
Appeal Decision

Site visit made on 6 July 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2020

Appeal Ref: APP/M0655/W/20/3248314

99 Greystone Road, Penketh, Warrington WA5 2DS

- 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 Ms Niki Stockton (Warrington Housing Association) against the decision of Warrington Borough Council.
 - The application Ref 2019/35359, dated 28 June 2019, was refused by notice dated 19 December 2019.
 - The development proposed is the demolition of former Penketh Tavern (D2) and construction of three storey, 30 no. one and two bedroom apartments for over 55 year olds.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of former Penketh Tavern (D2) and construction of three storey, 30 no. one and two bedroom apartments for over 55 year olds at 99 Greystone Road, Penketh, Warrington WA5 2DS in accordance with the terms of the application, Ref 2019/35359, dated 28 June 2019, subject to the conditions set out in Annex A.

Application for costs

2. An application for costs was made by Ms Niki Stockton (Warrington Housing Association) against Warrington Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in the appeal are the effect of the proposed development on:
 - Highway safety; and
 - The living conditions of the occupiers of No 142 Heath Road with particular reference to outlook and privacy.

Reasons

Highway safety

4. The appeal site is located at the corner of Greystone Road and Meeting Lane/ Heath Road. It is currently occupied by a former public house and its associated car parking. A pedestrian access is located close to the junction, but the main vehicular access is on Greystone Road. The latter is located on the inside of a bend. Around the boundary of the site are mature trees that are protected.

5. It is proposed to demolish the current building and replace it with a 3 storey building that would provide 30, age restricted, affordable apartments and 33 parking spaces. The existing vehicular access would provide access for service and delivery vehicles entering the site and a new vehicular access would be created to the south that would provide the exit for service/delivery vehicles as well as the entrance and exit for the residents' car parking. A scheme of directional signage / markings would be provided to ensure the correct use of the accesses.
6. In the vicinity of the site are a number of road junctions as well as a bus stop and the drives for Nos 97 and 97A. Despite this, accident data show no recorded accidents along the site frontage in the last 5 years and only three in the wider area over this period. Thus, whilst the Council suggest this is a complicated highway layout, the accident record shows the local network to be operating safely. Third parties have highlighted that the nearby police station results in police vehicles driving at speed down Greystone Road. Be that as it may, the appeal proposal would not impact on this existing situation.
7. Greystone Road is a 30mph road. However, the speed survey undertaken by the appellant shows that typical speeds are lower than this. The methodology and findings of this survey have not been disputed by the Council, nor have they provided any evidence to counter it. Given this, I consider it is appropriate to use the results of the speed survey to determine the necessary visibility splays.
8. On this basis, the evidence shows that adequate visibility splays can be provided. Whilst these would require some realignment of the boundary hedge, it would not affect, or require the removal of, any of the protected trees around the site. The continued maintenance of vegetation within the splays can be secured by a planning condition. When buses are stopped at the adjacent bus stop, visibility would be reduced but this would be momentarily and would not affect the overall visibility that can be achieved at the access.
9. As part of their evidence the appellant produced a swept path analysis to show that large vehicles such as bin wagons would be capable of using the access arrangement. The Council have highlighted that this shows that such vehicles would not approach the exit perpendicular to the highway and that this would reduce their visibility to the right. However, there would be sufficient manoeuvrability space to enable large vehicles to reverse and straighten up if they needed to. Moreover, as these would be private residences, the number of HGVs needing to access the site would be limited, with most delivery or servicing vehicles likely to be vans. As the bin stores would be located close to the highway it may not be necessary for bin wagons to enter the site either.
10. I note the presence of the drives immediately to the south of the site. The distance that would be maintained between the proposed new access and these, combined with the likely frequency of vehicle movements at both of them, in my view means the potential for any conflict between the two would be minimal.
11. All in all, I consider that the development would be provided with a safe and suitable access.
12. It is not disputed that the level of parking provided would be below the Council's standards that require 30 allocated and 10 unallocated spaces.

However, a permit parking system is proposed for residents, and on this basis Officers indicated the requirement would be 32 spaces which the proposal would meet.

13. A variety of evidence has been provided as to the likely demand for parking the scheme could generate. Nevertheless, as the proposal would provide apartments for affordable rent, as opposed to open market accommodation, greater control can be provided over the actions of future occupiers. It is stated that the tenancy agreement would restrict future occupiers to a maximum of 1 parking space, and the Unilateral Undertaking submitted by the appellant provides for this. In the light of this, I agree with the appellant that potential future occupiers who require more than 1 space would be unlikely to choose to rent an apartment.
14. Furthermore, there is an excellent range of services and facilities in the immediate vicinity and there are bus stops very close to the site. As such, the site is in a very accessible location, which would encourage and facilitate lower car ownership.
15. Concern has been raised, particularly by local residents, about the lack of suitable off-street parking in the vicinity, and it is stated that demand for parking in the area is high and the nearby shopping centre car park is often very busy. Should the car park be full, the proposal could create demand for on-street parking, which could be detrimental to highway safety.
16. However, the introduction of waiting restrictions in the vicinity could control on-street parking in the area. This can be secured by a S278 agreement and a planning condition to which the developer has raised no objection. The extent of the restrictions would be subject to public consultation and would ensure that, should any on-street parking be created by the proposal, it would not be detrimental to highway and pedestrian safety.
17. I note the third party concerns about the impact of the proposal on existing congestion in the area. However, the appellant's evidence, which has not been disputed by the Council, indicates that at the busiest period the proposal would generate less than 1 additional two-way movement every four minutes. There is no evidence from the Highway Authority that the local road network would be unable to cope with this level of additional traffic generation.
18. Bringing these points together, I am therefore satisfied that the proposed development would not have an adverse impact on highway safety. Consequently, it would not be contrary to Policy QE6 of the Warrington Local Plan Core Strategy (adopted July 2014) (CS) which, amongst other things, requires that developments do not have an adverse impact on highway safety.

Living Conditions

19. To the side of the site lies a bungalow, No 142 Heath Road, whose rear garden extends the entire length of the site. The existing building on the site is located close to the common boundary with this property and wraps around the rear elevation of it. The bungalow has a number of habitable room windows and a set of patio doors on the rear elevation. Tall vegetation is found on both sides of the common boundary and this creates a strong sense of enclosure to the rear garden of the dwelling. This already compromises the outlook from the window on No 142 closest to the boundary. It is proposed to retain this

- vegetation, supplementing and replacing it where necessary. As such, there would continue to be a strong buffer between the bungalow and the site, limiting views between the two.
20. The proposed building would be taller than the existing building. Whilst it would project some distance beyond the rear elevation of No 142, it would be set further away from the boundary than the existing building. Given the distance it would maintain to the boundary, it would not have an overbearing impact on the rear garden and would not create any greater degree of enclosure than is already caused by the vegetation along the boundary.
 21. Although views of the upper floors of the proposed apartment building would be able to be seen from some of the windows on the rear elevation of the bungalow, as well as from the patio, these views would be at an angle and would be filtered by the boundary vegetation. Consequently, the proposed building would not dominate the outlook from the rear facing windows or the seating area.
 22. The proposed building would also project beyond the front elevation of the bungalow. However, given the distance that would be maintained between the proposal and the nearest window on the dwelling, and the existing vegetation on the boundary, views of it would be limited and at an acute angle. It would therefore not dominate the outlook from this window either.
 23. The windows on the proposed building facing No 142 would serve a stairwell and corridor leading to the various apartments. The obscure glazing of these windows, which can be secured by a planning condition, would prevent any overlooking of the adjacent house and its garden.
 24. Therefore, I consider that the proposed development would not have an unacceptable impact on the living conditions of the occupiers of No 142 Heath Road with particular regard to outlook and privacy. Accordingly, there would be no conflict with Policy QE6 of the CS which, amongst other things, requires that developments do not have an adverse impact on the amenity of existing or future occupiers.
 25. Third parties have raised various other concerns regarding the potential impact of the development on the living conditions of nearby residents. The distances that would be maintained to the surrounding dwellings and relative orientation means that the development would not cause unacceptable levels of overshadowing to the surrounding properties.
 26. The car park would be located adjacent to the southern boundary of the site and would be closer to the adjacent houses than the existing car park on the site. However, the drives for these properties are adjacent to the site providing separation to the houses and the mature landscaping along the boundary would provide some mitigation for both noise and light. Moreover, the noise associated with a residential car park is likely to be less than that associated with a public house. Therefore, I am satisfied that the appeal scheme would not have a significant adverse impact on the living conditions of neighbouring occupiers and there would be no violation of their human rights.

Unilateral Undertaking

27. A Unilateral Undertaking has been submitted as part of the appeal. I have considered the Undertaking in the light of the statutory tests contained in

Regulation 122 of the Community Infrastructure Levy Regulations and the National Planning Policy Framework (the Framework). As well limiting future occupiers to 1 parking space, the Unilateral Undertaking would ensure the development consisted entirely of affordable housing for occupancy by local people over the age of 55. These matters are necessary to the acceptability of the development, are directly related to it, and are fairly related in scale and kind. As such they would accord with the statutory tests.

Other Matters

28. I note the concern of the Council and third parties regarding the design of the proposed building in comparison to the existing building and the surrounding area. The proposed building would be a 3 storey flat roof building with a contemporary design and is clearly very different from what is currently on the site. In the immediate vicinity of the site is a mix of commercial and residential properties. The buildings vary considerably in type, age and design with both pitch roof and flat roofs being evident and the dwellings include bungalows, dormer bungalows and houses, including a number with accommodation in the roof space. Some of the buildings such as the nearby Conservative Club and the Police Station have significant footprints.
29. In addition, sufficient space would be retained around the proposed building to ensure the site would not appear over-developed. The scheme would also keep and supplement the majority of the boundary vegetation. Given this, and the variety in building form, size and design in the vicinity, I am satisfied that the proposal would not appear out of keeping or have an adverse visual impact on the area.
30. It is not disputed that the Council currently cannot demonstrate a 5 year housing land supply. In addition, the appellant has highlighted that the Council's Housing Strategy demonstrates a clear need for affordable housing and also highlights that the borough has an increasingly aged population. To this end I note the letters of support from some long-term local residents who want to be able to stay in the area whilst downsizing. In this context the provision of age-restricted affordable housing on previously developed land clearly weighs in favour of the proposal.
31. The existing building is a locally listed building as is 101 Meeting Lane on the opposite side of Greystone Road, and I note the desire from some third parties for some of the original building to be incorporated into the new building. A comprehensive Heritage Statement was submitted by the appellant which concluded that the demolition of the building would have a minor adverse impact in heritage terms as it is of low significance, and a neutral impact on the setting of 101 Meeting Lane. Nothing I have seen or read leads me to a different conclusion in this regard. Moreover, I consider that this minor adverse heritage impact would be clearly outweighed by the provision of affordable housing for the over 55s given the identified need.
32. It has been put to me that existing services such as doctors are already full. However, I have not been given any detailed evidence which quantifies the extent of any local shortage, or the need for new facilities. In addition, there is no persuasive evidence that the proposal, which would supplement the existing vegetation on the site, would have an adverse impact on wildlife.

Conclusion and Conditions

33. For the reasons set out above I conclude the appeal should be allowed.
34. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of the character and appearance of the area conditions are required: to control the external appearance, the finished levels and the landscaping of the proposal; to ensure the provision/repair of the boundary treatments and the provision of the recycling /waste facilities; to prevent the felling of trees other than in accordance with the approved plans; and to ensure a replacement for the tree that will be removed to create the new access. The condition relating to the finished levels of the development needs to be a pre-commencement condition as it may affect the design and layout of the scheme.
35. In line with paragraph 198 of the Framework, as the existing building is a heritage asset it is necessary to ensure its demolition does not take place until the contract for the development is signed. This needs to be a pre-commencement condition as it relates to the demolition phase. To maximise employment opportunities for local people the submission of a local employment scheme is necessary. This needs to be a pre-commencement condition as it relates to works that need to be undertaken before the construction phase.
36. As the site is previously developed land, and given the sensitive nature of the end use, I consider it would be appropriate to have a condition to assess the potential for contamination and to outline measures of how any contamination would be dealt with. This needs to be a pre-commencement condition as it relates to work that needs to be undertaken before the construction phase. To ensure the satisfactory drainage of the site and reduce the risk of flooding it is necessary to control details of the disposal of surface water from the site and to ensure that the development accords with the recommendations of the Flood Risk Assessment. The former needs to be a pre-commencement condition as it relates to work that needs to take place during the construction phase and may affect the design and layout of the scheme.
37. To ensure the living conditions of nearby residents are protected conditions are required to ensure the obscure glazing of the windows on the eastern elevation and the provision of a construction management plan. The latter also being required for highway safety and needs to be a pre-commencement condition as it mitigates the effects of the construction phase. Also for highway safety reasons it is necessary to ensure the provision of the new access and various off-site highway works, the provision and maintenance of the visibility splays, the submission of a car park management plan and to prevent a gate being put across the new access. To promote sustainable transport options conditions are necessary to ensure the provision of the cycle storage facilities and electric charging points.
38. Where necessary and in the interests of precision and enforceability I have amended the wording of the suggested conditions. I have also changed the timescales in the landscaping and replacement tree conditions as I considered a 20 year period was unnecessarily long.

39. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.

Alison Partington

INSPECTOR

Annex A

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: Location Plan AA 7105 2000; Existing Site Plan AA 7105 2001; Proposed Site Plan AA 7105 2005 Rev B; Proposed Demolition Plan AA 7105 2010; Proposed Ground Floor Plan AA 7105 2015 Rev C; Proposed First Floor Plan AA 7105 2016 Rev B; Proposed Second Floor Plan AA 7105 2017 Rev B; Proposed Elevations 1 of 2 AA 7105 2020 Rev D; Proposed Elevations 2 of 2 AA 7105 2021 Rev C; Proposed Street Scene 2 of 2 AA 7105 2025; Proposed Street Scene 1 of 2 AA 7105 2035 Rev B; Proposed Street Scene 2 of 2 AA 7105 2036 Rev B; Proposed Street Scene 1 of 2 - Without Trees AA 7105 2037 Rev A; Proposed Street Scene 2 of 2 - Without Trees AA 7105 2038 Rev A; Flat Type A & B AA 7105 2040 Rev A; Flat Type C & D 7105 2041 Rev A; Bay Study AA 7105 2045 Rev A; Proposed Cycle Store Details AA 7105 2046 Rev A; Proposed Public/Private Areas AA 7105 2049; Proposed Bin Store Details AA 7105 2050; Landscape Proposals AA 7105 L 1000 Rev C; Proposed Access Plan J998 Access Fig 1; Drainage Layout 29346-620-T3; and Tree Constraints Plan 17417/TCP/01 Rev E.
- 3) No demolition works shall take place until a contract for the subsequent redevelopment of the site, as permitted by this permission has been signed.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building and hard landscaped areas, in relation to existing ground levels have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development (including site clearance and any demolition) shall take place until a local employment scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall outline the means of maximising the local impact from the development in terms of contracting and supply chain opportunities for local businesses and job opportunities for the local community/residents. The approved employment scheme shall be fully implemented.
- 6) No development shall take place until the following conditions have been satisfied and discharged in writing by the local planning authority and written approval to commence development works has been issued by the local planning authority. All requirements to be completed in accordance with the following guidance references: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

A: CHARACTERISATION: With specific consideration to human health, controlled waters and wider environmental factors, the following must be provided (as required) to fully characterise the site in terms of potential risk to sensitive receptors: Preliminary Risk Assessment (PRA or Desk Study); Intrusive Site Investigation; Generic Quantitative Risk

Assessment (GQRA); Detailed Quantitative Risk Assessment (DQRA); Remedial Options Appraisal. PRA is the minimum requirement. DQRA only to be submitted if GQRA findings require it. The investigation(s) and risk assessment(s) must be undertaken by competent persons and all findings must form the subject of a written report.

B: SUBMISSION OF A REMEDIATION & VERIFICATION SCHEME: If required by Section A, a remediation scheme must be agreed in writing with the local planning authority to ensure the site is suitable for the intended use and to mitigate risks to human health, controlled waters and environmental receptors. Proposals should be derived from the Remedial Options Appraisal and form the subject of a written Remediation & Verification Strategy Report, detailing proposed remediation measures/objectives and how proposed remedial measures are to be verified/validated. All must be agreed in writing with the local planning authority. Remediation and verification shall be carried out in accordance with the approved scheme. Following completion of all remediation and verification measures, a Verification Report must be submitted to the LPA for approval in writing before the building hereby permitted is first occupied.

C: REPORTING OF UNEXPECTED CONTAMINATION: All unexpected or previously unidentified contamination encountered during development works must be reported immediately to the local planning authority and works halted within the affected area(s). Prior to site works recommencing in the affected area(s), the contamination must be characterised by intrusive investigation, risk assessed (with remediation/verification measures proposed as necessary) and a revised remediation and verification strategy submitted to, and approved in writing by, the local planning authority.

D: LONG-TERM MONITORING & MAINTENANCE: If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details.

- 7) No development shall take place, including any works of demolition, 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 (which shall be within the confines of the site);
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoardings;
 - v) wheel washing facilities;
 - vi) measures to remove any mud or other deleterious material deposited on the highway;
 - vii) measures to control the emission of noise, vibration, dust and dirt during construction;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

- ix) delivery, demolition and construction working hours and details of any activity on the site outside the stated construction hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) No development (excluding demolition or any site clearance) shall take place until, a surface water drainage scheme, based on the hierarchy of drainage options in the Planning Practice Guidance, with evidence of an assessment of the site conditions has been submitted to, and approved in writing by, the local planning authority. The drainage scheme should seek to minimise the potential for adverse impact within the root protection areas of the existing tree stock. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.
- 9) No development above ground level shall commence until written and photographic details (including manufacturer's details) of the materials to be used in the construction of the external surfaces of the building 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.
- 10) Full details of the surfacing materials to be used on all hard-surfaced areas of the development outside the buildings shall be submitted to, and approved in writing by, the local planning authority prior to their first use on the site. The development shall accord with the approved details and be retained thereafter.
- 11) The building hereby permitted shall not be occupied until the windows in the east elevation shown on Drawing AA 7105 2020 Rev D have been fitted with obscured glazing of a type and degree of obscurity achieving at least privacy level 3, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Any replacement window frame during the lifetime of the development shall also be fitted with obscure glass of an equal degree of obscurity to that which was first approved and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.
- 12) The building hereby permitted shall not be occupied until the refuse and recycling storage facilities indicated on approved plan AA 7105 2050 have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 13) The building hereby permitted shall not be occupied until the boundary treatments identified on Drawing AA 7105 L 1000 Rev C have been provided and / or repaired in accordance with the approved drawing. The boundary treatment shall be retained thereafter.
- 14) The building hereby permitted shall not be occupied until full details (including a timetable for implementation) of all site access (including signage and marking), emergency access and the off-site works of highway improvement (including local widening of the footway, relocation of the bus stop and installation of tactile paving) have been submitted to, and approved in writing by, the local planning authority and the approved

works have been implemented. The development shall thereafter accord with the approved details.

- 15) The building hereby permitted shall not be occupied until a satisfactory programmed landscaping scheme and landscape maintenance plan, which shall include hard surfacing, means of enclosure, planting of the development, indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of the development, has been submitted to, and approved in writing by, the local planning authority. The maintenance plan shall include details of dealing with ice on hard surfaces in order to avoid harm to tree stock. The approved scheme shall be implemented during the first planting season following the completion of the development and any tree or shrub planted which dies or is felled, uprooted, wilfully damaged or destroyed in the first five year period commencing with the date of planting shall be replaced by the applicants or their successors in title.
- 16) The building hereby permitted shall not be occupied until the existing hedge on the highway frontage of the site to Greystone Road has been relocated 300mm behind the prescribed visibility splays. Nothing shall be built, planted or allowed to grow above 600mm above footway level within the prescribed visibility splays. For the avoidance of doubt the prescribed visibility splays are 2.4m by 32m to the left and 26m to the right. In addition, 2m by 2m (measured at back of footway) pedestrian inter-visibility splays shall be provided. The hedgerow must be planted at least 300mm behind the splay to allow for seasonal growth between cuts.
- 17) The building hereby permitted shall not be occupied until a Car Park Management Plan has been submitted to, and approved in writing by, the local planning authority. Once approved, the car park management plan shall be put into force prior to the first occupation of the building hereby permitted and retained as such for the lifetime of the development.
- 18) Details of the lighting and security measures on the cycle storage facility shall be submitted to, and approved in writing by, the local planning authority before its construction is commenced. The facility shall be built in accordance with approved details and the building hereby permitted shall not be occupied until the cycle storage facility indicated on approved plan AA 7105 2046 Rev A has been provided and made available for use. This facility shall thereafter be retained for use at all times.
- 19) The building hereby permitted shall not be occupied until a detailed scheme for the provision of electric vehicle charging points, or passive provision, has been submitted to, and approved in writing by, the local planning authority. The agreed scheme shall be provided prior to first occupation of the building and retained as such thereafter.
- 20) This permission does not grant or imply consent for the felling of any trees on the site with the exception of the trees that are identified on Drawing AA 7105 L 1000 Rev C for removal.
- 21) A replacement specimen tree shall be planted as near as possible to the existing location of TPO-14 Ash. The tree shall comply with BS3936 Nursery Stock Part 1 1992 Specifications for Trees and Shrubs and shall be planted in accordance with BS4428:1989 Code of Practice for General Landscape Operations. The approved tree shall be planted during the first

planting season following the completion of the development and if the tree dies or is felled, uprooted, wilfully damaged or destroyed in the first ten year period commencing with the date of planting, it shall be replaced by the applicants or their successors in title.

- 22) The development hereby permitted shall be implemented in accordance with the recommendations made in the Flood Risk Assessment by Sutcliffe dated June 2019; Rev.002, to include the management and maintenance of the system throughout the lifetime of the development.
- 23) No gates or other means of obstruction shall be placed across the vehicular access formed as part of this development.