



Appeal Decision

Site visit made on 30 September 2019

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/G4240/W/19/3233463

Land at Heyrod Fold, John Street, Stalybridge SK15 3BN

- 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 Steve Barcroft against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 18/01087/FUL, dated 7 December 2018, was refused by notice dated 5 February 2019.
 - The development proposed is construction of one detached dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area including on the setting of the listed buildings on John Street;
 - the living conditions of the occupiers of properties on John Street near to the site having particular regard to privacy.

Reasons

Character and appearance

3. The appeal site comprises a piece of land positioned between John Street and Chamberlain Road. The land slopes steeply downwards from the rear of residential properties on Chamberlain Road towards the rear of residential properties on John Street. The land is undeveloped though it appears that permission has previously been granted for it to be used as private garden land (Ref 08/00416/FUL). It forms part of a larger area of undeveloped land to the rear of properties on the eastern side of Chamberlain Road, between these and development on the western side of John Street with land to the north of the site also being undeveloped. A public footpath runs along the northern boundary of the site. The site and the immediate surrounding area have a semi-rural character with the green spaces between and surrounding existing built development making a positive contribution to the character and appearance of the area.
4. In the main, development on and around John Street comprises traditional two-storey terraced properties constructed from brick or stone with a new-

- build, traditional style detached dwelling at 10A John Street. Properties on Chamberlain Road are brick built, generally two-storey with new build, three storey pitched roofed properties at the top of the slope to the rear of the site.
5. The three-storey stone-built terraces at Nos 14, 16 and 18 John Street are Grade II listed buildings. They each have modest sized front and rear gardens with the rear gardens backing onto the open, undeveloped rising land behind. Although development on Chamberlain Road is visible at the top of the slope to the rear, the undeveloped slope to the rear of the listed properties contributes to their semi-rural setting.
 6. The proposed built development on the site would bridge the gap between existing development on Chamberlain Road and John Street. Although the dwelling would be flat roofed and would be built into the slope, it would nevertheless be a relatively large structure on the site, would be positioned close to its side boundaries and would be out of keeping with the established pattern of development in this part of the settlement. The urbanisation of the site would adversely affect the existing semi-rural character of the area and notwithstanding existing and proposed landscaping, the new dwelling would be clearly visible from John Street and from the public footpath.
 7. The contemporary design and stark appearance of the proposed dwelling which incorporates a flat roof and large glazed openings in the front elevation would be at odds with the largely traditional character and appearance of surrounding development. Although there is some variety of built form nearby and some examples of more modern development including at 10A John Street, most recent development incorporates traditional design features and materials and there are no examples of contemporary design of the type proposed nearby and against which the proposal would be viewed. Consequently, and although the site is currently overgrown, the proposal would not be sympathetic to and would be harmful to the character and appearance of the area. I do not consider that the proposed design is such that it could be said to be outstanding or innovative and therefore permitted by paragraph 131 of the National Planning Policy Framework (the Framework) and in any event, it would not fit in with the overall form and layout of its surroundings.
 8. In addition, the loss of existing undeveloped land close to the rear of the listed buildings on John Street and the urbanising effect of the proposal would be harmful to the semi-rural setting of the listed buildings. The harm to the significance of the listed buildings that would result from the proposal would be less than substantial. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed buildings in accordance with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Paragraph 196 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
 9. The proposal would provide some limited economic and social benefits to the area resulting from the construction of an additional dwelling. However, any public benefits of the proposal would not be significant enough to outweigh the harm to designated heritage assets identified.
 10. In reaching my decision I have had regard to the Landscape and Visual Appraisal dated November 2018 (LVA) submitted by the appellant. I also note

that no objections were raised to the proposal by the Council's landscape officer. However, for the reasons stated, I do not agree with the findings of the LVA and consider that the proposal would have a significant harmful effect and that whilst additional landscaping would help to mitigate the impact of the proposal over time, it would not overcome the harm identified.

11. Taking the above matters into consideration, I conclude that the proposal would have a significant adverse effect on the character and appearance of the area and would have a harmful effect on the setting of the listed buildings. It would not therefore meet the requirements of section 66 of the Act. For the same reasons it would not accord with policies H10, C1 and C6 of The Tameside Unitary Development Plan adopted November 2004 (UDP) or with relevant paragraphs of the Framework. These policies seek, amongst other things, the conservation of heritage assets including the setting of listed buildings and development to be a high standard of building design and to respect and understand the surrounding landscape character and fabric. Despite the age of the UDP, I am satisfied that these policies are consistent with the Framework when taken as a whole.
12. The proposal is also contrary to Policy RD22 of the Tameside Residential Design Supplementary Planning Document March 2010 (SPD) which relates to infill and backland sites. Although the appellant has questioned the status of the SPD, I have seen no evidence to indicate that it has not been adopted. It is therefore a material consideration in the determination of the appeal and I have therefore had regard to it.

Living conditions

13. The proposed dwelling would be positioned to the rear of and in an elevated position relative to properties on the western side of John Street. Although the appeal site boundary is offset from these properties, the front elevation of the proposed dwelling would be parallel to their rear elevations and rear gardens. The main living accommodation of the proposed dwelling would be at first floor and large glazed openings and a large first floor balcony is proposed on the front elevation. Access to the balcony would be via the lounge and a large hallway. A large mature tree is positioned in the south eastern corner of the site, close to the rear garden boundary of 12 John Street and this together with rear boundary walls and outbuildings provides some screening between the appeal site and properties on John Street.
14. The appellant has referred to minimum privacy distances set out within the SPD which he states the proposal complies with. However, the Council refers to discrepancies between the submitted plans with some plans showing a distance below that required by the SPD. Irrespective of the disagreement regarding distances and whether the balcony ought to be considered to be a habitable room, having regard to the particular position, scale and design of the proposed dwelling and to the position of nearby dwellings and rear gardens on John Street, I consider that the proposal would have a materially harmful effect on the living conditions of the occupiers of those properties.
15. Although I accept that the balcony is most likely to be used during warmer months when any landscaping would be in leaf, the modest size of the rear gardens at Nos 12-18 John Street means that any actual or perceived overlooking of them from the balcony would significantly reduce the occupiers' enjoyment of them. Overlooking from the balcony would not be mitigated by

the provision of a 1.2 metre high barrier around its perimeter. Whilst existing features, including landscaping, provide some screening to the gardens, at my site visit I observed that these features do not fully obscure the view between them and the appeal site. Given the topography of the site and the relative levels between existing properties and the proposed dwelling, I do not consider it likely that any future landscaping scheme could adequately mitigate the loss of privacy to neighbouring properties.

16. Noting that the proposed distances between windows appear to be well in excess of the Council's minimum standards, I consider it unlikely that there would be any significant loss of privacy resulting from overlooking between rear windows of the properties on John Street and windows in the front elevation of the proposed dwelling.
17. My attention has been drawn by the appellant to the existence of a front balcony at 10A John Street which faces towards the rear gardens of Nos 12 to 18 John Street. I saw this balcony at my site visit and noted that it is much smaller than that proposed. In addition, I am unaware of the particular layout of the dwelling at 10A or the circumstances of the case. The two balconies do not appear to be directly comparable and in any event, I must determine the proposal before me on its own merits.
18. Taking the above matters into consideration, I conclude that the proposal, and in particular the proposed front balcony, would have a significant adverse effect on the living conditions of the occupiers of properties on John Street near to the site having particular regard to privacy. It is therefore contrary to policies 1.3 and H10 of the UDP and to relevant paragraphs of the Framework. These policies seek, amongst other things, to ensure that new development is sensitive to the relationship between buildings and that there is no unacceptable impact on the amenity of neighbouring properties through loss of privacy.

Other Matters

19. As stated, the site is on sloping ground and during the course of the application the Council's Environmental Services Manager requested that a land stability risk assessment report be submitted to demonstrate the effects of the development on the adjacent sloped embankment. No such report was submitted resulting in the Council's fourth reason for refusal. The appellant states that a report was not requested by the Council but it seems that he would be willing to submit full engineering details. Although I note the Council's concerns in relation to land stability and having regard to paragraphs 178 and 179 of the Framework, there is no evidence to suggest that ground conditions would prevent the construction of a building on site. Consequently, were I allowing the appeal, I consider that this matter could be adequately dealt with by the imposition of a suitably worded condition.
20. The proposal would provide an additional dwelling in a reasonably accessible location. However, any social and economic benefits of the proposal would be limited given that only one dwelling is proposed. Although the Council states that it cannot currently demonstrate a five year supply of deliverable housing sites, the tilted balance at paragraph 11 of the Framework does not apply in this case as the proposal would result in harm to designated heritage assets (paragraph 11d footnote 6). Any benefits of the proposal would not outweigh the harm that I have identified and the fact that the Council did not raise any

concerns in relation to a number of other matters does not overcome the harm identified or justify the grant of planning permission.

21. My attention has been drawn by the appellant to the approval of a number of other developments by the Council and I have been provided with a number of photographs. However, the limited information provided about these sites means that it is unclear how comparable they are to the proposal though I note that none appear to involve the construction of a contemporary dwelling as is proposed. I therefore attach limited weight to them and, in any event, I must determine the proposal before me on its own merits. Though the appellant states a willingness to construct a more traditional dwelling, no such scheme is before me and I have assessed the proposal as shown on the submitted plans.
22. Finally, in reaching my decision I note the concerns raised by the appellant regarding the site address used by the Council and the nature and source of objections received to the proposal. However, I am satisfied that any inspection of the submitted plans would have clarified any uncertainty regarding the site location and whilst I note the appellant's comments with regard to the objections, I have assessed the proposal on the basis of the evidence submitted and from my observations on site and for the reasons stated have concluded it to be harmful.

Conclusion

23. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR