



Appeal Decision

Site visit made on 5 November 2019

by Sarah Colebourne MA, MRTPI

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

Decision date: 28th November 2019

Appeal Ref: APP/A0665/W/19/3222462

Bramley Cottage, Neston Road, Willaston, Neston, Cheshire, CH64 2TW

- 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 Graham Caswell against the decision of Cheshire West and Chester Council.
 - The application Ref 18/03202/FUL, dated 10 August 2018, was refused by notice dated 17 January 2019.
 - The development proposed is the erection of a detached dwelling within the grounds of Bramley Cottage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling within the grounds of Bramley Cottage, Neston Road, Willaston, Neston, Cheshire, CH64 2TW, in accordance with the terms of the application, Ref 18/03202/FUL, dated 10 August 2018 and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. As the appellant's agent was unable to attend the site visit, I carried it out as an unaccompanied site visit and was able to see all that I needed to from public land without prejudice to the interests of any parties.

Main Issue

3. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The development plan includes the Cheshire West and Chester Local Plan (Part Two) which was adopted in July 2019. Policy GB6 in the Ellesmere Port and Neston Local Plan, referred to by the Council, has therefore been superseded. Policy DM3 seeks to ensure that new development is of a high standard of design (as does policy ENV6 in the adopted Cheshire West and Chester Local Plan (Part One)). Policy DM19 seeks to ensure that new dwellings on garden land in settlements do not result in a disproportionate loss of garden land or cause harm to the character of the surrounding area.
5. The Council's objections relate to the resulting plot sizes, separation distances and layout of the proposal. The appeal site comprises the side garden of a

modern, detached dormer bungalow, Bramley Cottage. It is located within the settlement boundary of Willaston and close to the edge of the village facing open countryside opposite. The immediate area has a spacious and leafy character with detached and semi-detached houses and bungalows. Whilst those to the east of the appeal site have generous gardens and large gaps between buildings, the two properties to the west of the site have modestly sized gardens and sit close to their side boundaries. Here it is their set back from the road that contributes to the area's spacious character rather than the spaces to the sides of the dwellings. The frontage planting along those plots, together with the well-established trees along the frontage of the appeal site, contributes to its leafiness. The large conifer trees to the rear of the site are subject to a group Tree Preservation Order.

6. The proposed development comprises a two storey, detached chalet-style dwelling which would be sited broadly within the building line of the adjacent dwellings. It would be similar in appearance to The Gables further to the east of the site. It would be seen from Neston Road across the neighbouring gardens and through the proposed access. The new dwelling would be separated from Bramley Cottage to the east by a gap to the eastern side boundary similar to that of a single drive width and by the, albeit reduced, side garden of Bramley Cottage. The resulting gap between buildings would be some 8m. To the west it would be separated by a gap to the western side boundary of a width similar to that of a double drive and by a small gap to the side of White Lodge. Although the existing gaps would be reduced, those distances are sufficient to maintain the spacious gardens, density and character of the area. I conclude then that the new dwelling would not appear unduly cramped and the site would not appear overdeveloped.
7. The proposal would necessitate the removal of a small number of trees along the front boundary to provide a new access. Whilst those frontage trees are not afforded any special protection, they are not necessary to mitigate the siting and appearance of the dwelling which I have found is acceptable. However, a condition requiring further details of trees to be removed, measures for the protection of those to be retained and further landscaping details would ensure that the leafy character of the area was not harmed.
8. I have noted that two previous appeals for a dwelling in the side garden of Merton Cottage were dismissed in 2016 and earlier this year. The circumstances of those cases differed significantly because Merton Cottage is a semi-detached dwelling and has a smaller side garden than Bramley Cottage. Therefore those cases are not directly comparable to this case and do not set a precedent.
9. For these reasons, I conclude that the proposed development would be of a high standard of design and would not cause significant harm to the character or appearance of the area. As such, it would accord with development plan policies DM3, ENV6 and DM19.

Other matters

10. Whilst the Council has not raised any objection in terms of other matters, representations have been received regarding the impact of the proposal on the living conditions of neighbouring residents, ecology and flooding.

11. Prior to the Council's decision, the application was amended to include a number of alterations to Bramley Cottage which the Council considered were sufficient to prevent a significant degree of overlooking and loss of light to that property and I would agree. Like the Council, I am also satisfied that given the height of the proposed dwelling, the separation distances from neighbouring properties and the existing planting along the western side and northern rear boundaries, the relationship with its neighbours would be acceptable. Whilst there would be some degree of change, the proposal would not cause significant harm to the living conditions of any of the neighbouring occupiers.
12. The application has been accompanied by a Preliminary Ecological Appraisal Report which includes a Phase 1 Habitat Plan and assessment of the sites potential to support protected species. As a precautionary measure, the Council's Biodiversity Team recommended that a Reasonable Avoidance Measures (RAMs) Method Statement for great crested newts be secured by condition if permission is granted. The report also states that RAMs are recommended for badgers but given the lack of evidence of the species in the report as well as general location and size of the development, the Council considers such measures unnecessary and for the same reason I would agree. A condition requiring vegetation clearance to be carried out outside of the bird nesting season would ensure that breeding birds are not disturbed. Subject to these conditions, which are necessary given the findings of the ecology assessment, the proposal would comply with the NERC Act 2006, The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and the Framework.
13. A third party has raised concerns in regards to the brook to the north of the property becoming blocked with construction debris and thereby resulting in flooding to the surrounding area and an increase in algae levels within the neighbouring lake. I would agree with the Council that problems arising during the construction period of a development are not generally considered to be material planning considerations and are normally covered by Control of Pollution Acts. I have no compelling evidence that the proposal would lead to an unacceptable risk of flooding.

Conditions

14. The conditions suggested by the Council have been considered against the tests of the Framework and the advice provided by the Planning Practice Guidance (PPG). I find them to be reasonable and necessary in the circumstances of this case, although amendments to the wording of some have been necessary in the interests of clarity and the advice of the PPG.
15. In addition to the standard commencement condition, a condition is necessary requiring that the development and works are carried out in accordance with the approved plans, in order to provide certainty. To ensure a satisfactory appearance a condition is necessary for further details of external materials. For the same reason I have added a condition requiring further details and implementation of landscaping proposals and tree protection. In the interests of the living conditions of neighbouring occupiers, conditions to ensure that the proposed alterations to Bramley Cottage are carried out and to restrict permitted development in respect of windows in Bramley Cottage are necessary. The conditions for ecological mitigation measures are necessary for the reasons given earlier. The Highways Authority requested a condition

requiring the proposed access to be formed with a vehicular crossing over the pedestrian footway which is necessary in the interests of highway safety. A condition requiring parking provision is necessary for the same reason and to ensure a satisfactory appearance. United Utilities requested a condition requiring foul and surface water to be drained on separate systems which is necessary to secure satisfactory drainage and manage the risk of flooding and pollution.

Conclusion

16. For the reasons given above, the proposed development would accord with the development plan and the Framework as a whole and there are no other material considerations that warrant determining the appeal otherwise. The appeal should be allowed.

Sarah Colebourne

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 5640 EX02 Rev A, 5640 EX01 Rev A, 5640 SK04 Rev D, 5640 SK01 Rev C, 5640 SK02 Rev C, 5640 SK03 Rev C.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development 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) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. 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.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping 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.
- 6) No development shall commence until the works proposed to Bramley Cottage (as detailed on plan 5640 EX02 Rev A) have been completed as detailed in that plan.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the western elevation of Bramley Cottage.
- 8) No site clearance, preparatory work or development shall take place until a detailed method statement of Reasonable Avoidance Measures for Great Crested Newts has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No trees or hedgerow shall be lopped, topped, felled or otherwise removed as part of the development hereby permitted outside the bird nesting season (1st March to 31st August inclusive), unless the site is surveyed for nesting birds by a qualified ecologist prior to their removal. If nesting birds are found, a scheme to protect nesting birds shall be submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved scheme.
- 10) The proposed access must be formed with a vehicular crossing over the footway. Such a crossing must be constructed, completed and made available for use prior to the first occupation of the development.
- 11) A minimum of three parking spaces shall be provided, and made available for use prior to the first occupation of the dwelling, unless otherwise agreed in writing by the local planning authority. The parking spaces shall be retained at all times thereafter.
- 12) Prior to the occupation of the development hereby permitted, provision shall be made for the drainage of foul and surface water on separate systems and shall be retained as such thereafter.