
Appeal Decision

Site visit made on 24 July 2017

by Gwyn Clark BSc DipTP MRTPI

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

Decision date: 06 September 2017

Appeal Ref: APP/M0655/W/17/3174633

Land off Culcheth Hall Drive, Culcheth, Warrington WA3 4PX

- 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 Patrick Seed, Evoke Homes Limited, against the decision of Warrington Borough Council.
 - The application Ref 2016/28535, dated 19 July 2016, was refused by notice dated 24 February 2017.
 - The development proposed is residential development on land at Culcheth Hall Drive with associated access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for residential development with associated access and landscaping on land off Culcheth Hall Drive, Culcheth, Warrington WA3 4PX in accordance with the terms of the application, Ref 2016/28535, dated 19 July 2016, and the plans submitted with it, subject to the attached schedule of conditions.

Procedural Matter

2. A signed and completed s106 Unilateral Undertaking has been submitted by the appellant. It would secure contributions towards the off-site provision of affordable housing. I will return to this matter later.
3. I have shortened the description of development for brevity.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. Culcheth Hall Drive is a most attractive residential development of substantial detached houses and bungalows set within large gardens. The Drive is relatively narrow yet with a very wide grassed verge on both sides which separates the footpath from the carriageway. The verges contain lines of mature trees set at a fairly regular interval with access to driveways taken in-between. The dwellings all have deep lawned front gardens. The overall effect is to give the Drive a spacious character within a pleasant landscaped setting.
6. The appeal site is situated towards the end of the Drive. There is substantial tree cover across the front of the site and a further dense belt of trees situated

in the centre. These combine to create a woodland setting. The site to the rear reaches Withington Avenue with open countryside beyond. The rear half of the site is much more open with landscaping confined to the boundaries.

7. The trees on the appeal site contribute significantly to the character and appearance of this part of Culcheth Hall Drive. A recent appeal Ref APP/M0655/W/15/3005910 was submitted against the refusal of planning permission for essentially the same development of 9 houses. This was dismissed because the Inspector was not satisfied it could be developed using construction methods for drainage that would avoid harm to the trees, many of which are protected, and this may also then lead to harm to highway safety.
8. A strategy has now been devised that provides for a sustainable drainage system. This includes non-invasive trenchless boring for drainage pipework and the installation of underground attenuation tanks to accommodate surface water. It has brought clarity to the way in which the drainage scheme necessary to serve the houses would impact upon the trees. As a result two further trees are proposed to be felled in addition to the 6 that were proposed to be removed under the original scheme. The loss of these trees would be compensated by the planting of 40 replacements.
9. The trees to be lost include a large Sycamore that stands amongst the trees at the front of the site adjoining Culcheth Hall Drive. This is a significant tree and its loss would cause some harm to the appearance of the site. However, I do not consider that the loss of this tree and the other trees identified for removal would significantly erode the overall landscaped character of the area. A substantial number of trees would remain, including dense tree cover along the front and within the centre of the site. I am satisfied that the replacement planting strategy would provide adequate compensation for the harm caused.
10. The character of the development would be different to the established pattern of houses found along Culcheth Hall Drive. The houses would be smaller, the site would be developed in depth and the density would be higher. The development nevertheless would comprise large, detached houses which have been designed in a modern, stylish manner reflecting the simple architecture characteristic of the wider area.
11. The two houses facing Culcheth Hall Drive would sit closer to the road than is commonly found but would be separated from the road by a substantial tree belt. Sitting behind these two houses, a new Tithe Barn would follow similar design principles but interpreted in a way more reflecting an agricultural style of building. These three houses arranged on the front half of the site would have trees interspersed amongst them and would be seen against a background of the substantial tree belt that is to remain in the centre.
12. Beyond the centrally positioned tree belt, the rear half of the site facing Withington Lane has boundary landscaping only. The six houses on this part of the site would be attractively designed and adopt a simple courtyard style that achieves a relatively high density. They would be separated by a significant distance from the nearest house on Withington Lane. Consequently a change in the style and layout of the development would not harm the character of the area. There are no trees within the site to be affected and additional planting on the periphery would maintain the natural character of the site in relation to the Lane and to the open countryside beyond.

13. Overall I consider that the development would appear reasonably spacious. The houses have been sensitively designed to sit amongst the existing landscaping. There would be some tree removal. Only one significant tree would be lost from the frontage landscaping and further tree planting would be undertaken to compensate for this loss. The landscape qualities of the site would be retained, the houses would be set relatively spaciouly apart and no harm would be caused to the character and appearance of the area. I find therefore that the development would be consistent with policies CS1 and QE7 of the Warrington Borough Council Local Plan Core Strategy (LPCS), and the design advice of the National Planning Policy Framework, which together seek new development that is sustainable and of a high quality of design reflecting local character.

Other matters

14. With regard to the comments and submissions from third parties and local residents in respect of highway safety, the Highway Authority did not object to the proposal and this did not form a reason for refusal of planning permission. Moreover there is no evidence before me which would lead me to conclude that the increase in traffic brought to Culcheth Hall Drive by the 9 houses proposed would result in any significant increase in risk to highway safety. Adequate car parking would be provided on site to the required standard. I note there is much concern over the need for the installation of bollards on Culcheth Hall Drive to prevent parking on the verge. However this appears necessary to resolve an existing problem and not one that can be reasonably attributed to this development alone.
15. Local residents object to the proposal on a wider basis, including the principle of development, loss of privacy and overlooking, the impact of the construction of the houses upon the local area, the impact upon wildlife, and the adequacy of the drainage system to be employed. These did not form part of the Council's reasons for refusal. The site clearly lies within the village and I consider that in principle residential development is an appropriate use. There would be adequate distance separating the houses from neighbours in order to maintain reasonable privacy. The potential impact of the development upon wildlife could be mitigated by appropriate conditions and a satisfactory drainage scheme has been designed to minimise the impact of the construction of this upon existing trees.
16. While I understand that my decision will be disappointing for local residents the information before me does not lead me to conclude that these and the other matters raised in objections made against the development, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

S106 planning obligation

17. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (CILR) require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

18. There is a signed and completed s106 Unilateral Undertaking (UU) which requires the appellant to make a financial contribution of £120,304 towards the cost of providing affordable housing. Support for the contribution in the UU and how it will be spent is set out in Policy SN2 of the LPCS, the Planning Obligations Supplementary Planning Guidance and in the Council's statement. I am satisfied that the required contributions are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development. As such the planning obligations accord with CILR Regulation 122 and paragraph 204 of the Framework and I give them significant weight in reaching my decision.

Conditions

19. The Council has suggested a number of planning conditions which I have considered against the advice in the national Planning Practice Guidance (PPG) and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. I have applied these conditions to the planning permission and have amended some for clarity.
20. I have attached the standard commencement of development condition and condition 2 is applied in the interest of clarity as to what has been granted planning permission. Conditions 3, 4, and 5 are attached in the interests of amenity. Condition 4 withdraws normally afforded permitted development rights and I consider this necessary due to the sensitivity of the site in terms of design and landscape setting. Conditions 8, 9, 10, 13, 14, 15, 16, 20 and 21 are imposed in order to preserve general amenity and the character and appearance of the site and of the general area. Conditions 11 and 12 are imposed in order to ensure that any potential ground contamination is appropriately addressed and Conditions 18 and 19 are imposed in the interest of safeguarding protected species. Condition 6 is to ensure car parking is retained in the interest of highway safety and Condition 7 in order to promote sustainable travel. Condition 17 is applied to ensure that anything of archaeological interest found on the site during the construction phase is properly recorded, and finally Condition 22 to ensure that the site is adequately drained and that provision is made for the on-going maintenance of the drainage system.

Conclusions

21. Paragraph 49 of the Framework states that housing applications should be considered in the context of a presumption in favour of sustainable development (para 14) bearing in mind the objective (para 47) to boost significantly the supply of housing. The Council accepts that a lack of a five year housing land supply weighs in favour of the development. Paragraph 14 also states that where the presumption in favour of sustainable development applies, and where relevant policies are out of date, 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.
22. The development would provide a social benefit of much needed additional housing at a time when there is a recognised shortage and a significant financial contribution would be made to the provision of affordable homes elsewhere. It would add to the economy by sustaining construction jobs and more generally in supporting the local economy. In environmental terms I

have identified some harm to the character of the area but this is very limited and the environmental harm on its own would not outweigh the substantial benefits of the development. Therefore, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits and the development complies with the development plan as a whole.

23. For the above reason and having regard to all other matters raised, I conclude that the appeal should be allowed and planning permission granted subject to conditions in the conditions schedule.

Gwyn Clark

INSPECTOR

Conditions Schedule

- 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 approved plans listed in the plans schedule attached to these conditions.
- 3) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - i. a temporary access and road, including their means of construction within Root Protection Areas and measures for the protection of those areas
 - ii. on site routing for the delivery/movement of vehicles and materials;
 - iii. detailed phasing for the provision of the development;
 - iv. the parking of vehicles of site operatives and visitors;
 - v. loading and unloading of plant and materials;
 - vi. storage of plant and materials used in constructing the development;
 - vii. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii. wheel washing facilities;
 - ix. measures to control the emission of dust and dirt during construction; and
 - x. a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification):
 - (i) no extensions shall be carried out
 - (ii) no garages or outbuildings shall

be erected within the curtilage of the dwellings (iii) no vehicle standing space or hardstanding shall be provided within the curtilage of the dwellings (iv) no gates, walls, fences or other structures shall be erected along any boundary of any of the dwellings (v) no means of vehicular access shall be constructed to the curtilage of the dwellings other than those expressly authorised by this permission.

- 5) Access to the flat roof parts of 46 Culcheth Hall Drive and the Tithe Barn hereby approved shall be for the maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar activity area.
- 6) The garages and car ports hereby approved shall be kept freely available for the parking of cars and shall not be converted or altered to form an additional room within the dwelling.
- 7) Prior to the occupation of the development, a scheme of electric vehicle charging points to serve the development shall be implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority .
- 8) None of the buildings hereby approved shall be constructed until written and photographic details of the external roofing and facing materials (including manufacturer's details) have been submitted to and approved in writing by Local Planning Authority. Material samples shall be made available to view on site. The development shall be constructed in accordance with the approved details/samples and retained thereafter.
- 9) Prior to any hard standing areas being formed details shall be submitted to and approved in writing by the Local Planning Authority. The hard surfacing shall be completed in accordance with the approved details prior to the first occupation of the development hereby approved.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) details of the design and type of all fences and walls to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority prior to their construction/installation. The development shall be carried out in accordance with the approved details and retained thereafter.
- 11) No development (other than demolition and site clearance works) shall take place until the steps in Sections A and B below are undertaken:

A: CHARACTERISATION: With specific consideration to human health, controlled waters and wider environmental factors, the following documents must be provided (as necessary) to characterise the site in terms of potential risk to sensitive receptors:

 - ☐ Preliminary Risk Assessment (PRA) or Desk Study
 - ☐ Generic Quantitative Risk Assessment (GQRA) informed by a Intrusive Site Investigation
 - ☐ Detailed Quantitative Risk Assessment (DQRA)
 - ☐ Remedial Options Appraisal

Completing a PRA is the minimum requirement. DQRA should only to be submitted if GQRA findings require it.

B: SUBMISSION OF A REMEDIATION & VERIFICATION STRATEGY: As determined by the findings of Section A above, a remediation strategy (if required) and verification (validation) strategy shall submitted in writing to and approved in writing by the Local Planning Authority. This strategy shall ensure the site is suitable for the intended use and mitigate risks to identified receptors. This strategy should be derived from a Remedial Options Appraisal and must detail the proposed remediation measures/objectives and how proposed remedial measures will be verified.

The actions required in Sections A and B shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

- 12) The development shall not be taken into use until the following requirements have been met and required information submitted to and approved in writing by the Local Planning Authority (LPA):

A: REMEDIATION & VERIFICATION: Remediation (if required) and verification shall be carried out in accordance with an approved strategy. Following completion of all remediation and verification measures, a Verification Report must be submitted to the LPA for approval.

B: REPORTING OF UNEXPECTED CONTAMINATION: All unexpected or previously-unidentified contamination encountered during development works must be reported immediately to the LPA and works halted within the affected area(s). Prior to site works recommencing in the affected area(s), the contamination must be characterised by intrusive investigation, risk assessed (with remediation/verification measures proposed as necessary) and a revised remediation and verification strategy submitted in writing and approved in writing by the LPA.

C: LONG-TERM MONITORING & MAINTENANCE: If required in the approved remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details.

The site shall not be taken into use until remediation and verification are completed. The actions required to be carried out in Sections A to C above shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

- 13) Prior to the commencement of development a plan showing root protection areas for the retained trees shall be submitted to and approved in writing by the Local Planning Authority. Thereafter details of the construction of any boundary walls which run through the root protection areas of retained trees and how damage to tree roots will be minimised, shall be submitted to and approved in writing by the local planning authority, prior to their installation. Development shall then be carried out in complete accordance with approved details.
- 14) All trees to be retained on site shall be protected in accordance with British Standard BS 5837:2012 "Trees in relation to design, demolition and construction". The development shall not commence unless and until

- the measures required by the British Standard are implemented and all measures required shall continue until the development has been completed.
- 15) During the first planting season following the commencement of development hereby approved the landscaping details as indicated on the approved plans shall be fully carried out. Management and maintenance shall be carried out in accordance with the submitted 10 year Landscape Management Plan (December 2016). Any trees, plants or shrubs so planted which die or are felled, uprooted, wilfully damaged or destroyed within ten years of the date of planting shall be replaced.
 - 16) No vegetation clearance, tree felling or other development works hereby approved shall take place during the bird-breeding season between 1 March and 31 August.
 - 17) No demolition/development shall take place until a Written Scheme of Investigation shall has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation; and
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
 - 18) The amphibian mitigation measures as detailed in the approved Method Statement for Reasonable Avoidance Measures (to amphibians) as put forward in Appendix B of the SLR Ecological Survey and Assessment Report (ref. 410.04573.00001 February 2014) shall be implemented in accordance with the specified timetable and completed in full prior to the substantial completion or the first bringing into use of the development hereby approved, whichever is the sooner. Any necessary modification to the mitigation measures to meet the requirements of a European Protected Species License must be submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be implemented entirely in accordance with the approved details. Thereafter, unless otherwise agreed in writing by the Local Planning Authority, the mitigation measures shall be permanently maintained and retained in accordance with the approved details.
 - 19) The bat and bird mitigation measures as detailed in sections 5.2 and 5.5 of the SLR Ecological Survey and Assessment Report (ref. 410.04573.00001 February 2014) shall be implemented in accordance with the specified timetable (or where it requires the installation of bat/bird boxes on trees or buildings, prior to first occupation of any dwelling). Any necessary modification to the mitigation measures to meet the requirements of a European Protected Species License must be

submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be implemented entirely in accordance with the approved details. Thereafter, unless otherwise agreed in writing by the Local Planning Authority, the mitigation measures shall be permanently maintained and retained in accordance with the approved details.

- 20) Prior to their installation full details of the design and appearance of lighting bollards, lamp posts and any other ancillary structures to be provided within the public areas of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details prior to first occupation of the development hereby approved and thereafter retained.
- 21) Light spillage shall be controlled in accordance with the submitted details on page 6 of the Relux Light Simulation Document dated 16 June 2016.
- 22) Drainage serving the site shall be undertaken in full accordance with Section 4 of the submitted Drainage Strategy 30170/SRG (December 2016) and accompanying plans (except for plan 30130/104 – Domestic Soakaway Details which shall be updated to show the overflow pipe in an appropriate location) and it shall be ensured that the pass forward flow rate of water draining to a public sewer is restricted to 6 litres/second, prior to the first occupation of any dwelling hereby approved. Full details of the maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of any dwelling hereby approved and this shall include as a minimum:

A The arrangements for 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 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 drainage of the site shall then be managed in full accordance with those details.

Plans Schedule (Condition 2)

A179_P_001 Rev. AA – Location Plan
A179_P_002 Rev. AA – Existing Site Plan / Topographical Survey
A179_P_002 Rev. AB – Proposed Block Plan
A179_P_21 Rev. AA - Proposed Plans and Elevations No.44 CHD
A179_P_22 Rev. AA - Proposed Plans and Elevations No.46 CHD
A179_P_23 Rev. AA - Proposed Plans and Elevations Tithe Barn
A179_P_24 Rev. AA - Proposed Plans and Elevations Plot 1
A179_P_25 Rev. AA - Proposed Plans and Elevations Plot 2
A179_P_26 Rev. AA - Proposed Plans and Elevations Plot 3
A179_P_27 Rev. AA - Proposed Plans and Elevations Plot 4
A179_P_28 Rev. AA - Proposed Plans and Elevations Plot 5
A179_P_29 Rev. AA - Proposed Plans and Elevations Plot 6
A179_P_30 Rev. AB – Proposed Site Sections AA & BB
A179_P_31 Rev. AB – Proposed Site Sections CC & DD
A179_P_32 Rev. AB – Proposed Site Sections EE & FF
A179_P_40 Rev. AA – Trenchless Boring Diagram
A179_P_42 Rev. AB – Coordinated Services Plan
A179_P_45 Rev. AA – 45 Degree Analysis
3035/01 Rev. D – Landscape General Arrangements Plan
3035/02 Rev. D – Planting Plan
3035/03 Rev. C – Indicative Section of Adopted Access Road and Footpath
Transport Statement Supplementary Plans attached to letter dated 13th January as follows:
TPMA1223-SK-002 Rev. E – Proposed Site Access Arrangement
30170/105 – Interface between adopted & private carriageway construction
TPMA1223-PA-102 Rev. A – Visibility Splays
TPMA1223-PA-103 Rev. A - Garage Dimensions 44CHD & Plots 1, 2 & 3
TPMA1223-PA-104 Rev. A - Garage Dimensions Plots 4, 5 & 6

END