



Appeal Decision

Site visit made on 7 November 2017

by Katie McDonald MSc MRTPI

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

Decision date: 14 December 2017

Appeal Ref: APP/R0660/W/17/3179760

Bowling Green, Ingersley Vale, Bollington SK10 5BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous outline planning permission was granted.
 - The appeal is made by Mr Chris Bowman, Ingersley Crescent Limited against the decision of Cheshire East Council.
 - The application Ref 17/1531M, dated 17 March 2017, was refused by notice dated 13 June 2017.
 - The application originally sought outline planning permission for *11 no. 2.5 storey and 2 no. 2 storey residential housing - resubmission of 15/0669M* without complying with a condition attached to planning permission Ref 15/2354M, dated 2 December 2016.
 - The condition in dispute is No 3 which states that: *The development hereby approved shall be carried out in total accordance with the approved plans numbered 'Revised Site Layout' received by the Local Planning Authority on 15 June 2016 and 014A received by the Local Planning Authority on 21 June 2016.*
 - The reason given for the condition is: *For the avoidance of doubt and to specify the plans to which the permission/consent relates.*
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Decision

1. The appeal is allowed and planning permission is granted for 11 no. 2.5 storey and 2 no. 2 storey residential housing - resubmission of 15/0669M at Bowling Green, Ingersley Vale, Bollington SK10 5BP in accordance with the application Ref 17/1531M dated 17 March 2017, without compliance with condition number 3 previously imposed on planning permission Ref 15/2354M dated 2 December 2016 and subject to the following conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Ingersley Crescent Limited against Cheshire East Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the Council determined the planning application, Policies BE1 and DC1 of the Macclesfield Borough Local Plan (January 2004) have been superseded. I am advised by the Council that Policies SD2 and SE1 of the Cheshire East Local Plan Strategy 2010-2030 (July 2017) (LPS) are now the relevant development plan policies in the determination of this appeal and have dealt with the appeal accordingly.

4. An *Oak* tree to the east of the site has been protected by a Tree Preservation Order on 30 October 2017. I noted the tree on my site visit and have taken this into account.
5. For the avoidance of doubt and notwithstanding the original description of development, and indeed the description of the development permitted, the approved and proposed site plans relate to 12 dwellings.

Background and Main Issue

6. The application subject of the appeal was for changes to the layout of an outline scheme for 12 dwellings. The Council raise concerns in relation to changes to the layout, referring to over development of the site from the increase in footprint. Accordingly, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. The site is a bowling green, club house and car park with residential dwellings located to either side on Ingersley Vale. The site is flat for the most part, but steeply increases in land level towards the rear of the site.
8. The proposal includes an increase to the floor space and re-positioning of the approved dwellings, the removal of the gap between plots 6 and 7 and the inclusion of 4 car parking spaces for visitors.
9. Dwellings on plots 1-6 are proposed to move forward, plot 1 by around 2.6 metres reducing to about 0.7 metres for plot 6, with basements proposed to extend into the rear banking. Plots 7-9 would move back, by around 2.3 metres and there would be a modest increase in the footprint of the dwellings to the rear. Plots 10 and 11 would be located very slightly forward and Plot 12 would be repositioned in a northerly direction.
10. The total increase in ground floor footprint is not significant, being around 7%. Some of the increase is located to the rear, and some to the front, and a good proportion closing the former gap between plots 6 and 7. Overall this small increase, having regard to the resultant volume increase, would have no significantly greater effect upon the character and appearance of the area than the approved proposal would.
11. The loss of the gap between plots 6 and 7 would result in a block of 11 dwellings with a varied building line. The gap between plots 6 and 7 on the approved permission is staggered and narrow, and would be inconspicuous when viewed from most vantage points. Whilst the proposal would create one solid block, the overall appearance would not be significantly different to that already approved, still featuring a staggered building line. This would not be unacceptably imposing. Furthermore, the dwelling on plot 12 would still be detached and 2 storeys in height, which would enable a transition in dwelling heights from the proposed 2½ storey dwellings to the modest height neighbouring 2 storey cottages.
12. The proposed changes to the approved layout would not result in an over development of the site, having an acceptable effect upon the character and appearance of the area.

13. Consequently the proposal would comply with Policies SD2 and SE1 of the LPS, which seek to ensure new developments respect the character of the local area. I also find compliance with the National Planning Policy Framework, in so far as it requires high quality design.

Other matters

Planning obligation

14. The original planning permission is subject to a planning obligation requiring an offsite public open space contribution of £37,000 towards Bollington and Rainow public open space improvements and the construction of a replacement crown bowling green. A Unilateral Undertaking (UU) dated 3 November 2017 has been received that requires a variation of the original planning obligation to include this appeal decision. The Council has confirmed that they are content with the wording of the UU.
15. I have nothing before me to dispute the reasons that necessitated the planning obligation, and that it was required to make the original development acceptable. The UU submitted would require the obligations to be honoured, should the appellant carry out either permission.

Other considerations

16. Whilst not included in the reason for refusal, the Council has in its statement expressed concerns regarding the provision of amenity space for the dwellings. Based upon the evidence before me, the depth of the private garden areas of plots 1-6 would be increased. Whilst rear gardens of plots 7-9 would be reduced by around 2.2-2.4 metres, the loss of space would be modest, retaining an overall depth of over 10 metres that would provide sufficient garden space. Plots 10-12 would remain unchanged from the approved scheme. These changes to the private garden areas, with the exception of plots 7-9 would either create a larger garden or have a neutral effect. Consequently, the proposed garden space for the dwellings would be adequate.
17. I have had careful regard to the numerous submissions by interested persons. As set out in the Planning Practice Guidance¹, I am only able to consider the disputed condition that is the subject of the appeal and this appeal decision is not a complete re-consideration of the original application.
18. The principle of the development has been established by the granting of the outline permission. Furthermore, there has been no harm demonstrated from this proposal regarding drainage, the effect upon the nearby conservation area or countryside, and public open space on site. I have also been presented with no substantive evidence regarding land ownership, which is in any event a civil matter.
19. Notwithstanding the above, based upon the approved and proposed layout, whilst I have had regard to the comments concerning separation distances, the changes proposed are likely to improve the neighbouring living conditions over that approved by moving plot 11 away from Rainow Mill Cottages. The re-positioning of plot 12 is likely to have a neutral effect upon Rainow Mill Cottages. The proposal would also have a neutral effect upon 52 Ingersley Vale

¹ Planning Practice Guidance ID 21a-031-20140306

when comparing to the approved plan. I do not consider the appeal scheme unacceptable in this regard.

20. Additionally, I have had regard to the lack of objection by the Highways Officer and consider that the additional 4 car parking spaces for visitors would provide more off street parking, which may alleviate some of the on street parking concerns raised by the neighbours.
21. Details relating to boundary treatments, design, internal layout (including window to window relationships) and the appearance of dwellings are not before me. This proposal is an outline application and such matters would be assessed in a subsequent reserved matters application.
22. The emerging Bollington Neighbourhood Plan has not been made. Furthermore, the location of this site is outside the neighbourhood plan area. Therefore, I have given it very limited weight in my assessment.

Conditions

23. In terms of conditions, the guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have little information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
24. I have amended condition 3 that states the approved plans. I have removed the references to the plans approved in the original outline permission as this is a different scheme.
25. However, and notwithstanding the above, by agreement with both parties, I have changed the wording of condition 1 in order for there to be a timescale for the submission of reserved matters.

Conclusion

26. For the reasons above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall commence before whichever is the later of the following dates:
 - (a) within three years of 2 December 2016, or
 - (b) within two years from the date of approval of the last of the reserved matters to be approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than 1 December 2019.
- 2) Approval of the details of the appearance and landscaping (the reserved matters) shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 3) The development hereby approved shall be carried out in total accordance with the plan numbered L 011 Revision P and D 100 Revision B.
- 4) Any subsequent reserved matters application seeking approval of appearance shall be accompanied by details of all facing or roofing materials to be used in the construction of external surfaces of the development hereby approved. The development shall be carried out in accordance with the agreed details unless any variation is agreed with the Local Planning Authority.
- 5) Details of the existing ground levels, proposed ground levels and the level of proposed floor slabs shall be submitted concurrently with application for the approval of reserved matters required by this permission.
- 6) Prior to the commencement of development a method statement shall be submitted to and approved in writing by the Local Planning Authority, which outlines the method of construction, details of deliveries to the site during construction, how and where materials will be unloaded and details of where contractor's vehicles will park. The development shall then be constructed in complete accordance with the method statement.
- 7) No development should commence on site until such time as detailed proposals for disposal of surface water (including a scheme for the on-site storage and regulated discharge) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed details which shall be implemented before first occupation of the site and maintained at all times thereafter.
- 8) Prior to the development commencing:
 - (a) A contaminated land Phase I report to assess the actual/potential contamination risks at the site shall be submitted to and approved in writing by the Local Planning Authority.
 - (b) Should the Phase I report recommend that a Phase II investigation is required, a Phase II investigation shall be carried out and the results submitted to, and approved in writing by the Local Planning Authority.
 - (c) Should the Phase II investigations indicate that remediation is necessary, a Remediation Strategy shall be submitted to, and approved

in writing, by the Local Planning Authority. The remedial scheme in the approved Remediation Strategy shall then be carried out.

Prior to the first use or occupation of any part of the development:

(d) Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by the Local Planning Authority.

- 9) Prior to the removal of any vegetation or the demolition or conversion of buildings between 1st March and 31st August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.
- 10) Foul and surface water from the approved development shall be drained on separate systems.
- 11) Any subsequent reserved matters application shall be accompanied by an updated Arboricultural Implications Assessment. The development shall be carried out in full accordance with the agreed details.
- 12) Prior to the commencement of development details of Electric Vehicle Charging Points to be provided within the development and a timetable for implementation shall be submitted to the Local Planning Authority for approval in writing. The approved scheme shall be implemented in accordance with the approved timetable.
- 13) Prior to the commencement of the approved development details of the bin store shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in full and maintained at all times thereafter.
- 14) Any reserved matters application for landscaping shall include a wall at the front of the properties using materials from the existing wall.
- 15) Any reserved matters application for landscaping shall include the retention of the stone retaining wall along the eastern boundary of the site unless otherwise agreed in writing by the Local Planning Authority.
- 16) Each of the properties hereby approved shall retain adequate provision for 2 off-road car parking spaces and they shall be available for use at all times.
- 17) Notwithstanding the description of the development, the number of 2.5 storey dwellings within the development shall be up to 11 units and dependent on the detailed design of the scheme to be submitted as part of any reserved matters application.