



Appeal Decision

Hearing Held on 11 September 2019

Site visit made on 11 September 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/M0655/W/19/3222450

Former Bank Quay Social Club, 1 Green Street, Bewsey and Whitecross, Warrington WA5 1TW

- 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 Riverside North West Estates Limited against the decision of Warrington Borough Council.
 - The application Ref: 2018/33358, dated 27 July 2018, was refused by notice dated 19 October 2018.
 - The development proposed is demolition of existing single storey side extension and removal of existing astro-turf facility (use D2). Erection of 5, three-storey, three-bedroom townhouses (use C3) with associated private amenity, on-site parking, refuse storage, cycle storage, and improved vehicular access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council refused planning permission for the appeal proposal for two reasons. The first related to the effect of the proposed development on highway safety. The second reason for refusal was that insufficient information had been submitted with the application to enable the local planning authority to confirm that the potential noise impacts on future occupiers of the proposed development would be acceptable. In June 2019, after the appeal had been submitted but before the hearing, the appellant submitted further information in the form of an addendum to the original noise assessment. Based on this further submission, the Council was satisfied that a suitable noise climate could be achieved for the proposed development and that it was no longer necessary to defend the second reason for refusal. It is now common ground between the parties that the second reason for refusal is no longer in dispute. From the evidence before me and from what I saw during the site visit, I have no reason to disagree with this position and have considered the appeal on the basis of the first reason for refusal only.
3. Prior to the hearing a draft bilateral Section 106 obligation was agreed by both main parties and submitted before the hearing opened. This made provision for a financial contribution to paid towards the upgrading of a nearby playing pitch to compensate for the loss of an existing artificial turf playing pitch that is present on the appeal site. Following the close of the hearing the S106

obligation was completed and signed by both parties. I have taken this into account when determining the appeal.

4. The name of the appellant company is given in various forms on the documents submitted with the appeal. At the hearing it was confirmed that these all refer to the same legal entity. As the original planning application was made in the name of Riverside North West Estates Limited, I have used this for the purposes of the appeal.

Main Issue

5. The main issue in this appeal is the effect of the proposed development on highway safety in the vicinity of the appeal site.

Reasons

6. In addition to the formal site visit held as part of the hearing, I had the opportunity to visit the site in the late afternoon of the day before the hearing and also in the morning before the hearing opened.
7. The appeal site is an area of land to the rear of the existing buildings on Green Street that comprises a hard surfaced yard area/rear lane and an artificial turf playing pitch. It is proposed to redevelop the site to provide a terrace of five dwelling houses with circulation space to the front and gardens to the rear. Whilst there is an existing narrow lane, or ginnel, that provides access to this area from Edelsten Street to the west, this is narrow and follows a convoluted route with two sharp bends. Both the main parties are agreed that this is not a suitable vehicular access for a development of five new dwellings.
8. In order to provide vehicular access to the development, it is proposed to demolish a part of the former Bank Quay Social Club, now in a mixed use with a number of commercial/retail units at ground floor level and residential flats at first floor. The demolition would comprise part of a commercial unit, raised above street level to the front of the building and accessed via a flight of steps, and a single storey structure to the side. These sections to be demolished are later additions to an original two storey building. This would allow for the creation of an access road running between the former club building and number 3 Green Street, a two storey end of terrace building with a hot food takeaway at ground floor level.
9. The Council's Design Guidance Note on Parking and Servicing DGN1 2015 (DGN1) sets out the requirements in respect of the design of roads serving residential development. It was advised at the hearing that it is not proposed that either the access to the proposed development from Green Street or the vehicle circulation area in front of the proposed dwellings would be offered to the Highway Authority for adoption. DGN1 requires that the minimum width of a shared private drive is 4.5m and that the layout would make provision to allow access by emergency services and delivery vehicles. It also requires that shared private drives must provide adequate visibility where they join the public highway.
10. At the hearing it was stated that the clearance between the buildings to either side of the proposed new access from Green Street would be 5.5 metres. This meets the width requirements of the Highway Authority guidance purely in terms of the space available. It was stated by the Council that although the access from Green Street would be a private driveway, for highways purposes

and in the context of this development where it would serve five dwellings, it would in effect be a shared surface road and the two terms are interchangeable in this case. This was not challenged by the appellant.

11. Where no footways are proposed, the Council's highways standards call for a 2m service strip to accommodate underground utilities and it was confirmed at the hearing that this should be to both sides of the carriageway. There would not be sufficient space between the buildings to accommodate a minimum carriageway width of 4.5m with a 2m service strip to each side. The most recent layout drawing¹ illustrates a 3.5m wide carriageway with a 1m block paved strip to each side. It was advised that block paved areas would be constructed in such a manner that vehicles could drive over them without damaging the surface or utilities beneath them.
12. Service strips are not normally considered to be a functional part of the carriageway for the purposes of determining width. Even allowing for a service strip of 2m to one side of the access road only, given the small scale of the development, there is insufficient width to accommodate a 4.5m carriageway and a 2m service verge. This would result in an access which, in technical terms, is substandard for the development proposed.
13. It was agreed at the hearing that there would be approximately 25 two way vehicle movements per day generated by proposed development. The width of the formal carriageway proposed would not allow two cars to pass. It was also stated at the hearing that the proposed new access would be more frequently used for pedestrian access to the site than the existing ginnel to the west. Although using whole width of access, including the proposed block paved strips, two cars or an HGV and car could pass, albeit with caution, the proposed arrangement with only a 1m service strip provides only the bare minimum of space for single pedestrians and wheelchair users clear of the carriageway taking the space requirements for various footway users illustrated in the Manual for Streets 2007². It would not allow for movement in groups, which would be expected from family houses. Pedestrians would consequently be very close to passing vehicles.
14. An overall access width that would allow two vehicles to pass would be provided. Nonetheless, in order to do so, this would rely on vehicles adopting particular road positions. The proposed arrangement with a 3.5m wide tarmac carriageway and block paved verges would encourage drivers to use the centre of the access. The proposed access road would be enclosed to both sides by buildings and the boundary walls to number 3 Green Street. The presence of solid physical boundaries to each side would make drivers significantly more inclined to use the centre of the carriageway, making it more difficult for opposing vehicles to pass. Within the site, physical obstructions to driver visibility in the form of walls and building elements would prevent drivers from seeing if there were other vehicles or pedestrians on the access road before committing to enter it, increasing the potential for vehicular and pedestrian conflict.
15. It is not in dispute that a 2.5m by 25m visibility splay can be provided at the junction of the new access road with Green Street, which would meet the requirements of the Manual for Streets where the X distance of 2.5m is

¹ Drawing number 17-080(FPL)400 Revision G.

² Manual for Streets Figure 6.8, Page 68

measured from the centre point where the access meets the main carriageway. A marked parking bay on the carriageway of Green Street extends to point where the new access would join highway. When I visited the site at different times of the day the level of on-street parking on Green Street varied markedly. At the time of the formal site visit, in the early afternoon, there was very little of the on-street capacity used. However, it had been well used in the late afternoon the day before and a number of vehicles were parked in the morning before the hearing commenced. The Council's evidence indicates that large numbers of vehicles park in the area at times and I saw that there was damage to the grass verge on the south side of the street that was clearly, and recently, caused by vehicles parking partly on the verge, which is strongly indicative of parking being in high demand at certain times. Due to the position of the parking bay, there may be instances where parked vehicles obstruct visibility to the west of the proposed new access. Of itself this is not a matter which would necessarily lead to a refusal of planning permission, nonetheless, it is a factor that adds to my concerns in respect of vehicular conflicts set out above.

16. In addition to the above visibility splays, DGN1 requires that pedestrian visibility splays must be provided where a private drive joins the back of a footway. In such cases the minimum X and Y distances provided should be 2.0m and should be kept clear of any obstructions over 0.6m in height. The diagram at Figure 2 of DGN1 illustrates that the X distance is measured at the side of the driveway with the Y distance measured along the back of footway. The evidence submitted by the appellant suggests that a 2m by 2m splay can be provided to the west of the access and 1.5m by 1.5m to the east. However, this does not take into account that immediately to each side of the proposed access the properties are accessed by steps. I saw that this results, to the west, in a structure approximately 1.2m high at the front and 1.5m high at the rear, and to the east, steps and a landing area to the commercial unit approximately 1.5m high, being present in the area identified as the visibility splay.
17. As a consequence of these obstructions to either side of the proposed new access, it would not be possible to achieve the pedestrian visibility splays required by the Council's highway standards. Whilst the area is not subject to a very heavy footfall, I saw at the various times that I visited the site that there was regular use of the footway and the lack of adequate visibility at the new access would therefore cause a severe risk to pedestrians.
18. There was some discussion at the hearing regarding the practicality of large vehicles, including refuse collection vehicles, entering and manoeuvring within the site. Various swept path diagrams were submitted by the appellant which demonstrate that a rigid vehicle of up to 11.3m in length can enter and leave the site in a forward direction albeit by using the whole width of the proposed access to carry out the necessary manoeuvres. It was agreed that as the access and circulation space were not to be offered for adoption, a refuse collection vehicle most likely would not enter the site. Whilst other large vehicles may need to access the site, such a furniture pantechnicon or other large delivery vehicles, such instances would be infrequent, and I am satisfied that these could safely do so without prejudicing other road users. However, this does not overcome the other issues with the access arrangements.

19. Although the access would be a private driveway, in effect it would be a small access road. It would involve the formation of a new access point and interface with the highway. In these circumstances, it should be expected that a new access would meet the Council's current standards for highways. In terms of intervisibility between drivers of vehicles and users of the footway the proposal does not do this. Nor does it provide a formal carriageway width that meets the Council's minimum requirement for a private road serving up to five dwellings. Combined with restricted visibility at both ends of the proposed new access, this would result in the potential for vehicular and pedestrian conflict. Taken as a whole, the proposed access to the development would result in conditions that would be prejudicial to road safety in the area.
20. I therefore conclude that the proposed development would cause harm to highway safety in the vicinity of the appeal site. It would not comply with the relevant requirements of Policy CS1 and Policy QE6 of the Warrington Local Plan Core Strategy 2014 (the Core Strategy) which expect, among other matters, that new development safeguard public safety and does not have an adverse effect on traffic movements and highway safety.

Other matters

21. It is not in dispute that the Council cannot demonstrate a deliverable five year supply of housing land. As such the proposal has to be considered in the context of the presumption in favour of sustainable development which is set out in the National Planning Policy Framework (the Framework).
22. There is no substantive evidence before me in respect of housing supply, the degree of shortfall or what prospective future provision from other sites may be. The appeal proposal would provide five additional dwellings in a location which has good access to public transport, shops and services, and employment opportunities. This would undoubtedly contribute to meeting any housing shortfall. However, without knowing what the extent of that shortfall is and due to the small scale of the proposal, I can only give moderate weight to this.
23. I have had regard to the submitted S106 obligation and am satisfied that it meets the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the Framework. However, the financial contribution to upgrade a nearby playing pitch is not a benefit of the scheme *per se* as it is required to replace an existing facility on the appeal site which would be lost as a consequence of the development.
24. No other benefits of the scheme have been identified or brought to my attention.
25. The Framework requires that proposed development should provide a safe and suitable access to the site for all users but also notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. I have found that the proposed development would not provide a safe and suitable access and, as a result, would have an unacceptable effect on highway safety in the vicinity. This is a matter to which I attach significant weight.
26. Whilst the appeal proposal would result in a small scale benefit in terms of increasing the housing stock, it would be at the cost of an unsuitable and

unsafe access, and I find that this adverse impact would significantly and demonstrably outweigh the benefit.

Conclusion

27. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that, notwithstanding that it may comply with other aspects of the development plan, the appeal proposal does not comply with the relevant requirements of Policy CS1 and Policy QE6 of the Core Strategy. The adverse effect of the proposed development on highway safety is to my mind an important matter and the conflict with these development plan policies must carry considerable weight. No material considerations have been identified that would overcome this conflict and, therefore, the appeal must fail.
28. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Harry Dodd	Planning Consultant
Mr Ian Wickett	Highways Consultant
Mr Giles Atkinson	Counsel for the Appellant
Mr Brian Foden	Riverside Developments

FOR THE LOCAL PLANNING AUTHORITY:

Mr Michael Davies	Senior Planner WBC
Mr Kevin Jackson	Transport Development Control WBC
Mr Mike Taylor	Assistant Planner WBC
Mr Paul Clisby	Solicitor WBC
Mr Steve Smith	Environmental Health Officer WBC

INTERESTED PERSONS:

Ms Juelle Boyd	Warrington Borough Council
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DOCUMENTS SUBMITTED AT THE HEARING

Draft S106 Agreement

Signed Statement of Common Ground

DOCUMENTS SUBMITTED AFTER THE HEARING CLOSED

Completed S106 Agreement