.
7. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

- a. Additional tree planting within the site;
- b. earthworks showing existing and proposed finished levels or contours (including finished floor levels);
- c. hard surfacing materials;
- d. soft surfacing materials including porous pavers;
- e. soft landscape works including planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
- f. an implementation programme.

The development shall be carried out in accordance with the approved details.

8. No trees, shrubs or hedges bounding the site and/or forming part of the approved landscape scheme shall be felled, uprooted, wilfully damaged, destroyed or removed without the prior written consent of the local planning authority. Any trees, shrubs or hedges removed without such consent, which die or become severely damaged or seriously diseased within five years of the completion of the development hereby approved, shall be replaced in the next planting season with trees, shrubs or hedges of similar size and species.
9. No development shall be carried out on the site between 1 March and 31 August inclusive in any year unless the site is first surveyed for breeding birds and a scheme to protect breeding birds is submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.
10. No development shall take place above damp proof course level of the dwellings and garages until details / samples of the materials to be used in the construction of the external surfaces of the dwellings and garages 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 / samples.
11. No development shall take place above damp proof course level of the dwellings until details of features to be incorporated into the scheme suitable for use by bats and breeding birds including house sparrows and other small birds have been submitted to and approved by the local planning authority. The approved features shall be provided prior to the occupation of the dwellings and permanently retained thereafter.
12. Prior to the installation of any external lighting, details of cowling to external lights to reduce light spillage shall be submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details and any cowling permanently retained thereafter.