
Appeal Decision

Site visit made on 7 January 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/H4315/W/19/3241111
8 Red Cat Lane, Crank WA11 8RU

- 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 Punch Partnerships (PML) Ltd, against the decision of St Helens Metropolitan Borough Council.
 - The application Ref P/2019/0615/FUL, dated 16 August 2019, was refused by notice dated 11 October 2019.
 - The development proposed is construction of two dwellings (Use Class C3) comprising two detached dwellings to the rear of the Red Cat Public House, together with the reconfiguration of the Public House car park, new access for the proposed dwellings off Highfield Drive, associated car parking, landscaping and other ancillary works.
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Decision

1. The appeal is allowed, and planning permission is granted for construction of two dwellings (Use Class C3) comprising two detached dwellings to the rear of the Red Cat Public House, together with the reconfiguration of the Public House car park, new access for the proposed dwellings off Highfield Drive, associated car parking, landscaping and other ancillary works, at 8 Red Cat Lane, Crank, WA11 8RU, in accordance with the terms of the application Ref P/2019/0615/FUL, dated 16 August 2019, subject to the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Punch Partnerships (PML) Ltd against St Helens Metropolitan Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. I have removed the phrase "Resubmission of P/2019/0401/FUL" from the description of development, as this does not describe any part of the development proposed.
4. A Noise Impact Assessment (NIA) was submitted with the appeal. Although this document was not available to the Council when it made its decision, I have taken the NIA into account in my decision. I am satisfied that no one would be prejudiced as a result of me considering it as part of the evidence.

Context and Main Issues

5. The local plan proposals map for the area indicates that a small strip of land along the northern boundary of the site lies within a designated Green Belt.

One of the Council's reasons for refusal relates to the proposed development constituting inappropriate development in the Green Belt.

6. The proposed site plan, Ref 18.3104.100 Rev P4, denotes that the existing boundary treatment along the northern boundary is to be retained and that land north of the boundary treatment would be retained as existing. Hence, there would be no alteration to this section of the Green Belt. The plan also shows that the strip of land between the retained boundary treatment and the rear boundaries of the proposed gardens, which includes a narrow strip of land that lies within the Green Belt, would not include any development. In addition, the proposed landscaping plan, Ref A113639 LA10_v2.dwg, shows this area would be landscaped. Therefore, there is no development in this section of the Green Belt either. Consequently, as there is no built development proposed in the Green Belt the proposal cannot constitute inappropriate development in the Green Belt and the proposal would comply with saved policies GB1 and GB2 of the St Helens Borough Council Unitary Development Plan (1998) (UDP).
7. I note that the Council considers it likely that the strip of Green Belt shown as being landscaped on the plans would be likely to be absorbed into the rear gardens of the proposed dwellings. However, if, in the future, the Council considers any of the land within the Green Belt has been taken into the residential gardens of the dwellings, it has the powers to take suitable enforcement action.
8. Bearing the above in mind, the main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of existing occupiers, with particular regard to noise and disturbance, and
 - the effect of the proposed development on highway safety, with particular regard to parking and service deliveries associated with the public house.

Reasons

Character and appearance

9. The site edged red comprises a Public House, the Red Cat, and its associated car park, plus, as noted, a small area of land which lies outside the car park, just beyond its northern boundary.
10. There are dwellings beyond the eastern and southern boundaries of the car park on Highfield Drive and Crank Hill. To the west is the public house and attached terraced dwellings. Beyond the northern boundary is open countryside, in the Green Belt. Highfield Drive and the corner of Crank Hill, between Highfield Drive and the car park, is characterised primarily by two-storey detached, with a few semi-detached, dwellings with dual-pitched roofs and gable ends. The properties are constructed mainly of brick under tiled roofs, though some have rendered elevations at first-floor level. The properties have front and rear gardens, though I note that in several instances on Highfield Drive, the front garden has been mainly hard landscaped and is used for car parking.

11. The proposal would introduce 2, two-storey detached dwellings, with dual-pitched roofs and gable ends, constructed mainly of brick under slate roof tiles, with a rendered front elevation. Car parking would be provided immediately in front of the dwellings and gardens would be provided to the rear. The properties would be oriented such that a side gable of the property on plot 1 would face the rear elevation of No 15 Highfield Drive and the front elevation of the dwelling on plot 2 would face a side gable of No 11 Highfield Drive. The cul-de-sac spur on Highfield Drive would be extended, by removing a section of low-level wall and hedging, to provide access to the dwellings and their proposed parking and turning areas.
12. The proposal would include a soft landscaped buffer, around 3 m wide, between the western side elevation of the dwelling on plot 2 and the resultant reconfigured public house car park. Along the northern, eastern and part of the southern boundaries, hedges and trees would be retained, replaced and/or enhanced, and small areas of soft landscaping would be provided immediately in front of the dwellings. I consider the proposed soft landscaping would adequately mitigate against the loss of the small section of hedge at the head of the cul-de-sac spur and therefore the removal of the hedge would not harm the character or appearance of the area.
13. The proposal would have the appearance of an extension to the existing cul-de-sac spur. Thus, the proposed layout and resultant relationship with existing dwellings to the east of the site, would be very similar to the layout and relationship of the existing properties on the southern side of the cul-de-sac spur. The size, scale and massing of the proposed dwellings would be similar to several properties on Highfield Drive, as would their plot sizes. The size of the rear gardens would be at least commensurate with, and in several cases larger than, the rear gardens of properties on Highfield Drive. The appearance of the proposed dwellings would also be similar to that of the surrounding properties. Although the site and proposed dwellings would sit a little lower than the ground-level of the cul-de-sac spur, I consider this minor variation would not harm the character or appearance of the area. Bearing these factors in mind, the proposal would not alter the street scene to any significant degree, nor would it erode the existing pattern of development. As such, I conclude that the proposed development would not harm the character or appearance of the area.
14. The proposal would therefore accord, in this regard, with policies CP1 of the St Helens Local Plan Core Strategy (2012) (LPCS), and saved policy GEN14 of the UDP, and guidance in the Supplementary Planning Document: New Residential Development (2011) (SPD). These policies and guidance seek, among other things, to ensure that developments are sympathetic and appropriate to their context, maintain or enhance the overall character and appearance of the area, and ensure that sites for tandem or backland development are large enough to accommodate one or more dwellings of a size and type reasonably appropriate to the character of the area, having regard to plot size.

Living conditions – future occupiers

15. The proposed reconfiguration of the public house car park would result in there being 33 car parking spaces associated with the public house, 15 of which would be adjacent to the western boundary of the proposed residential development.

16. The NIA concludes that, subject to appropriate mitigation measures being implemented (ie suitable ventilation systems, robust glazing and suitable boundary treatments), noise associated with the public house, its outdoor seating area, car park and neighbouring road network will not have an adverse impact on the dwellings.
17. I note that the Council has questioned the feasibility of empirically assessing noise disturbance in the context of the site, suggesting that ultimately a judgement must be made regarding whether or not the resultant relationship between the car park and the dwellings would harm the living conditions of future occupiers.
18. I consider the proposed 3 m landscape buffer would provide a satisfactory physical separation between the proposed dwellings and their gardens and the public house car park. Having considered the respective cases, I conclude that, subject to mitigation measures, which can be secured via condition, the living conditions of future occupants of the proposed dwellings would be satisfactory, with particular regard to noise and disturbance. In addition, I consider the proposed layout, size of properties, size of gardens, access, parking and relationship with surrounding properties would ensure the living conditions of future occupiers are satisfactory in all other respects.
19. As such, the proposal would accord with policies CP1 and CP2 of the LPCS and GEN14 of the UDP and guidance within the SPD. These policies and guidance seek, among other things, to ensure that the living conditions of future occupants of development will not be adversely affected by neighbouring land uses, that provision is made for safe and adequate vehicular, cycle and pedestrian access to and from the site, and that appropriate standards of light, privacy (including garden privacy), garden space, outlook and security are achieved.

Highway safety

20. The proposal would result in a reduction in car parking spaces for the public house, from 56 spaces to 33. I note that concerns have been expressed about the times at which parking surveys were undertaken, and questions raised regarding whether or not such factors as 'events' and refurbishment of the public house had been taken into consideration.
21. I appreciate the Council's concerns regarding the location of the site access on a road bend with restricted visibility, where on-street parking in the area could be detrimental to highway safety. However, the results of both surveys, undertaken at different times of the year (one of which was during August, a peak time of the year), show that the car park was not fully utilised and that despite the reduction in car parking provision, the proposed level of car parking for the public house would accommodate the maximum weekend car parking associated with it.
22. It has been suggested that the weather was poor on the day of the August survey and therefore the number of visitors using the car park would have been relatively low. However, submitted photographs show the car park to be busy on a day when it was raining. Consequently, as the public house received visitors on other rainy days, I cannot conclude that weather deterred people from visiting on the day the survey was undertaken in August. In addition, except for an 'event' attended by numerous people on motor bikes, other

photographs show that some car parking spaces were unused, and, from what can be seen in the photographs, the highest number of cars parked was around 23.

23. I acknowledge that various 'events', such as an event showing numerous motor bikes in the submitted photographs, take place at the public house throughout the year, during which the existing car park can be full. However, the evidence suggests that such 'events' would be the exception rather than the norm.
24. As regards the concerns raised and all the evidence submitted, I consider that the appellant has undertaken highway assessments proportionate to the nature and extent of the proposal, and I consider that the proposal would not result in displacement of parking on to the surrounding highway network to the detriment of highway safety.
25. The information submitted demonstrates that a 10 m service vehicle would be able to enter and leave the public house car park in a safe manner. The appellant has also suggested that deliveries to the public house would be undertaken outside operational periods.
26. Outbuildings would be provided in the rear gardens of each of the proposed dwellings where bicycles could be stored. There is no loss of any cycle parking facilities at the public house. In addition, with 3 car parking spaces per dwelling, adequate on-site parking would be provided for the properties. I also note that, although the site is located within a village in the countryside, some limited bus services are available.
27. Bearing the above factors in mind, I conclude that, except for infrequent, one-off 'events', the proposed development would not result in displacement of vehicles from the public house car park on to the surrounding highway network, that suitable provision would be made for servicing vehicles visiting the public house and that satisfactory on-site parking would be provided for the proposed dwellings, along with suitable cycle storage. As such, I conclude that the proposal would not raise any highway safety concerns with particular regard to parking and service deliveries.
28. I note that concerns have been raised by residents regarding the proposed access and the effect it would have on Highfield Drive. The Council has not raised any concerns regarding this matter. I consider that the proposed siting and size of the access, along with the proposed car parking and turning areas, would be adequate to serve the proposed dwellings without threatening highway safety within, or when accessing or exiting, Highfield Drive.
29. The proposal would therefore accord with policies CP1 and CP2 of the LPCS which, among other things, require development to link in with surrounding movement patterns, provide safe and adequate vehicular, cycle and pedestrian access to and from the site and circulation within it, and provide adequate on-site parking, including cycle parking.

Other Matters

30. Concerns have been expressed regarding the effect of the proposed development on the living conditions of existing occupiers, particularly Nos 11, 13, 15 and 17 Highfield Drive. The Council has concluded that the resultant interface distances between the existing and the proposed dwellings would accord with local policy and guidance in the SPD regarding distance standards.

The guidance and distance standards in the SPD seek to ensure that developments do not result in unacceptable levels of overlooking, overshadowing, light, disturbance or outlook. I have no justifiable reason to challenge the Council's conclusions in this regard. Although factors such as outlook, light and privacy levels would be altered for some existing occupiers, I consider that none of the living conditions of existing occupiers would be changed to a harmful degree.

31. Comments have been made and questions raised regarding ownership of a strip of land located where the proposed access would be sited. The Council has identified this as adopted highway. I have not been provided with any evidence to demonstrate otherwise.
32. Concerns have been raised regarding the presence of Japanese knotweed within the site. I note that the landscape plan, Ref A113639 LA10_v2.dwg, indicates that this would be subject to "eradication", prior to soft landscaping implementation. This would ensure this matter is addressed.
33. Some hedges will be removed from the site as a result of the proposal. Although this would have a minor impact on biodiversity, I have not been provided with any evidence to suggest that protected species would be harmed as a result of the proposal. In addition, the proposed soft landscaping, in the long term, would mitigate against the limited loss of biodiversity. Birds could be protected during the breeding season via a condition.
34. Concerns have been raised regarding disturbance to residents and highway safety during the construction phase. A Construction Method Statement would be a means by which any possible disruption and impact on the highway could be minimised. This could be secured via a condition.

Conditions

35. As the conditions include a few pre commencement conditions, parties were given the opportunity to comment on all the conditions. Neither party raised any objections.
36. I have attached a condition specifying the approved plans for the avoidance of doubt. In the interest of the character and appearance of the area I have attached a condition requiring details of the external materials to be approved by the Local Planning Authority, though I do not think it is necessary for these details to be agreed prior to commencement of development. In the interests of highway safety and the living conditions of occupiers of existing dwellings, a condition is attached requiring a Construction Method Statement. This is required prior to commencement of any works on site as clearing the site and/or any demolition could affect highway safety and have a detrimental effect on the living conditions of existing occupiers. Due to the possibility of the existing car park surface containing contaminants and the sensitive residential end use, I have attached conditions requiring appropriate assessments to be carried out regarding the site and any soil that may be brought to it. The first stage of investigation shall be carried out prior to commencement to ensure that if contaminants are present, development proceeds in an appropriately managed way. To protect breeding birds, a condition is attached requiring works to any existing trees, hedges or shrubs to be carried out at an appropriate time of year. In the interests of the visual amenity of the area and biodiversity, a condition is attached requiring implementation of the landscape

proposals, including removal of any Japanese Knotweed. In the interest of highway safety, a condition has been attached requiring all the proposed on-site parking, for the public house and the dwellings, to be provided and retained thereafter. I have attached a condition requiring details of the noise mitigation measures suggested in the NIA to be approved, in the interest of the living conditions of future occupiers.

Conclusion

37. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR

Schedule of Conditions

- 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 following approved plans: 18.3104.110 P3, ENC/29111-3EE4-Top, 18.3104.100 P4, A113639 LA10_v2.dwg, 18.3104.102 P3, 18.3104.101 P3, 18.3104.100 P1.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials indicated on plan Ref 18.3104.102 P3. Prior to any development above slab level occurring, details of the brick, render and roof tiles shall be submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place, including any works of demolition or clearance of the site, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) No development shall take place, including any works of demolition or site clearance, until:
 - a) A Phase 1 site investigation and risk assessment has been carried out to investigate the potential for contamination to impact upon the proposed development. The Phase 1 site investigation shall include a desk study, site walkover and human health and environmental risk assessment. A report on the Phase 1 investigation shall be submitted to and agreed in writing by the local planning authority.
 - b) Should the Phase 1 investigation identify any sources of contamination warranting further investigation, then an appropriate Phase 2 site investigation and assessment shall be undertaken. The results of the site investigation and assessment shall be submitted to and agreed in writing by the local planning authority.
 - c) Should the Phase 2 investigation identify any requirements for remediation then a remediation strategy, including a validation

methodology, shall be submitted to and agreed in writing by the local planning authority.

d) Prior to the dwellings hereby approved being first occupied, the agreed remediation strategy (if required) shall be implemented, and a site validation/completion report shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt, the site validation/completion report shall include, but will not necessarily be limited to: i) full details of all remediation works undertaken; ii) validation of the adequacy of the remediation; iii) sampling, testing and assessment of the suitability of any imported or site-won soils; iv) the fate of any excavated material removed from site.

All assessments must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced).

- 6) Prior to the dwellings hereby approved being first occupied, a report demonstrating the chemical suitability of any soil or soil forming materials brought to site for use in garden areas or soft landscaping shall be submitted to and agreed in writing with the Local Planning Authority. Imported soils shall be tested at a rate of one sample per 100 cubic m with a minimum of three samples per source. The soils shall be assessed against assessment criteria appropriate to the proposed end use. In the event that imported soils do not meet the relevant assessment criteria, they shall be removed from site and replaced.

The assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced).

- 7) Any clearance of, or works to, existing trees, hedges or shrubs shall only be carried out between the 1st September and 31st March. Any work outside this period must only be carried out if a qualified ecologist/ornithologist has first inspected the trees, hedges or shrubs to ensure no breeding birds are present, and confirmed this in writing to the Local Planning Authority prior to any clearance of, or work to, any trees, hedges or shrubs being undertaken.
- 8) All hard and soft landscaping detailed on the plan Ref A113639 LA10_v2.dwg shall be fully implemented, the hard landscaping shall be implemented prior to the dwellings being first occupied. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner. Any trees, plants, or grassed areas 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 a similar size and species.

- 9) All on-site parking and turning areas for the public house and the dwellings, as shown on plan Ref 18.3104.100 P4, shall be available for use prior to the dwellings being first occupied. The parking and turning areas shall be retained thereafter without impediment to their designated uses.
- 10) Prior to the dwellings hereby approved being first occupied, a scheme for protecting the proposed dwellings from noise from the public house car park, as set out in the Noise Impact Assessment carried out by Airtight & Noisecheck Limited, dated 1st November 2019, shall have been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the approved dwellings are occupied and retained thereafter.

<<<<End of Schedule >>>>

