



Appeal Decision

Site visit made on 18 August 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2020

Appeal Ref: APP/R0660/W/20/3252463

Oakhurst, Toft Road, Knutsford, Cheshire, WA16 9ED

- 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 Richard & Henry Baxendell against the decision of Cheshire East Council.
 - The application Ref 19/1395M, dated 12 March 2019, was refused by notice dated 12 March 2020.
 - The development proposed is construction of a new detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a new detached dwelling at Oakhurst, Toft Road, Knutsford, Cheshire, WA16 9ED in accordance with the terms of the application, Ref 19/1395M, dated 12 March 2019, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The description of development given above is taken from the Decision Notice. This reflects amendments that were made to the scheme at application stage and the application was determined on this basis.

Main Issue

3. The main issue is whether the proposal would accord with the Knutsford Neighbourhood Plan in relation to the development of garden land.

Reasons

4. The appeal site consists of a large area of open land on the western side of Toft Road. It currently forms part of the garden area to Oakhurst, which is an attractive historic property set within a spacious plot.
5. Policy D1 of the Knutsford Neighbourhood Plan (2019) sets out design requirements for new residential developments in the town. It requires that development proposals should demonstrate compliance with the Knutsford Design Guide (which does not form part of the Neighbourhood Plan) or justify any departure from it. In this regard, the Knutsford Design Guide states that the development of residential gardens will only be permitted where 'exceptional circumstances' are demonstrated. It also identifies 8 criteria that should be met where 'exceptional circumstances' can be demonstrated.

6. The Knutsford Design Guide does not form part of the development plan, and has not been subject to the rigour of an independent examination. Whilst it is a material consideration, it does not carry the same weight as the Neighbourhood Plan itself. Importantly, I note that Policy D1 of the Neighbourhood Plan allows for justified departures from it.
7. The Council accept that the appeal proposal would meet all 8 of the criteria relating to garden development in the Knutsford Design Guide. In this regard, it would be of high quality design, would result in plot sizes that are characteristic of the area, and would have only limited visibility from the street. For the reasons set out below, it would also preserve the character and appearance of the Legh Road Conservation Area, and would respect the setting of Oakhurst. In addition, it would incorporate biodiversity enhancements, and would not result in any significant harm to the amenity of neighbouring occupiers. Moreover, there would be no other significant planning harms arising from the proposal. In my view, this lack of harm provides a clear justification for departing from the Knutsford Design Guide's stipulation that 'exceptional circumstances' are demonstrated.
8. Accordingly, I conclude that the proposal would accord with Policy D1 of the Knutsford Neighbourhood Plan in relation to the development of garden land.

Other Matters

9. The appeal site is within the impact zone for the Midland Meres and Mosses Phase 1 Ramsar site. The Council identified a likely significant effect on this site arising from run off / pollution / dust from the construction phase, contamination with wastewater, and changes to hydrology. Accordingly, it undertook an 'appropriate assessment' of the implications of the proposal for the Ramsar site. This concluded that submitted details of foul and surface water drainage measures, including silt traps to catch any pollutants, would address these risks. Natural England were consulted on the Council's assessment and agreed with the conclusion of no adverse effect on site integrity. No additional material information has emerged since that assessment which would make its conclusion out of date, and in my view, the analysis underpinning it is rigorous and robust. Subject to conditions securing the proposed mitigation measures, the proposal would therefore not adversely affect the integrity of the Ramsar site.
10. The appeal site is located within the Legh Road Conservation Area, which is characterised by prestigious detached villas set in spacious grounds. Oakhurst is also identified within the Conservation Area Appraisal as a building of townscape merit. The proposed dwelling has a bespoke design that would complement the Arts and Crafts character of Oakhurst and would not detract from its spacious setting. Moreover, the effect of the development on the conservation area was not a reason for refusal, and I note that the Council's Conservation and Design Team do not object to the proposal. In these circumstances, I am satisfied that the development would preserve the character and appearance of the conservation area, in accordance with national policy. Whilst the Conservation Area Appraisal states that gardens should not be considered for development, in this case, no harm to the conservation area would arise.
11. Rights of access are not usually a planning matter. However, at the time of my site visit, a concrete bollard had been installed that would prevent vehicular

access into the site. The development would not function well without a vehicular access, particularly given the distinct lack of on-street parking available in the vicinity. However, the appellant states that a legal process is being pursued to have the bollard removed. Accordingly, I consider that this matter is capable of being dealt with by a Grampian condition.

12. The proposed access route already serves a number of existing dwellings, and the development would not result in a significant intensification of its use. Moreover, any use of this access during the construction phase would be limited given the modest scale of the proposal. I further note that the Highway Authority did not object to the development on safety grounds.
13. The Cheshire East Design Guide SPD indicates that shared drives should serve a maximum of 5 properties. However, the Council state that this guidance relates primarily to new developments where shared drives are proposed, rather than to established situations. In any case, the lack of harm in relation to highway safety would outweigh any non-compliance with the SPD.
14. The protection of existing trees within the site during the construction phase could be secured by condition. I further note that the Council's Arboricultural Officer has not objected to the development on these grounds.

Conditions

15. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. I have also imposed conditions requiring the submission and approval of a Construction Environmental Management Plan ('CEMP'), and details of foul and surface water drainage, which are necessary in order to protect the nearby SSSI/Ramsar site. These conditions are pre-commencement in nature as all site works will be informed by the CEMP and the proposed drainage arrangements. In addition, a Grampian condition relating to the proposed access route is necessary in order to ensure that the dwelling benefits from a vehicular access.
16. Conditions relating to landscaping, facing and roofing materials, windows and doors, and rainwater goods, are necessary in order to ensure a high quality finish given the site's sensitive location. A condition removing some permitted development rights is also necessary to preserve the design integrity of the property and its setting. A condition relating to ecology is necessary in order to deliver biodiversity enhancements, and to accord with the recommendations of the submitted Ecological Report. A further condition requiring the installation of electronic charging points is necessary in the interests of air quality and in order to comply with Paragraph 110 of the National Planning Policy Framework. Conditions relating to trees, hours of construction, and contamination are also necessary in order to protect existing trees and neighbour amenity, and to ensure that any contamination is addressed. Finally, a condition requiring the parking and turning areas to be constructed prior to first occupation is necessary to ensure that these facilities are available to future occupiers.
17. Separately, the Council suggested a condition that would have required the submission and approval of the finished levels including site sections and spot levels. However, this is not necessary given the topography of the site and the

distance of the proposed dwelling from neighbouring properties. A further suggested condition relating to soil testing is also unnecessary as this matter is covered by other legislation.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

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: 855-P-06; 855-P-01M; 855-P-02F; 855-P-04K; 855-P-05K.

Pre-commencement conditions

- 3) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This shall include detailed measures to prevent run-off and other debris from entering the watercourse during construction and to ensure that drainage water is uncontaminated when it leaves the site. The works shall be carried out in accordance with the approved CEMP and the silt traps detailed on approved plan Ref 855-P-01M.
- 4) No development shall take place until details of a surface and foul water drainage scheme and maintenance arrangements have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall accord with the principles set out on plan Ref 855-P-01M. The development shall be completed, and thereafter maintained, in accordance with the approved details.
- 5) No development shall take place until vehicular access to the site is available from the access route indicated on the approved plans.

Pre-slab level conditions

- 6) No development shall take place above slab level until a scheme of biodiversity enhancements is submitted to and approved in writing by the Local Planning Authority. The approved scheme shall incorporate features suitable for use by nesting birds including house sparrow, gaps in garden fences to facilitate the movement of hedgehogs, and native species planting. The approved scheme shall be installed prior to the first occupation of the development and shall thereafter be retained.

Pre-occupation conditions

- 7) Prior to the first occupation of the development, full details of hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, boundary treatments, planting plans with written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment) and schedules of plants (noting species, plant sizes, the proposed numbers and densities). 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 dwelling 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.

- 8) Prior to the first occupation of the development, a fully operational electric vehicle charging point shall be installed. The charging point shall be independently wired to a 30A spur to enable minimum 7kW charging.
- 9) The parking and turning areas shall be laid out in accordance with the approved plans prior to the first occupation of the dwelling and shall thereafter be retained.

Other conditions

- 10) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved materials.
- 11) Prior to their installation, large scale details of fenestration, doors and verges shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 12) All rainwater goods shall be cast metal and painted black.
- 13) No construction or demolition works shall take place other than between the hours of 08:00 to 18:00 Monday to Friday, 09:00 to 14:00 on Saturdays, and not at all on Sundays or Bank / Public Holidays.
- 14) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.
- 15) The tree protection measures set out in the Arboricultural Method Statement by Mulberry (Ref: P.1089.19.04, dated 22 October 2019) shall be implemented throughout the construction program.
- 16) 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 enlargement of the dwellinghouse nor the provision of any building or enclosure within the curtilage of the dwellinghouse, as permitted by Class A and Class E of Part 1 of Schedule 2 of that order, shall be erected.