
Appeal Decision

Site visit made on 10 January 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 17 January 2017

Appeal Ref: APP/R0660/W/16/3159976

Plot between 25 and 27 Park Road, Willaston CW5 6PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ian O'Malley against the decision of Cheshire East Council.
 - The application Ref 16/1083N, dated 1 March 2016, was refused by notice dated 13 July 2016.
 - The development proposed is a single residential detached dormer bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with only appearance and layout details to be determined at this stage, with all other matters reserved for future consideration. I have dealt with the appeal on this basis.
3. The appellant's evidence contains a revised layout which seeks to respond to the Council's concerns relating to interface distances to neighbouring properties. However, the appeal process should not be used to evolve a scheme and a fresh planning application should normally be made¹. As this drawing has not been subject to public consultation I have considered this appeal on the basis of the scheme refused by the Council.
4. The Council's reason for refusal contains reference to Policies SE1, SD1, SD2 and SE5 of the Cheshire East Local Plan Strategy Proposed Changes (Consultation Draft). Having regard to paragraph 216 of the National Planning Policy Framework (the Framework), as the policies are proposed changes subject of public consultation and I have not been informed of any subsequent change to its status, I consider that these policies attract no weight.

Main Issues

5. The main issues are the effect of the proposed development on (i) the character and appearance of the area, with particular reference to protected trees; and (ii) the living conditions of the occupants of 25 Park Road and 51 Murrayfield Drive, with regards to outlook and privacy.

¹ The Planning Inspectorate Procedural Guide, 5 August 2016, Annex M, Paragraphs M1.1 and M2.1

Reasons

Character and appearance

6. The appeal site lies next to 27 Park Road which is a detached bungalow within a residential area containing a variety of detached, semi-detached and terraced dwellings which display a mixture of architecture styles and the use of materials. Mature trees in and adjacent to the appeal site are protected by the Nantwich Rural District Council (Willaston Hall) Tree Preservation Order (TPO) 1965. The four trees of note are all Oak trees. Together with the shrubs within the site and adjoining gardens, they contribute towards a sylvan setting. The four trees are particularly visible on approach to the site on Park Road as their canopies are extensive and largely extend towards the Road.
7. Due to the site's width and the location of and extent of the protected trees, the dwelling, as the Council set out, could only be positioned either at the front or rear of the appeal site. Given the position of the site on the northern side of Park Road, notwithstanding the dwelling being constructed on the corner of Park Road and Holly Bush Crescent, I consider that a dwelling at the front of the site would not reflect the established building line.
8. Dwellings in the area are of a variety of sizes. The proposed dwelling would be sized to fit into the available plot width and while it would sit outside of the root protection area of the trees on and off the site which are to be retained, I consider it broadly reflects the local area. However, despite the direction of the tree canopies and the Council's ability to consider TPO applications on their merits, due to the height and size of the canopies and the position of the dwelling to the north, I consider that the proposed dwelling would be subject of considerable shading, especially when the trees are in leaf.
9. Although future occupants would be aware of their presence, and the AIA suggests the trees will not cast excessive shade, this view was expressed on the basis that trees would be removed. The summary of the AIA together with plan Ref: DW/IOM/MD/BSTS confirms that the Oak trees would not be felled.
10. Even though, I have been directed towards a planning permission relating to No 25, I have no details of that permission or confirmation that there have or have not been any pruning requests. But the continued presence of the Oak trees would over time due to their proximity and size result in an increased pressure for a regular pruning regime and or their removal. Given the high amenity value and contribution of the trees to the character and appearance of the area, I consider the effect of this would be significant. As a result the proposal would not integrate the trees successfully into the scheme.
11. For these reasons, on this issue, I therefore conclude that the proposed development would significantly affect the character and appearance of the area, with particular reference to protected trees. The proposal would therefore be contrary to saved Policies BE.2 and NE.5 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 (Local Plan) and paragraph 17 of the Framework. Amongst other matters, these together seek to achieve a high standard of design through the integration of trees into development proposals.

Living Conditions

12. While the appellant owns Nos 27 and 51 and a fence has been removed, the effect of the proposal, given its position at the rear of the site does need to be

- assessed having regard to current and future occupants of Nos 25 and 51.
13. The Council's Development on Backland and Gardens: Supplementary Planning Document (SPD) advises as a general indication, there should ideally be a distance of 21 metres between principal elevations and 13.5 metres between a principal elevation with windows to habitable rooms and a blank elevation.
 14. Although boundary treatments, including shrubs would assist in partially screening the proposed dwelling from neighbouring occupants, it would not alleviate matters entirely as a dormer bungalow would be visible above or through those treatments. The elevation of No 25 facing the site contains windows serving a kitchen/dining room and a living room window. No 51, although extended, contains several windows that serve a kitchen and family room in its rear elevation with bedroom windows set back at first floor.
 15. A dwelling at the rear of the site would, in terms of its relationship to Nos 25, and 51 be significantly short of the lower of the two interface distances in the SPD, which is based on the distance between habitable room windows and a blank wall in any event. Thus the proposal would have an adverse effect upon the outlook from Nos 25 and 51. While no details of the window locations or use of rooms within the dwelling are before me, I am not persuaded that a dwelling could be located on the site while reflecting the character and appearance of the area and neighbouring occupants' privacy is upheld.
 16. For these reasons, in terms of this issue, I conclude that the proposed development would substantially harm the living conditions of the occupants of Nos 25 and 51, with regards to outlook and privacy. The proposal would not accord with saved Policy BE.1 of the Local Plan, the SPD and paragraph 17 of the Framework. Together these seek to ensure, amongst other things, the living conditions of neighbouring occupants are not prejudiced by development.

Other Matters

17. While I appreciate the appellant's concerns about the Council's consideration of the application, in terms of the site visit, I have visited the site and the nearby area which has informed the basis of this decision. Although queries are raised regarding the motive and accuracy of neighbours objections, I have had regard to the points raised as well as the merits of both parties cases that have been put before me. Lastly, concerns relating to the procedure by which the Council arrived at its decision are matters outside of the scope of this appeal which has been considered on its planning merits.

Conclusion

18. Despite the proposal's contribution to the supply of housing in the urban area, and the Council's current inability to demonstrate a five year supply of deliverable housing sites, I do not consider that the adverse impacts arising from the two main issues, would outweigh the benefits of the appeal scheme.
19. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR