



Appeal Decision

Site visit made on 18 August 2020

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/R0660/W/20/3253277

90 Tytherington Drive, Macclesfield, Cheshire, SK10 2HN

- 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 Tim Holland against the decision of Cheshire East Council.
 - The application Ref: 19/1708M, dated 4 April 2019, was refused by notice dated 6 December 2019.
 - The development proposed is: Demolition of existing garage and outbuildings and erection of two No 3-bedroom semi-detached houses with associated driveways and gardens.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and outbuildings and erection of two No 3-bedroom semi-detached houses with associated driveways and gardens at 90 Tytherington Drive, Macclesfield, Cheshire, SK10 2HN in accordance with the terms of the application, Ref: 19/1708M, dated 4 April 2019, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. Although it differs from that given on the appeal form, I have taken the date of the Council's decision as being that stated on the decision notice.
3. Whilst the application was being considered by the Council, revised plans were submitted in attempt to address privacy and design concerns flagged up by Council officers and raised in the representations. Local residents were reconsulted, and as no injustice would be caused by these revisions, I shall consider the appeal on this basis.

Main Issue

4. I consider the one main issue in this case is the effect of the proposed development on the character and appearance of the street scene in Rugby Drive and surrounding residential area.

Reasons

5. The appeal site comprises the main part of the garden of No 90 Tytherington Drive and part of the rear garden of No 88. The site is flat and contains a garage and garden buildings which would be demolished to accommodate the

- proposed development. The site frontage to Rugby Drive is dominated by a tall evergreen hedge, most of which would be removed.
6. The street scene in Rugby Drive is characterised by pairs of detached houses and houses linked together in a staggered configuration, with a bungalow close to the appeal site at the junction with Tytherington Drive. All have fairly spacious plots and the dwellings are set back behind modest front gardens/parking areas. However, there is no uniform building line due to the curvature of the street. Tytherington Drive comprises a mixture of more closely spaced detached and semi-detached chalet style houses. The area is typically suburban in character and to my mind exhibits no strong prevailing character or especially local distinctiveness.
 7. The proposed development is for a pair of houses of contemporary design with open parking and landscaping in front, accessed from and fronting Rugby Drive. The site is within a built-up area and residential development is acceptable in principle subject to there being no significant adverse impacts. The site is accessible to services and public transport links, and as such may be considered to represent sustainable development. I also note there are no highway safety objections, and there is sufficient space within each plot for off-street parking in accordance with the local standards.
 8. The Council's sole reason for refusal concerns the impact of the proposal on the character and appearance of the area. It says the design would not be sufficiently in keeping with the local area and would harm its character and appearance.
 9. The development plan includes the *Cheshire East Local Plan Strategy 2010-2030* (CELPs), adopted 2017; and reference is made to Policies SD2 and SE1 in the decision notice and statements. Amongst other matters Policy SD2 requires all development to contribute positively to an area's character and identity in terms of height, scale, form, grouping, materials, and relationship to neighbouring properties and the street scene. Policy SE1 says proposals should make a positive contribution by ensuring that design solutions achieve a sense of place. It also encourages innovative and creative design solutions that are appropriate to the local context.
 10. I have also been referred to the *Cheshire East Design Guide* (CEDG), which (at Volume 2 paragraphs 898 & 99) says bespoke housing designs are welcome as long as they take account of local context; adding that such designs should be justified, work with the local grain, and be well-detailed.
 11. By reason of its design the Council says the proposed development would be somewhat at odds with the surrounding suburban form. However, in contrast to a previously refused scheme, the dwellings are now set back to align approximately with the gable end of No 90 Tytherington Drive and the garage of No 115 Rugby Drive, and would better reflect the layout of properties in the vicinity. Although reference is made in the representations to the inappropriateness of three-storey houses, the dwellings would in fact be two-storey with rooms within the roof slopes, and the overall ridge height would not be significantly higher than that of the neighbouring dwellings. This would be commensurate with the prevailing two-storey housing in the area.
 12. Although the design of the scheme is very different from the orthodox housing estate styles of the surrounding development, I consider the pair of dwellings

would sit reasonably well within the context of the immediate surroundings in terms of scale, massing and proportions. Adequate space is available for private gardens and parking, and I am satisfied that the scheme would not represent an overdevelopment of the site. Furthermore, the set-back of the front elevations and open plan frontages would complement and respect the spacious layout of the area, and the design takes some cues from the local vernacular in terms of some details and the use of materials.

13. On balance, I am satisfied that the scheme would bring about an appropriate contemporary contribution in this setting. Although the design is unmistakably 'of its time', and would clearly be seen as a modern addition to the street scene in Rugby Drive, the design is innovative and creative, and I do not find this to be necessarily harmful *per se*. I note that a constructive dialogue has taken place with Council officers in an attempt to address previous areas of concern, and particular care has been taken with design details and the choice of materials.
14. Overall, I consider the proposal would represent a satisfactory design solution that respects the size and scale of neighbouring properties, and would accord with the requirements of CELPS Policies SD2 and SE1 and advice in the CEDG. I therefore conclude on this issue that the proposed development would not materially harm the character and appearance of the street scene in Rugby Drive and the surrounding residential area.

Other Matters

15. I have carefully assessed the revisions which have been made to the original scheme to address privacy issues. These include above eye-level windows within the roof space in place of conventional windows. Although some overlooking of rear gardens would be possible from the first-floor windows, I do not consider this is so significant as to warrant withholding permission. In any event, there will inevitably be some inter-visibility and mutual overlooking between most properties in an urban setting.

Conclusion

16. Although a finely balanced decision, I am satisfied that the proposed layout and design of the buildings would not materially harm the character and appearance of the area. I am also satisfied that there would be no unacceptable harm to the living conditions of nearby residents. The proposal would result in a more efficient use of the site and would contribute to the housing need of the District in an accessible location within the urban area. Furthermore, the provision of two high quality properties in this location gives considerable weight in favour of the proposal.
17. National planning policy in paragraph 130 of the *Revised National Planning Policy Framework* (the Framework) says where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Paragraph 131 says great weight should be given to designs which help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
18. Furthermore, at the heart of the Framework is a presumption in favour of sustainable development which, for decision taking, means approving proposals

that accord with the development plan without delay. Overall, I conclude that the proposal would amount to a sustainable form of development that would satisfy the policies of the development plan and the Framework when taken as a whole.

19. I have taken account of representations received from Macclesfield Town Council, a petition with 28 signatories, and individual letters of representation. These raise many issues including the design and materials of the development being out of keeping with the area, overlooking, overdevelopment, and parking /traffic congestion issues at the corner of two roads. Taken together these all demonstrate a considerable level of feeling, and I have had full regard to all points raised in reaching my decision. Nonetheless, whilst I note these and other valid concerns, none is sufficient to alter the considerations that have led to my conclusion.
20. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Conditions

21. I have considered the suggested conditions in the light of the advice in the Government's *Planning Practice Guidance* (PPG). In addition to a 3-year time limit for the commencement of development a condition is needed to secure compliance with the approved (revised) plans for the avoidance of doubt and in the interests of proper planning.
22. A condition in relation to the materials to be used in the development is needed in the interests of the appearance of the area. The condition requiring details of any soils to be brought onto the site is justified to reduce the risk and impact of any ground pollution.
23. A condition is suggested to remove normal permitted development rights for the enlargement, improvement or other alteration to the dwellings, enlargement or other alterations to the roof, and the rection of porches and garden/ancillary buildings. I consider this is justified in order to ensure that the plots are is not overdeveloped, and to protect the privacy of neighbouring residents.
24. The condition to secure the provision and operation of electric car charging points within the development is justified in terms of national and local objectives for sustainable travel and transport.
25. The Council's recommended 'informatives' are not attached to appeal decisions, but the appellant should be aware of these from the Council's documentation

Nigel Harrison

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:
 - i) Site Location Plan: A_L_01_01; Issue 01; 31 January 2019
 - ii) Existing Site Plan: A_L_01_02; Issue 01; 31 January 2019
 - iii) Proposed Site Plan: A_L_01_03; Rev 1; 20 August 2019
 - iv) Proposed Ground Floor Plan: A_L_02_01; Issue 01; 31 January 2019
 - v) Proposed First Floor Plan: A_L_02_02; Issue 01; 31 January 2019
 - vi) Proposed Second Floor Plan: A_L_02_03; Rev 1; 20 August 2019
 - vii) Proposed Front Elevation: A_L_03_01; Issue 01; January 2019
 - viii) Proposed Rear Elevation: A_L_03_02; Rev1; 20 August 2019
 - ix) Proposed Side Elevations: A_L_03_03; Rev 1; 20 August 2019
- 3) The materials to be used in the development shall be in strict accordance with those specified in the application unless different materials are first agreed in writing with the Local Planning Authority (LPA). The development shall be carried out in accordance with the approved details.
- 4) (a) Any soil or soil-forming materials to be brought to the site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to the site. (b) Prior to occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by the LPA.
- 5) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made, and appropriate remediation implemented in accordance with a scheme also agreed in writing by the LPA.
- 6) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 2105* (or any Order revoking or re-enacting that Order), no development (as defined by Section 55 of the *Town and Country Planning Act 1990*) as may otherwise be permitted by virtue of Classes A, B, C, D and E of Part 1 Schedule 2 of the Order shall be carried out.
- 7) Prior to first occupation an Electric Vehicle Infrastructure Plan shall be submitted to and approved in writing by the LPA. This plan shall aim to meet the following specification: A single Mode 3 compliant electric vehicle charging point per property. The charging point shall be independently wired to a 30A spur to enable minimum 7kW fast charging or the best available given the electrical infrastructure. Should the infrastructure not be available, written confirmation from the electrical supplier shall be submitted to this office prior to discharge. Where there is insufficient infrastructure. Mode 2 compliant charging may be deemed acceptable. The charging infrastructure shall be implemented and maintained throughout the use of the development.