
Appeal Decision

Site visit made on 21 February 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/Q4245/W/16/3163345

Roaring Gate Farm, Roaring Gate Lane, Hale Barns WA15 8TZ

- 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 Dr Muhammad Asher Aziz against the decision of Trafford Borough Council.
 - The application Ref 89082/FUL/16, dated 30 July 2016, was refused by notice dated 11 October 2016.
 - The development proposed is the Erection of New Build Detached Family Home.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effect of the proposed development on the provision of employment uses in the borough; (ii) whether the proposal would be in a sustainable location; (iii) the effect of the proposed dwelling on the character and appearance of the area; and (iv) whether the living conditions of the occupants of the annex to Roaring Gate Farm would be detrimentally affected, with regards to privacy.

Reasons

Approach of the decision

3. As part of the appellant's case it is advanced that the outcome of this appeal decision engages their rights under Articles 1 and 8 of the European Convention on Human Rights (Human Rights Act). Article 1 concerns the protection of property and Article 8 deals with the right to respect for family life and the home. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I have approach my findings having regard to these matters.

Planning Policy

4. The Council accept that they cannot for decision making purposes currently demonstrate a five-year supply of deliverable housing sites. Consequently, as explained in paragraph 49 of the National Planning Policy Framework (the Framework) this means that any relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
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5. The parties refer to Policies L1, L2, L7, R4 and W1 of the Trafford Local Plan: Core Strategy (Core Strategy). I consider Policy L7 is broadly consistent with the Framework given its objectives to seek development appropriate to its context, ensure the amenity of living conditions of future occupants and to reinforce local distinctiveness. Thus, I attach it full weight. However I attach a limited weight to Policies L1 and L2 as despite specific aspects of these policies being broadly consistent with the Framework, they were drawn up prior to the Framework and other parts of the policies, namely the scale and mix of new housing are based on the revoked Regional Spatial Strategy housing figures.
6. With respect to Policy R4, it does restrict the type of development that can take place at Davenport Green, nevertheless the remainder of the policy is broadly consistent with the Framework and even though I note a very high quality, sustainable B1 business/office employment development has not to date come forward, the plan period runs until 2026. I attach it a substantial weight and for the same reasons, I attach Policy W1 substantial weight given that it links to Policy R4.4.

Employment Uses

7. The appeal site is located in an area known as Davenport Green which is protected under Core Strategy Policies R4 and W1 as an employment place. Land, including the appeal site are allocated as countryside land outside the Green Belt at Davenport Green. The site and wider area are protected with the view to delivering an exemplar, very high quality, sustainable B1 business / office employment related development which satisfies the criteria set out in Policy R4.4. One of the criteria explains that proposals should provide for comprehensive scheme for development of the whole site.
8. The proposal would not, however meet any of the criteria in Policy R4.4 of the Core Strategy. Thus, conflict would result from the proposal, in terms of Policies R4.3 and R4.4. Nevertheless the appellant seeks to demonstrate, despite their initial unawareness of the employment allocation that this non-employment use, would meet the criteria of Core Strategy Policy W1.12.
9. I understand development at Davenport Green has not come forward over a number of years, even when development was at a pace and with the benefit of planning permission¹. I also recognise the suggested lack of investment and that may have been a lack of interest in Davenport Green. This maybe so, however it does not alter the plan period of the Core Strategy, nor does it change the long term aspiration of the Council which is to see this allocation realised, even if the appeal site is only a small part of Davenport Green. Although the Davenport Green site may or may not be developed, it still remains in the wider economic interest to ensure that such sites are available in the right places and at the right time to support growth and innovation, even if the land owners consider greater flexibility is required.
10. I understand from the DTZ report that existing houses and related structures would be demolished if and when development at Davenport Green occurs. However this has not yet taken place and the outcome of this appeal would not result in the appellant's current home being demolished. In terms of the proposal, this only lends weight so far, given that the risk would be the appellant's to bear and this really strikes at the heart of whether allowing a

¹ Council Application Ref: H/55938

new dwelling here amounts to a long term form of development that would serve not only the appellant but for a succession of occupants thereafter. I recognise the appellant wishes to stay on the land as long as possible to optimise its potential, by erecting a new dwelling in addition to the existing property, until such a time when the wider development at Davenport Green comes forward. However this does not change the conflict that the proposal has in relation to adopted development plan policies.

11. For these reasons, I therefore conclude, on this issue that the proposed development would adversely affect the provision of employment uses in the borough. The proposal would conflict with Core Strategy Policies R4 and W1; which together seek to deliver an exemplar, very high quality, sustainable B1 business/office employment related development, unless specific circumstances can be demonstrated.

Whether in a Sustainable Location

12. The site is located in the countryside off Roaring Gate Lane which is a well-used highway that offers no footway or cycle lane. The lane is also not lit. I am also not aware that there is a bus service near to the site. Although the site may be near to Newall Green and its selection of facilities and services, access to these would also rely upon Whitecarr Lane. This lane is, like Roaring Gate Lane not lit and there is no footway or cycle lane provision. Thus, future occupants would, despite the distance involved in accessing these facilities and services, be heavily reliant upon the car. While Manchester Airport would offer a variety of employment opportunities and the M56 motorway would provide connections to wider parts of Greater Manchester, occupants would be heavily reliant on the car, given the long stretches of Roaring Gate Lane and Thorley Lane which offer no bus, footway or cycle lane provision.
13. As such I conclude on this issue that the proposal would not be in a sustainable location. The proposal would therefore conflict with Policy L1 of the Core Strategy; which seeks, amongst other things, to direct housing development where the proposed development will create sustainable communities.

Character and Appearance

14. The appeal site currently forms part of the residential garden of Roaring Gate Farm which is enclosed on three sides by tall established hedgerows. Beyond the rear boundary is a car parking facility used by customers of Manchester Airport. Adjacent to Roaring Gate Farm is Chapel House Farm, with Tyleyard Cottage beyond. These properties all address the lane. However they are along with the appeal site in a semi-rural landscape which is also characterised by open fields lined by trees and hedgerows.
15. Notably, the scale and massing of the dwelling would be much greater than dwellings nearby as a result of its much wider and longer form. Due to the adjoining open fields to the north and west in particular, it would be very prominent in this location. Even the presence of established hedgerows would not mitigate for the extensive two storey high flank elevation. Added to this, the use of hipped and pitched roofs for the main body of the dwelling and the attached garage, which would be sited forward of the principal elevation, would create a discordant appearance. While I appreciate glazing would allow natural light to enter the dwelling, I do not consider this custom design to be particularly innovative or of a size and shape that ensures that it would

comfortably assimilate into this semi-rural landscape. It would therefore represent a poor form of design as it would fail to improve the character and quality of the area. Further harm would arise from the very large turning circle that would occupy a considerable area in front of the proposed dwelling. I do not consider that the proposal would therefore represent a high quality design as sought by paragraph 17 of the Framework.

16. While paragraph 60 of the Framework confers that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. Even though I appreciate the appellant aims to achieve this through the use of conditions to cover the materials and a landscaping scheme, I do not consider that this otherwise unacceptable development could be made acceptable through the use of these conditions.
17. For these reasons, I conclude that the proposed dwelling would have a significant effect on the character and appearance of the area which would not be in accordance with Core Strategy Policies L2 and L7 and the Council's New Residential Development Planning Guidelines and paragraph 64 of the Framework. Collectively they, amongst other things, seek to ensure new development is appropriate in its context and makes the best use of opportunities to improve the character and quality of the surrounding area.

Living Conditions

18. The building known as the annex to Roaring Gate Farm has a covered balcony area at first floor. I understand that the covered balcony pre-dates the planning permission granted to convert the annex into an independent dwelling². I also gather from the officer's report that concerns were raised in terms of overlooking and privacy, but as the balcony already existed, officer's considered that this did not provide sufficient justification on which to refuse planning permission.
19. Nevertheless, the proposed balcony in the flank first floor elevation would be entirely new. Thus the circumstances are slightly different. The proposed balcony would be opposite and roughly 12 metres away from the shared boundary of the appeal site and the landscaped rear garden of Roaring Gate Farm. This part of the existing garden is largely open, except for a band of shrubs which would largely protect the living conditions of occupants in Roaring Gate Farm. As a result of the open relationship, I consider the occupants of the annex to Roaring Gate Farm would, due to the close proximity of the elevated balcony to their garden result in overlooking which would detrimentally affect their living conditions, with regards to privacy.
20. However, I note the appellant's suggestion that a privacy screen could be installed to mitigate against the effects that I have identified. I am also mindful that the Council have suggested a condition to this effect. As such I consider that this could address my concerns.
21. For these reasons, I therefore conclude that the living conditions of the occupants of Roaring Gate Farm, with regards to privacy would not be

² Council Application Ref: 85260/FUL/15

detrimentally affected. As a result the proposal would comply with Core Strategy Policy L7 which seeks to ensure the amenity of adjacent occupants is not prejudiced by reason of overlooking.

Planning Balance and Human Rights

22. Given that the Council accepts it cannot demonstrate a five-year supply of deliverable housing sites, paragraph 14 of the Framework is engaged. It explains that for decision-taking this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.
23. In terms of the economic role, a significant adverse weight is attached, arising from the first main issue, to the scheme's conflict with contributing to building a strong, responsive and competitive economy. Although I recognise the current need for housing in the borough, limited positive weight is attached to the efficient use of land, construction jobs and future occupants spending in the local economy due to the scale of the contribution.
24. With regards to the social role, a modest weight is attached to the contribution the proposal would make to the borough's housing supply, notwithstanding the current position, as it would provide a windfall development in the form of a custom home for the family. A moderate negative weight is attached to the site's location in terms of future occupants accessing facilities and services. A neutral weight is attached to the scheme's contribution to the living conditions of future and neighbouring occupants, given that this is only overcome through a potential condition. I also attach a significant adverse weight to character and appearance which would traverse into the environmental role.
25. In terms of the environmental role, a neutral weight is attached to highway safety, but a significant adverse weight is attached to the proposal's effect on the built environment.
26. Dismissing the appeal would interfere with the rights of the appellant and his family under Articles 1 and 8. However, the proposal would not result in the appellant and his family being homeless, given the continued presence of their current home next to the site. Having regard to the legitimate and well-established planning policy aims to secure a strong, responsive and competitive economy; creating sustainable communities and protecting the character and appearance of the area, a refusal of permission would be proportionate and necessary. It would not unacceptably violate the appellant and his family's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Conclusion

27. As I set out earlier in this decision, bullet point four of paragraph 14 of the Framework applies. The proposal would lead to tension between the roles, but I do not consider that the proposal would fulfil the economic, social or environmental roles of sustainable development. Hence, the significant adverse weight that I consider applicable to matters of employment uses as

well as character and appearance heavily influence the economic, social and environmental roles. Also having regard to Articles 1 and 8 of the Human Rights Act, this leads me to conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits which would arise from the proposal, when assessed against the policies in the Framework taken as a whole. Thus the scheme would not be a sustainable form of development.

28. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR