



Appeal Decision

Site visit made on 4 August 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/R0660/W/20/3249398

Hillside, 21 Adlington Road, Wilmslow SK9 2BJ

- 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 Mirasa Wilmslow Ltd against the decision of Cheshire East Council.
 - The application Ref 19/4862M, dated 17 October 2019, was refused by notice dated 12 March 2020.
 - The development proposed is the demolition of the existing nursing home and the construction of a new building providing 11 apartments, car parking, landscaping and associated facilities.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing nursing home and the construction of a new building providing 11 apartments, car parking, landscaping and associated facilities at Hillside, 21 Adlington Road, Wilmslow SK9 2BJ in accordance with the terms of the application, Ref 19/4862M, dated 17 October 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mirasa Wilmslow Ltd against Cheshire East Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on living conditions for the occupiers of neighbouring properties.

Reasons

Character and appearance

4. The appeal site is an approximately triangular piece of land at the eastern edge of the Wilmslow Park residential area, around one mile east of Wilmslow town centre. It is not within or adjacent to any Conservation Area. Hillside is a large two-storey detached building with an L-shaped footprint and a single storey

outbuilding to the rear. It was originally built as a private dwelling and most recently used as a care home, although it is now vacant and in a somewhat rundown condition inside and out.

5. The Council's 2004 *The Three Wilmslow Parks* Supplementary Planning Guidance (the SPG) describes the origins of Wilmslow Park as private parkland in the late 19th century, one consequence of which is the sylvan character of much of the area. Hillside itself has mature landscaping and established boundary planting, and the entire site is covered by two Tree Preservation Orders.
6. During the 20th century many of the original large Victorian dwellings within Wilmslow Park were demolished, and their plots sub-divided and redeveloped. As a result of this, the area contains a wide variety of housing types and, while most dwellings are medium-to-large detached houses on plots of varying sizes, there are also terraced town houses, semi-detached Victorian 3.5 storey houses, detached bungalows and purpose-built apartment blocks. A similar mix is found outside Wilmslow Park to the east of the appeal site, where large detached houses in spacious gardens sit close to more densely built modern developments.
7. The proposal is to demolish the existing detached building, conservatory and outbuilding, and to erect in its place a new building providing 11 apartments, along with car parking spaces, bicycle and bin storage, and landscaping. The existing outbuilding to the rear would be replaced with a new building connected to one of the ground floor apartments in the main block.
8. The new main apartment block would be longer than the existing building and, other than across the south facing front elevation which currently forms the bottom of the 'L' shape, it would also be wider. The proposed block would therefore have a somewhat larger footprint than the existing development, with the built plot ratio increasing from around 13% to around 19%. However, this would be in keeping with plot ratios in the area immediately around the appeal site which range from 10% to 20%, and lower than some of the newer housing just to the east of Wilmslow Park where plot ratios are considerably higher. Although these figures were provided by the appellant the Council has not disputed them, nor do I have any reason to doubt them. Based on the evidence before me and what I observed at the time of my site visit, the plot ratio would be consistent with the wider Wilmslow Park area.
9. The proposed main block would be two and a half storeys high, with top floor apartments having a mix of roof lights, and gable windows with Juliet balconies. The two ridges of the double-pitched roof running the length of the building would be at the same height as the main ridge of the existing building, and the eaves height would also be the same as at present. The rear part of the main block would be two storeys high and lower in overall height than this part of the existing building. The single storey rear building would be in the same location as and similar in size to the existing outbuilding.
10. Overall, the proposed development would result in an increased built volume within the appeal site when compared to the existing building. However, it would remain within the height parameters of the existing building on the site and would be well set back from the road frontage, from which it would in any event largely be screened by the landscaped and planted boundaries. In my view the proposed apartment block would not dominate its surroundings, nor

would it appear unacceptably large or incongruous. I consider therefore that the development would not be harmful to the character of the area because of its height, bulk or massing.

11. In view of the variety in age, size and style of the housing in Wilmslow Park and beyond, there is a corresponding variety in use of materials and detailing within the area. The proposed use of steeply pitched roofs with grey slate-effect tiles would reflect Hillside's current slate roofs. The use of 'Cheshire brick' for the external walls would, notwithstanding the considerable variation in colour and texture which that description encompasses, reflect the dominant building material in the nearby area. The relatively simple form of the proposed building, along with the use of gables and variations in the facades to provide some relief and visual interest to the elevations, would be in keeping with the prevailing character of the area.
12. Externally, all existing trees within the site would be retained, and additional planting would be introduced. The development would therefore contribute positively to the heavy semi-wooded landscape character and appearance of Wilmslow Park. In this and other regards it would comply with the design advice of the SPD.
13. The proposed development of 11 apartments would lead to there being a more intensive use of the site, given the likely residential population and the likely associated comings and goings, than might be the case if Hillside were to be reinstated as a single large dwelling. However, the site has most recently been in use as an 18-bed care home, with associated activity including comings and goings of staff, visitors, servicing and deliveries. In this light, I do not consider that the current proposal could be said to represent an unacceptable over intensification of the site which would be harmful to its character or that of the surrounding area.
14. Taking all of these points together, I conclude that the development would not be harmful to the character and appearance of the area. The proposal therefore complies with Policies SE1 and SD2 of the 2017 Cheshire East Local Plan Strategy (CELP), and with Saved Policy DC41 of the 2004 Macclesfield Borough Local Plan (MBLP), which together require development to make a positive contribution to their surroundings, and to reflect local distinctiveness in terms of height, scale, form, materials, massing, plot ratios and external design features. For the same reasons it complies with the requirements of paragraph 127 of the National Planning Policy Framework (the Framework). It also complies with Paragraphs 117, 118 and 122 of the Framework which require that planning decisions promote the effective use of land.

Living conditions

15. I saw at the time of my site visit that, in its current form, many of the upper floor windows of Hillside allow views into gardens and, occasionally, rooms of the nearest neighbouring houses. The alignment of the proposed apartment block would be pivoted a few degrees clockwise when compared to the principal north-south axis of the existing building. This, as well as the altered nature of the building as a whole as described above, would result in there being a slightly different relationship between the appeal site and its neighbours.
16. Blackcomb, which appears on some documents as Lindfield or simply 23 Adlington Road, lies to the north east of Hillside. Blackcomb and its garden

are screened from Hillside by the boundary fence and the dense hedge and tree planting on the Blackcomb side of the boundary, both of which will remain in place. At the time of my site visit there were no views of Blackcomb's garden or any of the house windows from the upper floor of Hillside. Although the northern part of the proposed apartment block would come closer to the boundary with Blackcomb's plot, and therefore both to the house and garden, it would be lower at the north end than the existing building, with the final window serving a first floor bedroom at a lower height than its nearest current equivalent. The southern part of the apartment block would be further from the boundary with Blackcomb's plot than the existing building. I therefore consider that, in respect of both Blackcomb and its garden, the proposed development would not be likely to lead to an increase in overlooking which could be harmful to neighbours' privacy, nor would its massing have an adverse effect in terms of being overbearing.

17. No 13 Overhill Lane lies to the north west of the appeal site. At the time of my site visit, it was possible to gain views into No 13's rear garden, and indeed some of the large ground floor patio doors, from the rear upper floor rooms of Hillside, as well as from the rear fire escape steps. The realignment of the proposed apartment block means that any views into No 13 would be more oblique than at present, which would reduce the potential for direct overlooking. Furthermore, although the north west corner of the main apartment block would be slightly closer to No 13 than that of Hillside, it would step down and the final two windows at first floor level would be lower than those currently in place. The occupier of No 13 has expressed concern about the replacement of the existing rear outbuilding with a building of similar size and scale which would form an ensuite bedroom for one of the ground floor apartments. However, no windows or other openings are proposed on the side of this annexe which runs along the boundary, and it is not clear what specific residential amenity issues the occupier of No 13 foresees arising from this part of the proposal. Taken as a whole, I consider that the development would not worsen the situation in respect of either privacy or outlook for the occupiers of No 13, and indeed in terms of privacy it may result in a slight improvement.
18. Cherry Lawn lies west of the appeal site and, at the time of my site visit I found that, because of the separation distances between the buildings and the screening by the mature vegetation and large trees, only occasional glimpses of the Cherry Lawn house and garden were possible from the upper floor rooms within Hillside. The proposed alignment of the main apartment block would put its southern part further away from Cherry Lawn than the current building, although the northern part would therefore be closer than at present.
19. There would be more windows on the elevation of the apartment block facing Cherry Lawn than is presently the case, although the distance between the closest parts of the two buildings would be increased slightly. The Council suggests that the separation between the closest habitable room windows in the proposed apartment block and Cherry Lawn would be around 21m, which would not comply with the guidance in its development plan and the 2017 Cheshire East Borough Design Guide Supplementary Planning Document (the SPD). However, although saved Policy DC38 of the MBLP advises a minimum separation distance of 28m between three storey properties, it also recognises that different distances may be acceptable provided that there is a commensurate degree of light and privacy between buildings. The more recent SPD recognises that this is not a hard and fast rule, and that the separation

distances can be reduced where properties sit at oblique angles to one another, as is the case here. Bearing in mind the existing spatial relationship between Hillside and Cherry Lawn, as well as the dense boundary planting and protected trees which provide privacy and screening, I consider that the proposal would not lead to increased harm in respect of privacy or an overbearing effect for the occupiers of Cherry Lawn.

20. I conclude that the proposed development would not cause unacceptable harm to living conditions for the occupiers of neighbouring properties. It would therefore comply with saved Policies DC3 and DC38 of the MBLP, and with advice in the SPD, which together seek to ensure that development would not lead to significant harm to the amenity of neighbours arising from, among other things, a loss of privacy or an overbearing effect. It would also comply with the requirements of Paragraph 127 of the Framework, which seeks to ensure a high standard of amenity for existing and future users.

Other matters

21. Interested parties have raised a number of concerns about the proposed development. Many of these relate to the main issues of the development's effects on character and appearance or neighbour's living conditions which I have addressed above. The principal other matters raised related to highway safety, with regard to vehicular access, car parking, and servicing arrangements, in particular whether the development could make vehicular use of Wilmslow Park Road.
22. Vehicular access to the site would be via the existing route from the outside of the bend on Adlington Road just outside the appeal site. Information in the appellant's highway technical note indicates that vehicles leaving the site would have adequate views both ways along Adlington Road, while vehicles waiting to turn right into the site from Adlington Road westbound could also be seen from a safe distance by other motorists. I note that the Council as Highway Authority did not object to the scheme in this regard, and there is no substantive evidence before me which suggests that the proposal would have an unacceptable impact on highway safety.
23. The proposed apartments would be served by 21 car parking spaces within the site, which is in line with the Council's parking standards. No dedicated visitor parking would be provided and, if a visitor were not able to park in the car park they would have to park outside the site. While the curve in the road makes Adlington Road immediately outside the appeal site unsuitable for parking, I found at the time of my site visit that it is possible to park safely on the road a short distance away. While this is perhaps a less than ideal solution, again it would not result in an unacceptable impact on highway safety.
24. The appellant has proposed that the apartments' communal bins should be collected via the pedestrian access at the south west corner of the site. This would require the collection vehicle to park on Wilmslow Park North, a private road with restricted vehicular access rights. It is a matter of dispute between the appellant and many other interested parties as to whether Hillside has a right to use Wilmslow Park Road for vehicular access and, therefore, whether it would be possible to service the apartment block in the manner proposed. In general terms, this dispute is a private matter which sits outside of my role in determining this appeal and which would need to be resolved, if indeed it can be, between the various interested landowners. Inasmuch as it relates to the

proposal before me, I consider that it would be preferable that the apartments' bins should be collected via Wilmslow Park North. However, my decision does not turn on this point and if, as many local residents suggest, this turns out not to be possible then the bins could continue to be collected, as has been the case for the nursing home, from the site access onto Adlington Road. Given the nature of Adlington Road which I have described above I consider that this would be a 'second best' option. However, again I do not consider that it would have an unacceptable impact on highway safety.

25. Other matters raised by interested parties addressed issues including landscaping and vegetation, and the effects of the proposal on wildlife using the site. These are matters which I consider can be satisfactorily addressed by conditions. None of these other matters raised alter or outweigh my overall conclusion below.

Planning Obligation

26. A completed and signed s106 planning obligation has been provided, on the basis of which the appellant will pay a commuted sum to the Council of £33,000 as a contribution towards public open space, and £5,500 towards the provision of recreation and outdoor sport facilities. This is required for additional or enhanced facilities which cannot be provided on-site. The requirement for the contribution is supported by CELP Policies SE6, which requires that development provides appropriate contributions to green infrastructure including public open space, and SC1, which requires development to contribute to new and improved leisure and recreation facilities.
27. Given the current circumstances in respect of Covid-19, the s106 obligation has been provided to me in counterpart form with two copies, one signed by the appellant and the other by the Council. While it would be preferable for the agreement to comprise a single document executed by all of the relevant parties, taken together these documents form a valid deed and so will be enforceable.
28. I am satisfied that the planning obligation would mitigate the impacts of the development in these areas, would be directly related to the development proposed, is fairly and reasonably related in scale and kind, and is necessary to make the development acceptable. The obligation would therefore comply with the requirements of Regulation 122 of the CIL Regulations¹ and the tests set out in paragraph 56 of the Framework. As such I have taken it into account in reaching my decision.

Conditions

29. I have considered the conditions suggested by the Council having regard to the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance. Where necessary I have altered the ordering of conditions or the proposed wording in the interests of clarity and effectiveness.
30. In addition to the standard time limit condition (1), in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2). A condition requiring a surface water drainage scheme (3) is necessary to secure proper drainage and

¹ Community Infrastructure Levy Regulations 2010 (as amended)

to manage the risk of flooding and pollution. This is a pre-commencement condition, and I therefore note that the appellant has indicated their agreement to this condition.

31. A condition requiring the development to comply with the Arboricultural Impact Assessment and Method Statement is necessary to ensure the continued protection and well-being of the trees on and around the site (4), while conditions in respect of nesting and breeding birds (5, 6) and bats (7) are necessary for to safeguard protected species. A condition requiring advance notification and approval of any proposed pile-driving operations (8) is necessary to protect neighbours' living conditions during construction.
32. Conditions requiring the approval of facing and roofing materials (9) and the approval and implementation of a detailed landscaping scheme including management (10) are necessary to protect the character and appearance of the area, although for the sake of simplicity and clarity I have merged the Council's two suggested landscaping conditions into one.
33. Conditions requiring the provision of a Sustainable Travel Information Pack for residents (11) and the provision of electric vehicle charging points (12) are necessary to comply with the requirements of paragraphs 111 and 110 respectively of the Framework. However, I accept the appellant's argument that requiring the provision of information about public transport improvements is not relevant to the development, while providing information about all secure cycle storage facilities within 5km is not reasonable, and I have not included these in condition 11. I also accept the argument that the number of electric vehicle charging points sought by the Council exceeds that required by the design standard. I have reduced the minimum number of charging points required from three to two, although in view of the likely growth in the number of electric vehicles in the years to come I have retained the requirement that there should be cable provision allowing the future installation of at least three further points.
34. Given that the appeal site is a Victorian property in an established residential area, there is no substantive evidence of any significant risk arising from ground contamination. I therefore do not consider that the Council's suggested conditions in this respect (Nos 14 to 16 in their statement) are necessary. I have however retained the condition requiring previously unidentified contamination to be reported (13).
35. Two further conditions which the Council suggested relating to the drainage of foul and surface water (Nos 10 and 18 in their statement) effectively duplicate the requirements of conditions 3 and 4, and so are not necessary. A suggested condition in respect of boundary treatments (No 9 in the Council's statement) is not necessary as these are covered by the approved plans in condition 2.

Conclusion

36. For the reasons given above the appeal is allowed.

M Cryan

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:
 - Site Location Plan 1MB02-FS-XX-DR-A-01-000-P4
 - Existing Site Plan 1MB02-FS-XX-DR-A-01-001-P1
 - Prop. Site & Ground Floor Plan 1MB02-FS-XX-DR-A-01-002-P19
 - Prop. Site Showing Exist. Footprint Underlay 1MB02-FS-XX-DR-A-01-004-P6
 - Proposed Floorplans 1MB02-FS-XX-DR-A-02-001-P9
 - Existing Elevations 1MB02-FS-XX-DR-A-03-000-P1
 - Proposed Elevations 1MB02-FS-XX-DR-A-03-001-P7
 - Proposed Elevations with Existing Underlay 1MB02-FS-XX-DR-A-03-003-P7
 - Plot Ratio Plan 1MB02 -MHA-FS-XX-DR-A-SK-002-P2
 - Landscape Proposal P.1230.19.03 Rev B
 - Site Access and Visibility Splays (In SCP Transport Note) SCP/190591/ATR01 Rev C
 - Proposed Servicing Arrangements (In SCP Transport Note) SCP/190591/SK01 Rev B
- 3) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed in accordance with the approved details.
- 4) (a) No development or other operations shall take place except in complete accordance with the tree protection measures identified in the Arboricultural Impact Assessment by Ascerta Ref: P.1230.19 and Arboricultural Method Statement Drawing No. 1230.19.02 Rev C received on 18/10/19 with measures to be implemented under Arboricultural supervision in accordance with BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations.
- (b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

- (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
- 5) Prior to the removal of any vegetation or the demolition or conversion of buildings between 1st March and 31st August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone taking place.
- 6) No development other than demolition and site clearance works shall commence until detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow are submitted to and approved in writing by the Local Planning Authority. The numbers of boxes proposed should be informed by the Cheshire East Design Guide. The approved features shall be permanently installed prior to the first occupation of the development hereby permitted and thereafter retained as approved.
- 7) The proposed development to proceed in accordance with the recommendation made by the submitted Bat Mitigation Design report (Rachel Hacking Ecology, 10/02/2020) unless varied by a European Protected Species licence subsequently issued by Natural England. Agreed features for roosting bats shall be permanently installed in accordance with the approved details.
- 8) Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.
- 9) No development involving the use of any facing or roofing materials shall take place until details or samples of the materials to be used in the construction of external surfaces of the dwellings 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) Prior to occupation, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme. The approved landscaping plan shall be completed in accordance with the following requirements:

- a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)
 - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
- 11) A Residents' Sustainable Travel Information Pack shall be submitted to and agreed by the LPA. The pack shall incorporate local information on the following:
- (i) Public facilities (including schools) within a 5km radius of the local centre;
 - (ii) Bus services operating in the vicinity of the development including service timetables and connections with any other public transport service provider;
 - (iii) Information regarding existing and proposed cycle and pedestrian routes to and from the public facilities included in (i) above;
 - (iv) Car sharing incentives such as www.liftshare.com
- The agreed pack shall be issued to the occupants on the initial sale of the properties and kept within any property information pack as applicable.
- 12) The developer shall provide Electric Vehicle Infrastructure to the following specification:
- Two Mode 2 compliant Fast (7kW) Electric Vehicle Charging Points with cabling provided for a further three units (to enable the easy installation of subsequent units).
- The infrastructure shall be maintained and kept operational in perpetuity.
- 13) 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 Local Planning Authority.

--End of schedule of conditions--