
Appeal Decision

Site visit made on 21 March 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 5 April 2017

Appeal Ref: APP/A0665/W/16/3162042

Abbey Lodge, Abbey Lane, Hartford, Northwich CW8 1LX

- 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 Lee Dawkin of Renew Land Developments Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 16/03165/FUL, dated 21 July 2016, was refused by notice dated 7 October 2016.
 - The development proposed is the Demolition of one existing dwelling and construction of 6 detached dwellings and a semi-detached pair with associated ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the Demolition of one existing dwelling and construction of 6 detached dwellings and a semi-detached pair with associated ancillary works at Abbey Lodge, Abbey Lane, Hartford, Northwich CW8 1LX in accordance with the terms of the application, Ref 16/03165/FUL, dated 21 July 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the character and appearance of the area; and (ii) the living conditions of adjoining occupants, with particular reference to 335 and 337 Chester Road with regards to privacy, outlook, sun and daylight.

Reasons

Character and appearance

3. The appeal site comprises of a large two storey detached dwelling set within spacious and secluded grounds that is supplemented by mature landscaping. The site is accessed from Abbey Lane and the dwelling is considerably set back from the narrow vehicular access. Residential dwellings border the each boundary of the site. Their gardens, which are of varying sizes, back onto the appeal site. While the rear elevations of the detached and semi-detached dwellings face the site. Properties on Abbey Way and 2 Abbey Lane are bungalows, while dwellings on Chester Road are two storey high. A number of properties have been extended.
 4. Paragraph 56 of the National Planning Policy Framework (the Framework) explains that *The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is*
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indivisible from good planning, and should contribute positively to making places better for people. Also in this regard Policy ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (Local Plan) seeks to promote sustainable, high quality design and construction and that development should, where appropriate: respect local character and achieve a sense of place through appropriate layout and design.

5. Due to the site's location and siting behind existing residential dwellings, the proposed development would not be readily apparent from the wider area which includes Chester Road, Abbey Lane and Abbey Way. Views towards the proposed dwellings along the narrow access would remain and I recognise that the built form would be brought closer to Abbey Lane. However the main viewpoint would be of plot 1, rather than the remainder of the proposed dwellings. Nevertheless the dwellings would be visible, to different extents, from neighbouring properties.
6. Neighbouring dwellings are not characterised by any particular density, with plot sizes varying in response to the layout of Chester Road, Abbey Lane and Abbey Way. Properties on these roads address each highway and as such form a street scene. While I note the Council's concerns in terms of the how the proposal relates to the surrounding area, the proposed plot widths and depths do vary and there are instances whereby the width and or depth does exceed those which directly neighbour it. Although the gardens associated with properties on Chester Road do become longer and more spacious, I do not consider that the proposed dwellings would, in this regard, lead to a cramped form of development, having regard to the gardens associated with the bungalows on Abbey Way.
7. Even though the proposed dwellings do not, in terms of plots 2 to 5 allow for a significant amount of spacing in-between them, this is not uncharacteristic compared to the layout and proximity of some of the dwellings on Chester Road. In any event the scale and massing of these dwellings are supported by good sized rear gardens. The development also, as a whole, allows the most significant trees to be unaffected, even if they are not all on the site itself. These would, together with the provision of further landscaping and a pond supplement the built form on site.
8. I recognise the proposed two storey dwellings would differ to the nearby bungalows. Nevertheless the wider area does contain two storey dwellings. I therefore consider that the proposal would lead to a development that would successfully integrate into the character and appearance of the area.
9. For these reasons, I conclude on this issue that the proposed development would comply with Local Plan Policy ENV6 and paragraph 56 of the Framework; which together seek to ensure development proposals are of a good design that respects local character and achieves a sense of place through appropriate layout and design.

Living conditions

10. The proposal would inevitably change the existing relationship between each neighbouring property and the site. My attention has been particularly drawn to the proposed relationship between plot 1 and Nos 335 and 337.
11. The Council's Supplementary Planning Guidance 1: Outdoor Space Standards

for New Dwellings (SPG1) explains that *"the distance from windows of one house to the windows of another facing it, should be greater than 22 metres or 72 feet. Where the distance between facing houses is close to this minimum, adequate screening should also be provided to increase privacy."* SPG1 continues to explain that *"the distance between the principal window of one house and the blank elevation of an adjacent two storey house should be 13 metres (43 feet) or greater."*

12. I note the Council shares the appellant's view that the appeal scheme in its entirety would satisfy these separation distances, even if the distance between plot 1 and No 337 would only just appear to meet the specified distance and the site is narrow. Still residents of Nos 335 and 337 are concerned that the interface distance in respect of plot 1 would not adhere to SPG1.
13. Both Nos 335 and 337 have been extended to the rear. Although the distance from No 337's kitchen window to the rear boundary may be 10.5 metres, the flank elevation of plot 1 would be slightly further away. While the flank elevation of plot 1 contains windows at ground and first floor, these windows serve bathrooms and as such are not principal windows. I also note the boundary between this part of the appeal site and No 337 is not straight and the two storey element of the proposed dwelling would straddle across the rear boundaries of Nos 335 and 337. As a result, I have no reason to doubt that the interface distance to the extended part of No 337 would be 13 metres and thus accord with SPG1, so that the occupants would have a satisfactory standard of privacy and outlook.
14. In terms of No 335, I acknowledge the rear extension may be 1.5 metres beyond the rear elevation of No 337 and that this may have a bearing on the scheme's compliance with SPG1, in terms of the interface distance between the rear extension of No 335 and plot 1.
15. While the occupant of No 335 deems the distances in SPG1 are insufficient, SPG1 is a guidance document, even if it stresses that the interface distances discussed are described as absolute minimum standards. So, even though the dwelling on plot 1 would introduce a two storey built form which would appear close to the boundary, regard does need to be given to the development plan. Policy SOC5 explains that *"Development that gives rise to significant adverse impacts on health and quality of life (e.g. soil, noise, water, air or light pollution, and land instability, etc) including residential amenity, will not be allowed."* Thus, I need to consider whether significant adverse impacts would be caused by the relationship between plot 1 and the occupants of No 335.
16. The rear elevation of No 335 faces south east. Accordingly the large ground floor glazed openings would make the most the sun and daylight in the large open plan living area. Nevertheless its rear extension does not extend across the full width of the dwelling. Plot 1 would not be directly in front of the occupant's kitchen window and it would be slightly offset. Given these factors, even if the interface distance is slightly shy of 13 metres, I do not consider that the relationship would be unduly overbearing and would lead to significant adverse impacts on the occupants' health and quality of life. The proposal would, in tune with paragraph 17 of the Framework secure a good standard of amenity for all existing and future occupants of land and buildings.
17. For these reasons, I therefore conclude on this issue that the proposed development would comply with Policy SOC5 of the Local Plan and paragraph

17 of the Framework; which together seek, among other things, to ensure development does not give rise to significant adverse impacts on the living conditions of residents which may affect their health and quality of life.

Other Matters

18. Although Abbey Lodge would be demolished, I note that it is not listed and it lies outside of the Hartford Conservation Area (HCA). Furthermore the Council's Archaeologist confirms that the building does not appear to have a historic connection to Vale Royal Park. Consequently, I consider that the proposal would have a neutral effect on the significance of the HCA.
19. Even though it is suggested that the scheme does not comply with the Hartford Neighbourhood Plan, I am mindful that the proposal would use a site that is sustainable and within the settlement boundary of Hartford. Although I note points about the type of housing provided, I do not have evidence before me detailing the needs of local people in this regard. Even though a number of trees would be lost, landscaping can be planted and there is no evidence to conclude that harm to biodiversity would arise as a result of the proposal, subject to the use of planning conditions.
20. Despite concerns relating to overdevelopment in Hartford, the need for large detached properties and whether the scheme has been meaningfully amended since the refusal of planning permission¹ by the Council, I have considered this appeal on its planning merits and my findings related to the development that has been applied for. Despite concerns relating to the access, traffic congestion, the turning head and parking provision, I consider the proposal would make adequate off-street provision and the appeal scheme would make use of an existing access. So, even if the proposal falls into the definition of a major development, I do not consider that severe residual cumulative impacts to the highway would be arise, given the site's sustainable urban location.

Conclusion and Conditions

21. I have had regard to the conditions which have been suggested by the Council and the appellant's comments. A condition in respect of the approved plans is necessary in the interest of certainty. I have combined the Council's suggested condition four, to avoid duplication. I have also imposed a condition requiring details of the external materials to ensure the development harmonises with the character and appearance of the area.
22. Conditions are necessary regarding the development's construction and to cover works to the site's access in the interests of highway safety and residents living conditions. In the interests of biodiversity, I have combined suggested conditions regarding landscaping and the pond. I have also imposed conditions for a Bat Mitigation Plan, a Habitat Management Plan, time limits for vegetation and building clearance works and to secure a scheme to eradicate Japanese Knotweed from the site. These are all necessary to minimise the effect of the proposal on biodiversity and to halt the overall decline in biodiversity. In the interests of flood prevention, a condition is necessary for a sustainable drainage management and maintenance plan.
23. Given the archaeological potential of parts of the site, I have imposed a condition for a scheme of archaeological investigation. A combined version of

¹ Council Application Ref: 15/02211/FUL

the suggested conditions regarding car parking and cycle storage is necessary to avoid duplication and to ensure the development provides a satisfactory standard of car parking and cycle storage to safeguard highway safety and encourage occupants to use alternative modes of transport.

24. I have imposed the parties' amended version of the condition to secure affordable housing in the interests of precision and enforceability. This condition is necessary to ensure that the scheme is delivered².

25. For the reasons set out above, I conclude that the appeal should succeed.

Andrew McGlone

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: Location Plan; 188-110H; 1888-200; 1888-201; 1888-202; 1888-203; 1888-204; 1888-205A; 1888-206; 1888-207; 1888-208; 1888-209; 1888-210; 1888-210B; 1888-211B; 1888-212A and 2080-100B Drainage Plan together with the recommendations of the Arboricultural Implication Study.

Pre-commencement

- 3) Prior to the commencement of development details of the external finishes to be used in the construction of the development hereby approved above ground level shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Full details of the phasing of the demolition and construction traffic for the development, including temporary highway vehicle and pedestrian routings, times and days of large vehicle movements to/from the site, suitable off-highway parking for all construction related vehicles and vehicle cleansing/wheel washing facilities shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The development must then be carried out in strict accordance with the agreed details.
- 5) Prior to the commencement of any development on site, the developer must submit to and have approved in writing by the Local Planning Authority detailed plans in respect of the works required within the highway to modify the access. The works shall only be carried out in strict conformity with the agreed details and completed prior to first occupation of the development.
- 6) Prior to the commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall

² Appeal Decision Ref: APP/A0665/W/15/3032663

be submitted to the Local Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include:

- a. The arrangements for the adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
- b. Arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as ongoing inspections relating to performance and asset condition assessments, operation costs, regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

- 7) Prior to the commencement of development a Bat Mitigation Plan shall be submitted to and approved in writing by the Local Planning Authority, including a detailed method statement of works, lighting plan and location and types of Bat boxes to be installed on site. Development shall be carried out in accordance with the approved mitigation plan.
- 8) Prior to the commencement of development above ground a five year Habitat Management Plan shall be submitted to and approved in writing by the Local Planning Authority, to ensure new habitats on site are established (hedgerows, Bluebells, pond, trees, Bat/bird boxes). Development shall be carried out in accordance with the approved management plan.
- 9) Prior to the commencement of development above ground details of hard and soft landscaping, including details of a pond design and planting plan, hedgerow and replacement tree planting consisting of native species of local provenance, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved hard and soft landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner in accordance with the approved details.
- 10) No development shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The work shall be carried out strictly in accordance with the approved scheme.

Before first occupation

- 11) All car parking and cycle storage shall be provided prior to occupation of the dwellings hereby approved.
- 12) All roads within the approved development shall be designed and constructed in complete accordance with the Highway Authority specification. No

dwelling/building shall be occupied until that part of the road network which provides access to it has been constructed in this way and up to binder-course level. The surface course shall then be completed within a timescale which has to be agreed in writing by the Local Planning Authority prior to the occupation of any part of the development.

- 13) No building hereby permitted shall be occupied until a scheme for the eradication of Japanese Knotweed has been submitted to, and approved in writing by, the Local Planning Authority. The eradication scheme shall include: surveying and the identification of the extent of the Japanese Knotweed on a plan; a programme for implementation; and arrangements and a programme for the submission and approval in writing, by the Local Planning Authority, of a validation report confirming the nature of the treatment and eradication. Should a delay of 12 months or more elapse from the submission of the scheme, a further survey shall be carried out and a revised scheme submitted to, and approved in writing by, the Local Planning Authority before the buildings hereby permitted are occupied.
- 14) Prior to occupation of the development hereby approved a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the local planning authority. The scheme shall relate to the dwellings on plots 7 and 8 on approved drawing ref: 1888-110-H and the dwellings shall be provided as intermediate housing for sale

The scheme submitted for approval shall include:

- i) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- ii) the arrangements for the sale of the intermediate housing at a maximum of 60 % of the market value which has been determined as the appropriate sale value at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition contained within the National Planning Policy Framework (2012);
- iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Post occupancy monitoring and management

- 15) All vegetation and building clearance works shall take place outside of bird-nesting and the Bat activity season (March to September inclusive). If any works take place during this season, then vegetation and buildings should be checked prior to works by an ecologist and details submitted for approval with an appropriate mitigation scheme. The development shall then be carried out in accordance with the approved mitigation scheme.
- 16) Demolition or construction works, including deliveries to or dispatched from the site, shall not take place outside 08.00 to 18.00 hours Mondays to Fridays and 08.00 to 13.00 hours on Saturdays, nor at any time on Sundays or Bank Holidays. There shall be no deliveries by HGVs to the site between the hours of 08.00 to 09.00 and 17.00 to 18.00.