
Appeal Decision

Site visit made on 27 April 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 24th May 2017

Appeal Ref: APP/R0660/W/17/3167572

1 Orme Close, Prestbury SK10 4JE

- 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 and Mrs Bryant against the decision of Cheshire East Council.
 - The application Ref 16/4527M, dated 7 September 2016, was refused by notice dated 10 November 2017.
 - The development proposed is demolition of the existing house to be replaced with 2 new build detached dwellings.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 19 May 2017.

Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing house to be replaced with 2 new build detached dwellings at 1 Orme Close, Prestbury SK10 4JE in accordance with the terms of the application, Ref 16/4527M, dated 7 September 2016, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Bryant against Cheshire East Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

4. Orme Close is a cul-de-sac characterised by large detached properties set well back from the road behind front gardens/driveways. There is some variation in plot size, with those at the entrance to the cul-de-sac larger than those at the turning head but the houses are typically well-spaced on generous plots with mature planting giving the area a spacious, green appearance. Whilst the properties appear to be of a similar age, there is variation in the design and use of materials.
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5. The existing large detached dwelling would be demolished and replaced with two dwellings fronting the road, staggered in their plots. The dwelling on plot 2 would have a slightly lower ridge height than that on plot 1. The dwellings would read as two storey from the front and drop to three storeys at the rear due to the sloping nature of the site.
6. Whilst the proposal would increase the density of built development on the site, the plot sizes and spacing between the proposed and existing properties would be commensurate with the general pattern of development in the locality. The dwellings would be staggered relative to each other, thus providing punctuation between them and breaking up the overall mass of development. The proposed dwellings would be of a similar height to the existing property. Despite the higher level of the appeal site comparative to the adjacent at 3 Orme Close, sufficient separation would remain between the two storey elements of the properties to ensure the proposed dwellings would not appear over dominant in the street scene in addition to maintaining a feeling of space to the boundary. Overall therefore, I do not consider that the scheme would appear cramped in the street scene and would not be uncharacteristic of other development in the locality.
7. Being mindful of paragraph 60 of the National Planning Policy Framework (the Framework), which states that planning decisions should not attempt to stifle innovation, originality or initiative though unsubstantiated requirements to conform to certain development styles, I concur with the Council that the design of the proposed dwellings would not have a detrimental impact on the surrounding area. The surrounding area contains a variety of designs and dwelling types and the proposed design and use of materials picks up cues from surrounding development. Whilst the dwellings would appear as three storey buildings from the rear, given the very limited views of these elevations I do not consider that this would materially harm the character and appearance of the area.
8. I therefore conclude that the proposal would not have an adverse impact on the character and appearance of the surrounding area and find no conflict with Policies DC1 and BE1 of the Macclesfield Borough Local Plan (2004) and the Prestbury Village Design Statement. These seek, amongst other things development that respects local character, form, layout, siting, scale and design of surrounding buildings, that the overall scale, density, height, mass and materials of new development is sympathetic to the character of the street scene and that new development should conform to the density in the part of the village in which it is taking place. I also find no conflict with paragraph 64 of the Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Other Matters

9. I have had regard to the concerns expressed by local residents and the Parish Council. In respect of those which relate to the living conditions of the occupiers of neighbouring properties I note from the officer's report that in view of the separation distances, intervening car ports and the orientation of the proposed properties relative to existing, the Council has concluded that there would be no significant amenity issues in terms of outlook, overlooking

overshadowing or loss of light. From my observations on site, I have seen nothing that would lead me to conclude otherwise.

10. I note the Council's Heritage and Design- Forestry team raised no objection to the impact on trees or hedges subject to condition and I have no reason to take a different view. I do not consider that the additional traffic generated by the development would be unduly significant and have no reason to take a different view to the Highway Authority who raised no objection to the scheme. There is no compelling evidence before me to indicate the proposals would materially affect foul or surface water drainage, local services, flooding, soil, erosion, security or wildlife. As such I do not consider that these provide sufficient grounds to refuse planning permission.
11. The detail and enforceability of any restrictive covenants on the land are not planning matters. Any disturbance during construction would be for a temporary period only and noisy working hours can be adequately controlled by separate legislation. The concerns raised about demand are not a matter that would justify withholding planning permission. I acknowledge the concerns in relation to the notification of an adjacent property however I note that the occupiers of this property were notified of the appeal by the Council.
12. In respect of concerns raised about precedent, no directly similar comparable sites to which this might apply were put forward. In any case, each application and appeal must be considered on its own merits and a generalised concern of this nature does not justify withholding permission in this case.

Conditions

13. The Council have not submitted any suggested conditions. Therefore, having regard to the Framework, I have considered the conditions listed within the Council's officer report and those within the Committee minutes.
14. In order to provide certainty I have specified the approved plans. Conditions relating to materials and landscaping are necessary in order to ensure a satisfactory appearance. Conditions relating to the protection of trees and method statements are necessary in order to ensure the continued well-being of the trees and hedges on the site. In addition I have imposed a condition requiring details of any retaining walls which would also protect the amenity of neighbouring residents. A condition requiring the recommendations of the bat survey be carried out is necessary in order to ensure the protection of protected species. A condition relating to the provision of parking is necessary in the interests of highway safety.
15. In view of the difference in levels at the site and in order to protect the amenity of adjacent residents I consider that a condition requiring details of finished levels on the site is necessary. The views of the main parties were sought on this matter and no objections were received.
16. The officer report suggests a condition is required to remove development rights permitted by Class B of the Town and Country Planning (General Permitted Development) Order 2015. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The National Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should

only be used in exceptional circumstances. No exceptional circumstances have been put to me to justify restricting the proper operation of the General Permitted Development Order and consequently the suggested condition does not meet the test of necessity.

17. I do not consider that a condition relating to the protection of nesting birds is necessary as I consider that adequate protection will be provided by separate legislation.

Conclusion

18. For the reasons given above and taking into account all other matters raised I conclude that the appeal should be allowed.

Caroline Jones

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: 01A (Proposed plot 1), 01A (Hardworks Plan), 02A (Proposed Plot 2), 02A (Planting scheme), 03A (Street scene and site section) and 04 (Proposed site plan)
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the buildings 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.
- 4) Development shall not commence until details of works for the disposal of surface water have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5)
 - (a) Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with British Standard BS5837: 2012 Trees in Relation to Design, Demolition Construction: Recommendations which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.
 - (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
 - (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
 - (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority.
- 6) Prior to the commencement of development or other operations being undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) a detailed tree felling/pruning specification shall be submitted to and approved in writing by the local planning authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning works shall be carried out in full accordance with the approved

specification and the requirements of British Standard 3998(2010) Tree Works- Recommendations.

- 7) No development shall take place until a detailed method statement for the demolition and removal of the eastern wall of the existing property has been submitted to and approved in writing by the local planning authority. The agreed method statement shall be adhered to in full.
- 8) No development shall take place until full details of any retaining walls/structures 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) Prior to the first occupation of the dwellings hereby permitted the recommendations within the Bat Survey Report dated 4 September 2016 shall be carried out in full and retained thereafter.
- 10) No dwelling shall be occupied until space for the parking of cars has been laid out within the site in accordance with drawing no. 04 and that space shall thereafter be kept available at all times for the parking of vehicles.
- 11) All planting, seeding or turfing comprised in the approved planting plan drawing no. 02A 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; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.