



Appeal Decision

Site visit made on 16 March 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/A0665/W/20/3256086

42 Bellemonte Road, Frodsham WA6 6BH

- 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 Casnor Ltd. against the decision of Cheshire West & Chester Council.
 - The application Ref 19/04407/FUL, dated 5 December 2019, was refused by notice dated 10 March 2020.
 - The development proposed is the demolition and replacement of 1 property and 3 proposed new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Plan reference 2019/0105/218 showing a street scene representation of the development is inconsistent with the layout and house type plans as they relate to plots 3 and 4 on the upper part of the site. I have therefore used it only for general interpretation.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the locality
 - The living conditions of neighbouring occupiers
 - Affordable housing provision
 - Highway safety
 - Trees and biodiversity
 - Surface water flood risk
 - Land stability

Reasons

Character and appearance

4. The site is set on a steep hillside in a location where Bellemonte Road, a quiet semi-rural lane, doubles back on itself. The road is bordered by primarily residential buildings of mixed age and styles set at varying distances from the roadside. An existing dwelling on the plot fronts on to the lower part of the

road close to the north-eastern extent of the site with some outbuildings behind. The higher ground to the rear of the site sits several metres below a retaining structure along a gap in the higher section of the road frontage. According to the appellant's survey detail, the level difference between the front and rear parts of the site is in excess of 10m.

5. Existing development along the lower road frontage benefits from a leafy streetscene arising from roadside hedges and tree coverage within many of the plots. The more closely sited dwellings on the upper part of the road are backed by some fields or rise to a wooded backdrop. The resultant verdant character is a positive aspect of the locality.
6. The existing site is an unusually large plot in a locality where plot sizes vary greatly. The proposed density of development would not be dissimilar to that of the surrounding area and the positioning of units within it would be in general alignment with development on the corresponding parts of the road.
7. The significant departure from the characteristic arrangement of development would be the lack of direct access and lower position of the southern pair of dwellings in the higher part of the Bellemonte Road frontage. Nevertheless, in the context of the unusual topography of the locality, and having regard to examples of other development utilising shared drives and staggered distances from the roadway, I find the arrangement of the buildings would make an effective use of the large site.
8. However, views of the site would contrast significantly with the character of surrounding development. The proposed layout offers little opportunity to retain or provide greening of the site. It would be dominated by the hard surfaces of the road, wide turning area and fencing to facilitate private amenity spaces. Furthermore, these would be backed by development appearing as three storeys across much of the width of the site. Whilst I acknowledge that the upper floors of the houses on plots 3 and 4 would not be dissimilar in scale to other development in the locality, the 'piggy-backing' above the garages and study rooms would appear of significant scale and starkly contrast to the typical 1 and 2 storey forms of development visible nearby.
9. In those respects, I find the proposal would cause significant harm to the character and appearance of the locality. It would conflict with Policy ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies [2015] (LP1) and Policies DM3 and DM19 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies[2019] (LP2) as they seek high standards of design that protect the character and quality of locations.

Living conditions

10. The proposed two storey dwelling on plot 1 would sit alongside a bungalow at 40 Bellemonte Road, which includes window openings in its side elevation. This neighbouring dwelling is elevated above the appeal site and partially screened by a brick wall above a stone retaining wall. According to the street scene and site levels plans provided by the appellant, the dwelling would be at a level consistent with the site frontage.
11. The proposed nearest building element to No40 would have an intermediate eaves level to accommodate bedrooms within the roof space above the ground

- floor accommodation. The eaves line would project some way above the existing boundary wall such that views of the upper wall and high roof slope would be visible from No40. Although the roof would pitch away from the common boundary, its scale and continuous length along much of the neighbouring plot would dominate views from the side windows and small side yard area. This would result in poor outlook from that property and cause significant harm to the living conditions of occupiers.
12. The orientation and height of the buildings would give rise to overshadowing of the neighbouring windows and yard area during early parts of the day. However, the extent of overshadowing would be limited and without significant effect on ambient daylight. This would not be to the extent that it would cause any significant detrimental effect on living conditions.
 13. The projecting front element of the proposed building on plot 2 would be sited below the level of the neighbouring property at 44 Bellemonte Road. Although it would be some distance forward of the front elevation of that dwelling, it would be offset beyond the intervening footpath and partially screened by a panel fence within No44. Whilst it would be visible in sideways views from the windows serving habitable rooms of the neighbouring property, the modest height, lower level and offset position would limit any effects on outlook or sense of enclosure.
 14. The proposed dwelling at plot 3 would be set at a lower level to 56 Bellemonte Road and also lie beyond the intervening right of way. No56 benefits from windows within its side elevation providing views across the site. Although the dwelling on plot 3 would be clearly visible above existing vegetation to the side of the neighbour's plot, it would be at sufficient distance to limit any effects on outlook or to cause a significant loss of light.
 15. The main front windows of the proposed building on plot 3 would address the proposed vehicle turning area. Although some sideways overlooking of the adjacent garden area would be possible, this would be comparable to the circumstances of many neighbouring properties and would not be an unusual relationship between adjacent plots. The effect from the proposed balconies would not be dissimilar, however, dependent on the final height level and nature of any proposed boundary treatments, may require restriction or screening by way of planning condition.
 16. Views from the openings and balcony areas serving plot 4 to neighbouring properties would be limited on account of the significant change in levels and existing vegetation above the rock face on the north-western boundary.
 17. For the above reasons, I find that the proposals would cause significant harm to the living conditions of neighbouring residents at No40 through the creation of poor outlook. The development would conflict with Policy SOC5 of the LP1 and DM2 of the LP2 as they seek to protect residential amenity including through the prevention of significant adverse impacts on outlook.

Affordable housing provision

18. Policy SOC1 of the LP1 seeks to deliver affordable housing to address identified needs in the rural areas of the borough. This applies to sites capable of accommodating three houses or more. In the absence of any proposals for affordable units or agreement to secure delivery or contribution to provision

elsewhere, the proposal would fail to meet the requirements of Policy SOC1 of the LP1 and DM23 of the LP2 as they seek to secure affordable housing delivery in new residential development.

Highway safety

19. The site lies on the inside of a gentle bend on an inclined section of Bellemonte Road which is subject to a 30mph speed limit. In the vicinity of the site, development is set to one side of the road only and served by a single pavement on the opposite side.
20. The proposed site access road would be of insufficient width to enable opposing vehicles to pass. In the event of drivers attempting to enter and leave the site at the same time, this could result in drivers waiting or carrying out reverse manoeuvres within the main carriageway. Alternatively, vehicles would be forced to mount either of the proposed pavements to allow vehicles to pass.
21. Furthermore, there would be limited emerging driver visibility to the north-west due to a high retaining wall immediately against the roadway at the common boundary with No40. This would require drivers to encroach on to the road to provide sufficient view to pull out safely. In the substantial absence of evidence to demonstrate that the limited visibility would not cause harm with regard to local traffic conditions, the proposed substandard arrangement would not provide safe access and egress for highway users.
22. In support of the proposal, the appellant indicates that the standard of the access would be comparable to others in the locality. However, I do not find this a compelling argument to justify access arrangements that I have identified as potentially harmful to highway safety.
23. For those reasons, I find the access arrangements would potentially prejudice highway safety. It would thereby conflict with Policies STRAT10 and SOC5 of the LP1 and Policy T5 of the LP2 as they seek safe access to new development.

Trees and biodiversity

24. The site features a number of trees in the early stages of maturity; the majority are pioneer species of little stature. An established hedge is present at the lower site frontage and a mixed species border exists along the south-eastern boundary, adjacent to a public footpath. Some larger deciduous trees to the rear of an outbuilding would seasonally contribute to the silvan character of the locality during the warmer months.
25. The proposed site layout shows the retention of part of the frontage hedge and some indicative areas of planting, including a green area buffer zone immediately below the retaining wall along the upper roadway. However, there is little evidence before me to demonstrate why any existing trees that might be worthy of retention, or a greater extent of the established hedges, could not be retained and integrated into the scheme.
26. Moreover, there is little firm evidence to illustrate that replacement trees and hedgerows in lieu of those to be removed could be successfully accommodated on the site. Whilst mature trees outside of the site are unlikely to be affected due to the ground level differences along the north-western boundary, the unmitigated loss of the existing trees within it would fail to conserve or contribute to the natural and local environment.

27. The site accommodates some dilapidated buildings, disturbed geology and a variety of dense vegetation. These would potentially offer opportunities for wildlife, protected species, or include priority species or habitats. In the absence of detail of any survey effort to establish the presence, or otherwise, of such ecological assets, I find there is insufficient information to establish whether the redevelopment of the site would safeguard species protected in law or enhance biodiversity. Although a natural buffer zone is proposed at the top of the site, there is no indication that this or other landscaping would compensate for any specific biodiversity losses caused elsewhere.
28. For the above reasons, I find that the proposal would conflict with Policies ENV3 and ENV4 of the LP1 and Policies DM44 and DM45 of the LP2 as they seek to conserve and enhance green infrastructure and biodiversity.

Surface water flood risk

29. The lower part of the site is identified as being at significant risk of surface water flooding according to the Environment Agency's Flood Risk Map. The proposal would introduce a significant increase in the area of hard surfacing on the site through the proposed roads, paved areas and roofs. If not appropriately managed, this would give rise to an attendant propensity for increased rates of runoff which could lead to increased frequency and magnitude of surface water flood events both on and off the site.
30. Surface water drainage should be considered in accordance with the National Planning Practice Guidance hierarchy of drainage options to deliver sustainable drainage schemes. However, for surface water management on a limited site scale, this is a matter which could be acceptably resolved through planning condition/s to ensure that site run-off rates meet the requirements of the Lead Local Flood Authority.
31. For that reason, and consistent with the approach advocated in Paragraph 54 of the Framework, I find that the surface water drainage of the site could be resolved to align with the requirements of Policy ENV 1 of the LP1 and Policies DM40 and DM41 of the LP2 to protect prospective occupiers of the scheme and elsewhere from increased risk of surface water flooding.

Land stability

32. The proposed works, including any necessary alterations to the ground levels or requirements for piling, could have potential to affect the integrity of the retaining structures adjacent to the site. However, a condition could be attached to any permission resulting from this appeal requiring details of a construction structural management plan to be agreed with the Council prior to the commencement of development. Such a condition could safeguard the structural stability of adjoining land and property.

Other Matters

33. I note the appellant's reference to recent development elsewhere on Bellemonte Road and the redevelopment of a site in the Green Belt. However, there is little detail of the circumstances of those developments to enable me to draw comparisons, or otherwise. Nevertheless, precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations.

34. I acknowledge the attempts to preserve outward views for properties on the higher part of Bellemonte Road, however, the protection of views over third party land is of limited weight in planning decisions.
35. I also acknowledge the content of the Framework regarding the presumption in favour of sustainable development, and the importance of windfall sites in meeting the Government's priority for housing delivery. Nevertheless, the Framework qualifies all of this against the need to ensure development delivers well designed places, the provision of safe access for all, and the protection of living conditions and biodiversity. For the reasons set out above, I do not consider that this proposal achieves those aims.
36. I note other concerns expressed by local residents and third parties beyond those referenced above. However, in the light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

37. Whilst I have found in favour of the appellant with regards to drainage and land stability, I do not consider these matters outweigh the identified harm in relation to the effects on the character and appearance of the locality, the living conditions of neighbouring residents, highway safety, affordable housing provision and biodiversity interests. For the above reasons, I find that the proposals would conflict with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with it. For the reasons given above, the appeal should be dismissed.

R Hitchcock

INSPECTOR